

**REQUEST FOR PROPOSALS**

**Issued on: 29 July 2020**

**Millennium Foundation Kosovo**

**[Millennium Challenge Account Entity]**

**On Behalf of:**

**The Government of the Republic of Kosovo**

**Funded by**

**THE UNITED STATES OF AMERICA**

**through**

**THE MILLENNIUM CHALLENGE CORPORATION**

**for**

**Procurement of Consultant Services**

**\*\*\***

**Program Management Consultant**

**for**

**Assessment and Supervision Services for the Public Access to Judicial Information Activity (Case Management Information System “CMIS”)**

**\*\*\***

**RFP / MFK / QCBS / 2020 / No. 002**

**Letter of Invitation Requesting Proposals**

**Prishtinë, Kosovo**

**29 July 2020**

**Re: Program Management Consultant for Assessment and Supervision Services for the Public Access to Judicial Information Activity (Case Management Information System “CMIS”)**

**ID number of procurement: RFP / MFK / QCBS / 2020 / No. 002**

Dear Madam/Sir:

The United States of America, acting through the Millennium Challenge Corporation (“MCC”) and the Government of the Republic of Kosovo (the “Government” or “GoK”) have entered into a Millennium Challenge Threshold Program agreement for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in Kosovo (the “Threshold Program agreement”) in the amount of approximately 49 million USD (“MCC Funding”). The Government, acting through the Millennium Foundation Kosovo (the “MCA Entity” or “Client”), intends to apply a portion of the MCC Funding to eligible payments under a contract for which this Request for Proposals (“RFP”) 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 Threshold Program agreement 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 Threshold Program agreement or have any claim to the proceeds of MCC Funding. The Threshold Program agreement 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.

The Threshold Program agreement program includes the following projects:

a) Reliable Energy Landscape Project: Demand for electricity significantly surpasses supply in Kosovo, and the country struggles with the reliability of its energy supply. This project encourages greater household energy efficiency and facilitates the switch to non-electric sources of heating through a pilot activity. MCC’s investments also work to bolster private-sector participation in the power sector by exploring barriers to finance for independent power producers, and create opportunities for women to participate in the energy sector through both employment and entrepreneurship and

b) Transparent and Accountable Governance Project: Government decision-making is often opaque, leading to distrust by the private sector and civil society, and high perceptions of corruption. Kosovo’s judiciary is one the country’s least trusted institutions. This project supports the implementation of a case management information system to make judicial information publicly available, and improvements to the collection and reporting of environmental data to the public. An open innovation competition will let the government pose their challenges to civil society and private sector stakeholders to propose creative, data-grounded solutions, which can be a model for more productive partnerships between government and civil society.

This RFP follows the General Procurement Notice that appeared in dgMarket on 09 June 2020, UNDB Online on 09 June 2020, the MCA Entity’s website millenniumkosovo.org on 09 June 2020, and local newspapers “Koha Ditore” on 10 June 2020.

The MCA Entity now invites proposals from legally constituted consulting firms to provide the consultant services referenced above (“Proposals”). More details on these consultant services are provided in the Terms of Reference.

This RFP is open to all eligible entities (“Consultants”) who wish to respond. Subject to restrictions noted in the RFP, consultants may associate with other consultants to enhance their capacity to successfully carry out the assignment.

A Consultant will be selected under the Quality Cost Based Selection (**QCBS)**, the evaluation procedure for which is described in sections of the RFP in accordance with “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.

The RFP includes the following Sections:

**PART 1 – PROPOSAL AND SELECTION PROCEDURES**

**Section I Instructions to Consultants (ITC)**

This section provides information to help potential Consultants prepare their Proposals; it also provides information on the submission, opening, and evaluation of Proposals and on the award of the proposed contract.

**Section II Proposal Data Sheet (PDS)**

This section includes provisions that are specific to this procurement and that supplement Section I, Instructions to Consultants.

**Section III Qualification and Evaluation Criteria**

This section specifies the qualifications required of the Consultant and the criteria to be used to evaluate the Proposal.

**Section IV A Technical Proposal Forms**

This section provides the Technical Proposal Forms which are to be completed by a potential Consultant and submitted in a separate envelope as part of a potential Consultant’s total Proposal.

**Section IV B Financial Proposal Forms**

This section provides the Financial Proposal Forms which are to be completed by a potential Consultant and submitted in a separate envelope as part of a potential Consultant’s total Proposal.

**Section V Terms of Reference**

This Section includes the detailed Terms of Reference that describe the nature, tasks, and duties of the consulting services to be procured.

**PART 2 – CONDITIONS OF CONTRACT AND CONTRACT FORMS**

**Section VI Contract Notices, Agreement and General Conditions of Contract (GCC)**

This section contains the Notice of Intent to Award, the Notification of Award, the form of Contract proposed to be entered into between the MCA Entity and Consultant, and the General Conditions of Contract.

**Section VII Special Conditions of Contract (SCC) and Annexes to Contract**

This section contains the form of those clauses of the Contract that supplement the GCC and that are to be completed by MCA Entities for each procurement of Consulting Services. This section also includes an Annex to the Contract (Annex B: Additional Provisions) that contains provisions that are a part of the Government’s and the MCA Entity’s obligations under the Threshold Program agreement and related documents which, under the terms of the Threshold Program agreement and related documents, are required to be transferred onto any Consultant, Sub-Consultant or Associate who partakes in any MCC-funded procurement.

Please note that a Pre-Proposal Conference **will** be held as described in the Proposal Data Sheet (“PDS”), Section II of this RFP.

Consultants interested in submitting a Proposal should register their interest by sending an e-mail, giving full contact details of the Consultant, to the following point of contact. This will ensure that the Consultant receives updates regarding this RFP.

Contact Information:

|  |  |
| --- | --- |
| The addresses:  | Str. “Migjeni” no. 21 (ex-Bank of Ljubljana, floor IX), Postal Code:10000 Prishtina, Kosovo |
| Attn:  | Procurement Manager |
| Tel:  | 00 383 38 752 110  |
| E-mail: | procurement@millenniumkosovo.org |
| Website: | [**www.millenniumkosovo.org**](http://www.millenniumkosovo.org) |

Proposals must be delivered in the manner specified in the **Instructions to Consultants (ITC) 17**, no later than **14:00 hours p.m**. (Kosovo time), on **07 September, 2020**.

Late proposals will not be accepted under any circumstances the dropbox submission link will be expired in the time specified in the **Instructions to Consultants (ITC) 17** and after that cannot be submitted any proposal.

Please note that only the electronic Proposals **shall** be accepted.

Yours Sincerely,

Arton Çitaku

Procurement Manager

Millennium Foundation Kosovo

Address: Str. “Migjeni” no. 21 (ex-Bank of Ljubljana, floor IX), Postal Code:10000 Prishtina, Kosovo

Telephone number: 00 383 38 752 110

E-mail address: procurement@millenniumkosovo.org

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# PART 1:

# PROPOSAL AND SELECTION PROCEDURES

|  |
| --- |
| 1. Instructions to Consultants
 |
| 1. **General**

*In Part 1 (Proposal and Selection Procedures) of this Request for Proposals, the following words and expressions shall have the meanings stated. These definitions shall not apply to any words or expressions in the sections that make up Part 2 (Conditions of Contract and Contract Forms) of this RFP, in which such words and expressions shall have the meanings stated in GCC Sub-Clauses 1.1 and 2.1 unless otherwise specified.* |
|   | 1. “Addendum” or “Addenda” means a modification to this RFP issued by the MCA Entity.
2. “Associate” means any entity that is a member of the Association that forms the Consultant. A Sub-Consultant is not an Associate.
3. “Association” or “association” or “Joint Venture” or “joint venture” means an association of entities that forms the Consultant, with or without a legal status distinct from that of its members.
4. “Threshold” means the Millennium Challenge Threshold Program **identified in the PDS**.
5. “confirmation” means confirmation in writing.
6. “Consultant” means any legal entity that may provide or provides the Services to the MCA Entity under the Contract.
7. “Contract” means the contract proposed to be entered into between the MCA 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 RFP.
8. “days” refers to calendar days.
9. “FBS” means Fixed Budget Selection method as defined in the MCC PPG.
10. "Financial Proposal" has the meaning given the term in ITC Sub-Clause 12.5.
11. “Fiscal Agent” means any entity that provides services to the MCA Entity under the terms of the Fiscal Agent Agreement.
12. “GCC” means the General Conditions of Contract.
13. “Government” means the Government **identified in the PDS**.
14. “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability.
15. “Instructions to Consultants” or “ITC” means Section I of this RFP, including any amendments, which provides Consultants with all information needed to prepare their Proposals.
16. "Key Professional Personnel" means the Key Professional Personnel identified pursuant to ITC Sub-Clause 12.3(d).
17. “LCS” means Least Cost Selection method as defined in the MCC PPG.
18. “Millennium Challenge Corporation” or “MCC” means a United States Government corporation, acting on behalf of the United States Government.
19. “MCA Entity” or “Client” means the accountable entity **identified in the PDS**.
20. “MCC Funding” means the funding MCC has made available to the Government pursuant to the terms of the Threshold Program Grant Agreement (2017).
21. “MCC’s AFC Policy” has the meaning provided in ITC Clause 3.
22. “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).
23. “PDS” means the Proposal Data Sheet, in Section II of this RFP, used to reflect specific requirements and/or assignment conditions.
24. “Personnel” means Key Professional Personnel and additional staff provided by the Consultant, or by any Sub-Consultants, or Associates that are assigned to perform the Services or any part thereof.
25. "Pre-Proposal Conference" means the pre-proposal conference **specified in PDS ITC 1.4**, if any.
26. “Proposal” means the Technical Proposal and the Financial Proposal for the provision of the Services submitted by a Consultant in response to this RFP.
27. “QBS” means Quality-Based Selection method as defined in the MCC PPG.
28. “QCBS” means Quality and Cost-Based Selection method as defined in the MCC PPG.
29. “RFP” means this Request for Proposals, including any amendments that may be made, prepared by the MCA Entity for the selection of the Consultant.
30. “SCC” means the Special Conditions of Contract.
31. “Services” means the tasks to be performed by the Consultant pursuant to the Contract.
32. “Sub-Consultant” means any person or legal entity with whom the Consultant subcontracts any part of the Services.
33. “Taxes” has the meaning given the term in the Threshold Program Grant Agreement.
34. “TEP” means the Technical Evaluation Panel, selected for the purpose of evaluating the Proposals received, that submits a report with recommendation for award of the Contract for which this RFP is being issued.
35. "Technical Proposal" has the meaning given the term in ITC Sub-Clause 12.3.
36. “Terms of Reference” or “TOR” means the document included in this RFP as Section V, which explains the objectives; scope of work; activities; tasks to be performed, respective responsibilities of the MCA Entity and the Consultant; and expected results and deliverables of the assignment.
37. “Trafficking in Persons” or “TIP” has the meaning given to the term in the MCC Program Procurement Guidelines.
 |
| 1. **Scope of RFP**
 | * 1. The MCA Entity will select a Consultant in accordance with the selection method **specified in the** **PDS**.
 |
|  | * 1. Throughout this RFP 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.
 |
|  | * 1. Consultants are invited to submit a Technical Proposal and a Financial Proposal for consulting services required for this assignment as **named in the PDS**. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultant.
 |
|  | * 1. Consultants should familiarize themselves with local conditions and take them into account in preparing their Proposals. To obtain first-hand information on the assignment and local conditions, Consultants are encouraged to attend a Pre-Proposal Conference if one is **specified in the PDS**. Attending any Pre-Proposal Conference is strongly advised, but not mandatory. Attending any Pre-Proposal Conference and/or a site visit shall not be taken into account for the purpose of evaluation of Proposals.
 |
|  | * 1. The MCA Entity will timely provide, at no cost to the Consultant, the inputs and facilities **specified in the PDS**, 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 Consultant 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 PDS**.
 |
|  | * 1. The MCA Entity is not bound to accept any Proposal, and reserves the right to cancel the procurement at any time prior to Contract award, without thereby incurring any liability to any Consultant.
 |
| 1. **Source of Funds**
 | * 1. The United States of America, acting through MCC and the Government have entered into the Threshold Program Grant Agreement. The Government, acting through the MCA 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 Threshold Program agreement 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 Threshold Program agreement or have any claim to any proceeds of MCC Funding. The Threshold Program agreement and its related documents can be found on the MCC website ([www.mcc.gov](http://www.mcc.gov)) or on 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, Suppliers, contractors, Subcontractors, consultants, and sub-consultants under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts. MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC’s AFC Policy”) is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC’s AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC’s AFC Policy and certify to the MCA Entity that they have acceptable commitments and procedures in place to address the potential for fraud and corruption. 1. For the purposes of these provisions, 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 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;
	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 influence improperly the actions of a public official, MCA Entity staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC Funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract;
	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, 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 Grant Agreement, or related agreements
	6. “***prohibited practice***” means any action that violates Section E (Compliance with Anti-Corruption Legislation), Section F (Compliance with Anti-Money Laundering Legislation), and Section G (Compliance with Terrorist Financing Legislation and Other Restrictions) of the Annex of Additional Provisions that will be made a part of MCC-funded contracts.
2. The MCA Entity will reject a Proposal (and MCC will deny approval of a proposed Contract award) if it determines that the Consultant 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.
3. MCC and the MCA Entity have the right to sanction a Consultant, including declaring the Consultant 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 MCA Entity determines that the Consultant 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.
4. MCC and the MCA Entity have the right to require that a provision be included in the Contract requiring the selected Consultant to permit the MCA Entity, MCC, or any designee of MCC, to inspect the Consultant’s, or any of the Consultant’s suppliers or Sub-Consultants on the Contract, accounts, records and other documents relating to the submission of its Proposal 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.
5. In addition, MCC has the right to cancel any portion of the MCC Funding allocated to the Contract if it determines at any time that any representative of a beneficiary of MCC Funding engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the selection process or the execution of any MCC-funded Contract, without the MCA Entity having taken timely and appropriate action satisfactory to MCC to remedy the situation.
 |
| 1. **Environmental and Social Requirements**
 |  |
| **Trafficking in Persons** | * 1. MCC has a zero-tolerance policy with regard to Trafficking in Persons (“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.
	2. The Description of Services (Annex A of the Contract) sets out certain prohibitions, Consultant 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 MCC’s Counter-Trafficking in Persons (“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 requirements, as described in the C-TIP Policy. 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 Consultant).
 |
| **MCC Environmental Guidelines and IFC Performance Standards** | * 1. The Consultant shall ensure that its activities, including any activities carried out by Sub-consultants, under the Contract comply with MCC’s Environmental Guidelines (as such term is defined in the Threshold Program Agreement 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 Consultant is also required to comply with IFC Performance Standards for the purposes of this contract. Additional information on the IFC Performance Standards can be found here: <http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards>.
 |
| 1. **Qualification and Eligibility of Consultants**
 | * 1. The qualification and eligibility criteria set out in this section will apply to the Consultant, including all parties constituting the Consultant, for any part of the Contract, including related services.
 |
| **Qualification of Consultants** | * 1. Consultants must satisfy the legal, financial and litigation criteria requirements stated in Paragraphs 3.1 to 3.3 of 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.
 |
| **Eligibility of Consultants** | * 1. Consultants must also satisfy the eligibility criteria set forth in this RFP and as contained in the MCC Program Procurement Guidelines governing MCC-funded procurements under the Threshold Program Agreement.
 |
| **Qualification and Eligibility of Joint Ventures or Associations** | * 1. In the case where a Consultant 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 RFP; (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**  | * 1. A Consultant shall not have a conflict of interest. All Consultants 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 MCA Entity requires that Consultants hold the MCA Entity’s interests paramount at all times, strictly avoid conflicts of interest, including conflicts with other assignments or their own corporate interests, and act without any consideration for future work. Without limitation on the generality of the foregoing, a Consultant, including all parties constituting the Consultant 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:
1. have at least one controlling partner in common with one or more other parties in the process contemplated by this RFP; or
2. have the same legal representative as another Consultant for purposes of this Proposal; 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 Proposal of another Consultant, or influence the decisions of the MCA Entity regarding the selection process for this procurement; or
4. participate in more than one Proposal in this process; participation by a Consultant in more than one Proposal will result in the disqualification of all Proposals in which the party is involved; however, this provision does not limit the inclusion of the same Sub-Consultant in more than one Proposal; or
5. are themselves, or have a business or family relationship with, (i) a member of the MCA Entity’s board of directors or staff, (ii) the project’s implementing entity’s staff, or (iii) the Procurement Agent, Fiscal Agent, or Auditor (as defined in the Threshold Program agreement or related agreements) hired by the MCA Entity in connection with the Threshold Program agreement, any of whom is directly or indirectly involved in any part of (A) the preparation of this RFP, (B) the selection process for this procurement, or (C) supervision of the Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to MCC; or
6. any of their affiliates have been or, at present, are engaged by the MCA Entity in the capacity of the Implementing Entity, Procurement Agent, Fiscal Agent, or Auditor under the Threshold Program agreement.
	1. A Consultant that has been engaged by the MCA 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.
 |
|  | * 1. Consultants have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the MCA Entity, or that may be reasonably perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of the Contract.
 |
| **Government Employees** | * + 1. 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 Consultant.
 |
|  | * + 1. Except as provided in Sub-Clause 5.8(d), no current employees of the Government shall work as Consultants or as Personnel under their own ministries, departments or agencies.
 |
|  | * + 1. 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.
 |
|  | * + 1. If a Consultant proposes any Government employee as Personnel in their Technical Proposal, 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 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 MCA Entity by the Consultant as part of its Technical Proposal.
 |
|  | * + 1. In the case where a Consultant seeks to engage the services of any person falling under ITC Sub-Clauses 5.8(a) – 5.8(d), who may have left the MCA Entity within a period of less than twelve (12) months of the date of this RFP, it must obtain a “no-objection” from the MCA Entity for the inclusion of such a person, prior to the Consultant’s submission of its Proposal.
 |
| **Ineligibility and Debarment** | * 1. A Consultant, all parties constituting 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 ITC 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 Part 10 of MCC’s Program ProcurementGuidelines (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.
	2. A Consultant, all parties constituting 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 ITC 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 Consultant (including any Associates, Sub-Consultants, and suppliers 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 Consultant (including any Associates, Sub-Consultants, and suppliers and any respective affiliates) or any payments to entities in such country; or
3. such Consultant, any parties constituting the 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.
 |
| **Evidence of Continued Eligibility** | * 1. Consultants shall provide such evidence of their continued eligibility in a manner satisfactory to the MCA Entity, as the MCA Entity shall reasonably request.
 |
| **Unfair Advantage** | * 1. If a Consultant could derive an unfair competitive advantage from having provided consulting services related to the assignment in question, the MCA Entity shall make available to all Consultants, together with this RFP, all information that would in that respect give such Consultant any unfair competitive advantage over competing Consultants.
 |
| **Commissions and Gratuities** | * 1. A Consultant will furnish information on commissions and gratuities, if any, paid or to be paid relating to this procurement or its Proposal and during performance of the Contract if the Consultant is awarded the Contract, as requested in the Financial Proposal Form FIN-1 of Section IV B.
 |
| 1. **Origin of Goods and Consulting Services**
 | * 1. Goods supplied and consulting services provided under the Contract may originate from any country, subject to the same restrictions specified for Consultants (including their Associates, if any), their Personnel and Sub-Consultants set forth in ITC Sub-Clause 5.9.
 |
| 1. **Contents of RFP**
 |
| 1. **Sections of RFP**
 | * 1. This RFP 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 ITC Clause 9.

**Part 1 Proposal and Selection Procedures*** Section I. Instructions to Consultants (ITC)
* Section II. Proposal Data Sheet (PDS)
* Section III. Qualification and Evaluation Criteria
* Section IV. A. Technical Proposal Forms
* Section IV. B. Financial Proposal Forms
* Section V. Terms of Reference

**Part 2 Conditions of Contract and Contract Forms*** Section VI. Contract Notices, Agreement and General Conditions of Contract (GCC)
* Section VII. Special Conditions of Contract (SCC) and Annexes to Contract
	1. The Letter of Invitation Requesting Proposals issued by the MCA Entity is not part of the RFP.
	2. The MCA Entity is not responsible for the completeness of this RFP and its Addenda if they were not obtained directly from the source stated by the MCA Entity in the Request for Proposals Letter.
	3. The Consultant is expected to examine all instructions, forms, terms, and Terms of Reference in this RFP. Failure to furnish all information or documentation required by this RFP may result in the rejection of the Proposal.
 |
| 1. **Clarification of RFP**
 | * 1. A prospective Consultant requiring any clarification of this RFP shall contact the MCA Entity in writing, or by email or fax at the MCA Entity’s address **indicated in the PDS**. 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 PDS** prior to the deadline for submission of Proposals. The MCA Entity shall send written copies of the responses, including a description of the inquiry but without identifying its source, to all shortlisted Consultants or Consultants who have registered or obtained the RFP directly from the MCA Entity, as the case may be, by the date **specified in the PDS**. The MCA Entity will also post a copy of the responses and inquiry descriptions to the MCA Entity’s website **indicated in the PDS**. Should the clarification result in changes to the essential elements of this RFP, the MCA Entity shall amend this RFP following the procedure under ITC Clause 9.
 |
|  | * 1. The Consultant’s designated representative is invited to attend a Pre-Proposal Conference, if **provided for in PDS ITC 1.4**. The purpose of the conference will be to clarify issues and to answer questions on any matter that may be raised at that stage.
	2. Minutes of the Pre-Proposal Conference, including the text of the questions and answers pertaining to the Conference, without identifying the source, will be posted on the MCA Entity’s website as **indicated in PDS ITC 8.1**, and shall be transmitted in writing to all shortlisted Consultants or Consultants who have registered or obtained the RFP directly from the MCA Entity, as the case may be. Any modification to this RFP that may become necessary as a result of the Pre-Proposal Conference shall be made by the MCA Entity exclusively through the issue of an Addendum and not through the minutes of the Pre-Proposal Conference.
 |
| 1. **Amendment of the RFP**
 | * 1. At any time prior to the deadline for submission of Proposals, the MCA Entity may amend this RFP by issuing Addenda.
 |
|  | * 1. All Addenda issued shall be part of this RFP, posted on the MCA Entity’s website, and shall be communicated in writing to all shortlisted Consultants or Consultants who have registered or obtained the RFP directly from the MCA Entity, as the case may be.
 |
|  | * 1. To give prospective Consultants reasonable time in which to take an Addendum into account in preparing their Proposals, the MCA Entity may extend the deadline for the submission of Proposals at its sole discretion.
 |
| 1. **Preparation of Proposals**
 |
| 1. **Cost of Proposal**
 | * 1. Except as otherwise **provided in the PDS**, the Consultant shall bear all costs associated with the preparation and submission of its Proposal, and the MCA Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Proposal process.
 |
| 1. **Language of Proposal**
 | * 1. If Proposals are to be submitted in both English and/or any other language, **as stated in the PDS**, the English version shall govern. Supporting documents and printed literature that are part of the Proposal may be in another language provided they are accompanied by an accurate translation of the relevant passages into English, in which case, for purposes of interpretation of the Proposal, such translation shall govern.
 |
| 1. **Preparation of Proposal**
 | * 1. In preparing their Proposal, Consultants are expected to examine in detail the documents comprising the RFP. Failure to provide the information requested may result in rejection of a Proposal.
 |
|  | * 1. While preparing the Technical Proposal, Consultants must give particular attention to the following:
1. In the case where there has been no shortlisting of Consultants, if a Consultant considers that it may enhance its expertise for the assignment, it may associate with another Consultant. In the case where a Consultant 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 RFP; (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 bidding process and, in the event the joint venture or Association is awarded the Contract, during Contract performance.
2. In the case where there has been shortlisting of Consultants, if a shortlisted Consultant considers that it may enhance its expertise for the assignment by associating with other Consultants in a joint venture or Sub-Consultancy, it may associate with either (a) non-shortlisted Consultant(s), or (b) shortlisted Consultant(s) if so **indicated in the PDS**. A shortlisted Consultant must first obtain the approval of the MCA Entity if it wishes to enter into a joint venture with non-shortlisted or shortlisted Consultant(s). In case of association with non-shortlisted Consultant(s), the shortlisted Consultant 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.
3. The RFP may provide either, but never both, the estimated budget or the estimated level of effort of key staff. The estimated budget or the estimated number of person-months for Key Professional Personnel envisaged to execute the assignment may be **provided in the PDS**. However, the evaluation of the Proposal shall be based on the price and number of person-months estimated by each Consultant in its respective Proposal.
4. For FBS-based assignments, the available budget is **provided in PDS ITC 12.2(c)**, and the Financial Proposal shall not exceed this budget, while the estimated number of Professional staff-months shall not be disclosed.
5. Alternative Key Professional Personnel shall not be proposed, and only one curriculum vitae (“CV”) may be submitted for each position indicated in the TOR.
 |
| **Technical and Financial Proposal Format and Content** | * 1. Consultants are required to submit a Technical Proposal, which shall provide the information indicated in the following paragraphs (a) through (g) using the standard forms provided in Section IV A (the “Technical Proposal”). A page is considered to be one printed side of A4 or US letter-size paper.
 |
|  | 1. Information on the Consultant’s financial capacity is required (Form TECH-2A of Section IV A) **unless otherwise stated in the PDS**. Information on current or past proceedings, litigation, arbitration, action claims, investigations or disputes is required (Form TECH-2B of Section IV A). A brief description of the Consultants’ organization and an outline of recent experience of the Consultant and of each Associate, if any, on assignments of a similar nature is required (Form TECH-3 and TECH-4 of Section IV A). For each assignment, the outline should indicate the names of Associates or Key Professional Personnel who participated, duration of the assignment, contract amount, and Consultant’s involvement. Information should be provided only for those assignments for which the Consultant 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 Consultant, or that of an Associate, but can be claimed by the professional staff themselves in their CVs. Consultants should be prepared to substantiate the claimed experience if so requested by the MCA Entity. References of the Consultant are required (Forms TECH-5 and B of Section IV A).
2. 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 MCA Entity (Form TECH-7 of Section IV A).
3. 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 Proposal is provided (Form TECH-6 of Section IV A). The work plan should be consistent with the Work and Deliverables Schedule (Form TECH-10 of Section IV A) which will show in the form of a bar chart the timing proposed for each activity.
4. 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 of Section IV A).
5. Estimates of the staff input (person-months of foreign and local professionals) needed to carry out the assignment (Form TECH-9 of Section IV A). The person-months input should be indicated separately for home office and field activities, and for foreign and local professional staff.
6. CVs of the Key Professional Personnel signed by the staff themselves and/or by the authorized representative (Form TECH-11 of Section IV A).
7. A detailed description of the proposed methodology and staffing for training, if training is **identified in the PDS** as a specific component of the assignment (Form TECH-6 of Section IV A).
8. Completed and certified Certification of Compliance with Sanctions Form (Form TECH-12 of Section IV A).
 |
|  | * 1. The Technical Proposal shall not include any financial information other than the required information in Form TECH-2A. A Technical Proposal containing financial information will constitute grounds for declaring the Proposal non-responsive.
 |
| **Financial Proposals** | * 1. The Consultant’s Financial Proposal shall be prepared using the forms provided in Section IV B (the “Financial Proposal”). It shall list all prices associated with the assignment, including remuneration for Personnel (foreign and local, in the field and at the Consultants’ home office) and travel expenses, if **indicated in the PDS**. All activities and items described in the Technical Proposal shall be assumed to be included in the price offered in the Financial Proposal.
 |
| 1. **Taxes**
 | * 1. GCC 18 sets forth the Tax provisions of the Contract. Consultants should review this clause carefully in preparing their Proposal.
 |
| 1. **Only One Proposal**
 | * 1. Consultants may only submit one Proposal. If a Consultant submits or participates in more than one Proposal, all such Proposals shall be disqualified. However, this does not preclude the participation of the same Sub-Consultants, including individual experts, in more than one Proposal.
 |
| 1. **Currencies of Proposal**
 | * 1. Consultants must submit their Financial Proposals in the currency or currencies **specified in the PDS**. Consultants will be paid in the currency specified in the **PDS**.
 |
| 1. **Period of Proposal Validity**
 | * 1. Proposals shall remain valid for the period **specified in the PDS** after the Proposal submission deadline date prescribed by the MCA Entity. A Proposal valid for a shorter period may be rejected by the MCA Entity as non-responsive.
	2. During the period of proposal validity, Consultants shall maintain the availability of Key Professional Personnel identified in the Proposal. The MCA Entity will make its best effort to complete negotiations within this period. Should the need arise, however, the MCA Entity may request Consultants to extend the validity period of their Proposals. Consultants who agree to such extension shall confirm that they maintain the availability of the Key Professional Personnel nominated in the Proposal, or in their confirmation of extension of validity of the Proposal, Consultants could submit new Key Professional Personnel in replacement, which would be considered in the final evaluation for Contract award. Consultants who do not agree have the right to refuse to extend the validity of their Proposals.
 |
| 1. **Submission and Opening of Proposals**
 |
| 1. **Sealing and Marking of Proposals**
 | * 1. The following applies to the **“original”** of the Technical Proposal, and of the Financial Proposal. The **“original”** shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants themselves. The person signing the Proposal must initial such corrections, as well as initial each page of the relevant **“original”**. The submission letters for the Technical Proposal and for the Financial Proposal should respectively be in the format shown in (Form TECH-1) and (Form FIN-1).
 |
|  | * 1. If **required in the PDS**, the authorized representative of the Consultant signing the **“original”** of the Technical and the Financial Proposals shall provide within the Technical Proposal an authorization in the form of a written power of attorney demonstrating that the person signing has been duly authorized to sign the **“original”** on behalf of the Consultant, and its Associates. The signed Technical Proposals and the signed Financial Proposals shall be clearly marked **“original”**.
 |
|  | * 1. Copies of the Technical Proposal and the Financial Proposal shall be made, in the number **stated in the PDS**, and each shall be clearly marked **“copy”**. If discrepancies are found between the original and any of the copies of the relevant documents, then the **“original”** shall govern. If Consultants have the option of submitting proposals electronically, this shall be **stated in the PDS.**
 |
|  | * 1. The **“original”** and each **“copy”** of the Technical Proposal shall be placed in a sealed envelope/parcel clearly marked **“technical proposal”**. Similarly, the **“original”** and each **“copy”** of the Financial Proposal shall be placed in a separate sealed envelope/parcel clearly marked **“financial proposal”**.
	2. Each envelope/parcel shall bear the name and address of the MCA Entity as **stated in the PDS**, the name and address of the Consultant (in case they have to be returned unopened), and the Name of the Assignment as **stated in PDS ITC 1.3**.
	3. In addition, the envelope/parcel containing the original and copies of the Financial Proposal shall be marked with a warning **“do not open with the technical proposal”**. If the Financial Proposal is not submitted in a separate sealed envelope/parcel duly marked as indicated above, this will constitute grounds for declaring the Proposal non-responsive.
	4. The two envelopes/parcels containing the Technical Proposal and the Financial Proposal shall then be placed into one outer envelope or carton (as appropriate) and securely sealed to prevent premature opening. This outer envelope/carton shall bear the submission address, name and address of the Consultant, name of the assignment reference number, and be clearly marked with the statement **indicated in the PDS** and bear the name and address of the MCA Entity **as stated in PDS ITC 17.5**. The MCA Entity shall not be responsible for misplacement, losing or premature opening if the outer envelope/carton is not sealed and/or marked as stipulated. This circumstance may be cause for Proposal rejection.
 |
| 1. **Deadline for Submission of Proposals**
 | * 1. Proposals must be received by the MCA Entity before the submission deadline **specified in the PDS**.
	2. A Consultant may withdraw, substitute, or modify its Proposal prior to the deadline for the submission of proposals by sending a written notice duly signed by an authorized representative. The corresponding substitution or modification of the Proposal must accompany the respective written notice. All notices must be:

(a) clearly marked “WITHDRAWAL,” “SUBSITUTION,” or “MODIFICATION” (b) received by the MCA-Entity prior to the deadline prescribed for submission of Proposals.(c) sent directly as electronic submissions to the File Request Link or if submitting in hard copy to the address in the PDS, and be (d) in pdf or Word format.18.3 Proposals requested to be withdrawn shall remain unopened. No proposal may be withdrawn, substituted, or modified in the interval between the deadline for submission of proposals and the expiration of the period of proposal validity specified in this Request for Proposals.18.4 The MCA Entity may, at its discretion, extend the deadline for the submission of Proposals by amending this RFP in accordance with ITC 9, in which case all rights and obligations of the MCA Entity and the Consultants previously subject to the original deadline shall thereafter be subject to the new deadline as extended.18.5 Any Proposal received by the MCA Entity after the deadline for submission shall be declared late and rejected. The Consultant shall be notified of such rejection. |
| 1. **Late Proposals**
 | * 1. The MCA Entity shall not consider any Proposal that arrives after the deadline for submission of Proposals in accordance with ITC 18. Any Proposals received by the MCA Entity after the deadline for submission of Proposals shall be declared late, rejected, and returned unopened to the Consultant at the request and cost of the Consultant.
 |
| 1. **Proposal Opening**
 | * 1. The MCA Entity shall open the outer envelopes/cartons in a public meeting at the address, date and time **specified in the PDS** as soon as possible after the deadline for submission and sort the Proposals into Technical Proposals or Financial Proposals as appropriate. The MCA Entity shall ensure that the Financial Proposals remain sealed and securely stored until such time as the public opening of Financial Proposals takes place.
 |
| 1. **Evaluation of Proposals**
 |
| 1. **Confidentiality**
 | * 1. Information relating to the evaluation of Proposals and recommendations of Contract award shall not be disclosed to Consultants or any other persons not officially concerned with the process, until the publication of the award of Contract. The undue use by any Consultant of confidential information related to the process may result in the rejection of its Proposal or may invalidate the entire procurement process.
	2. Any attempt or effort by a Consultant to influence the MCA Entity in the examination, evaluation, and ranking of Proposals or Contract award decisions may result in the rejection of its Proposal and may subject the Consultant to the provisions of the Government’s, the MCA Entity’s, and MCC’s AFC Policy and the application of other sanctions and remedies to the extent applicable
 |
|  | * 1. From the time Proposals are opened to the time the Contract is awarded, Consultants shall not contact the MCA Entity on any matter related to its Technical Proposal or Financial Proposal except in writing to the Procurement Agent.
 |
| 1. **Clarification of Proposals**
 | * 1. To assist in the examination and evaluation of Proposals, the MCA Entity may, at its discretion, ask any Consultant for clarification of its Proposal. Any clarification submitted by a Consultant that is not in response to a request by the MCA Entity shall not be considered. The MCA Entity’s request for clarification and the Consultant’s response shall be in writing. No change in the prices or substance of the Proposal shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by the MCA Entity in the evaluation of the Proposals.
	2. If a Consultant does not provide clarifications of its Proposal by the date and time set in the MCA Entity’s request for clarification, its Proposal may be rejected.
 |
| 1. **Evaluation of Technical Proposals**
 | * 1. The TEP shall evaluate the Technical Proposals 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 Proposal will be given a technical score (St). A Proposal may be rejected at this stage if it does not respond to the RFP or if it fails to achieve the minimum technical score **indicated in the PDS**.
	2. In exceptional circumstances, if none of the scores awarded by the TEP reach or exceed the minimum technical score (St), the MCA Entity reserves the right to invite the Consultant receiving the highest technical score (St) to negotiate both its Technical and Financial Proposals. If the negotiations fail to result in an acceptable contract within a reasonable time, the MCA 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 Proposals.
 |
| 1. **Evaluation of Financial Capacity**
 | * 1. The Consultant’s financial capability to mobilize and sustain the Services is imperative. In its Proposal, the Consultant is required to provide information on its financial and economic status **unless otherwise stated in PDS ITC 12.3(a)**. The information required should be completed using the Form TECH-2A.
	2. A Consultant that fails to demonstrate through its financial records that it has the economic and financial ability to perform the required services as described in the respective Terms of Reference may be disqualified. In the circumstance of a disqualification the Technical Proposal will not be evaluated further and the Financial Proposal shall be returned unopened at the cost and request of the Consultant.
	3. The MCA Entity, at its discretion, may ask for clarifications or additional information regarding the information provided in Form TECH-2A.
	4. The outcome of the Financial Capacity evaluation is a clear YES or NO.Any Consultant that receives a NO shall not be evaluated further and its Financial Proposal shall be returned unopened. The Proposals that receive a YES at this stage will be evaluated further according to the technical scoring methodology described in Section III.
 |
| **Financial Proposals (only for QBS)** | * 1. Following the ranking of Technical Proposals, and after receiving a “no objection” from MCC (if applicable), when selection is based on quality only (QBS), the first ranked Consultant will be invited to negotiate its Technical and Financial Proposals and the Contract in accordance with the instructions given under ITC Sub-Clause 27.
 |
| **Financial Proposals (only for QCBS, FBS, LCS)** | * 1. Following completion of the evaluation of Technical Proposals, and after receiving a “no objection” from MCC (if applicable), the MCA Entity shall inform those Consultants whose Technical Proposals achieved the minimum qualifying mark, advising them of the following:
	2. that their Technical Proposal met the minimum qualifying mark;
	3. the name of each Consultant whose Technical Proposal met or exceeded the minimum qualifying mark and the total technical score assigned to each; and
	4. the date, time, and location for the opening of the Financial Proposals, inviting them to the opening but indicating that their attendance is not mandatory.

The MCA Entity shall also advise those Consultants whose Technical Proposals did not meet the minimum qualifying mark, advising them of the following:* 1. that their Technical Proposal did not meet the minimum qualifying mark;
	2. the total technical score assigned to their own Technical Proposal;
	3. the name of each Consultant whose Technical Proposal met or exceeded the minimum qualifying mark and the total technical score assigned to each;
	4. the date, time, and location for the opening of the Financial Proposals, inviting them to the opening but indicating that their attendance is not mandatory; and
	5. that their Financial Proposals will be returned unopened, at the cost and expense of the Consultant, after the MCA Entity has completed the selection process.

The MCA Entity shall also advise those Consultants whose Technical Proposals were not evaluated or rejected, advising them of the following:* 1. the grounds on which their Technical Proposal was not evaluated or was rejected;
	2. the name of each Consultant whose Technical Proposal met or exceeded the minimum qualifying mark and the total technical score assigned to each;
	3. the date, time, and location for the opening of the Financial Proposals, inviting them to the opening but indicating that their attendance is not mandatory; and
	4. that their Financial Proposals will be returned unopened, at the cost and expense of the Consultant, after the MCA Entity has completed the selection process.

The Financial Proposal opening shall take place at the location **indicated in the PDS**. The date and time scheduled for the Financial Proposal opening shall be specified on the MCA Entity’s website **provided in the PDS**. The MCA Entity shall promptly respond in writing to any Consultant who, after receiving notification of the procurement results, makes a written request for a debriefing as provided in the MCC Program Procurement Guidelines. |
|  | * 1. The MCA Entity shall open the Financial Proposals in a public meeting at the address, date and time specified in the notification described in ITC Sub-Clause 24.6. All Financial Proposals will first be inspected to confirm that they have remained sealed and unopened. Only the Financial Proposals of those Consultants who met the minimum qualifying mark following the Technical Evaluation stage will be opened. The Technical Score (St) and only the Total Proposal Price, as stated in the Financial Proposal Submission Form (Form FIN-1) shall be read out aloud and recorded. A copy of the record shall be posted on the MCA Entity’s website.
 |
|  | * 1. The MCA 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 Proposal 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 Proposal from the Technical Proposal, no corrections will be applied to the Financial Proposal in this respect. If Consultants are not required to submit financial proposals 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 PDS**.
 |
|  | * 1. For Quality and Cost Based Selection (QCBS), the lowest evaluated Financial Proposal (Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as indicated in Section III: Qualification and Evaluation Criteria. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; F = the weight given to the Financial Proposal; T + F = 1) **indicated in the PDS**. S = St x T% + Sf x F%. The Consultant achieving the highest combined technical and financial score will be invited for negotiations.
 |
|  | * 1. In the case of Fixed-Budget Selection (FBS), the MCA Entity will select the firm that submitted the highest ranked Technical Proposal within the budget. Proposals that exceed the indicated budget will be rejected. In the case of the Least-Cost Selection (LCS), the MCA Entity will select the lowest priced Proposal among those that passed the minimum technical score. In both cases, the evaluated Proposal price according to ITC Sub-Clause 24.9 shall be considered, and the selected firm invited for negotiations.
	2. Prior to execution of a contract, the MCA 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 proposal at the discretion of the MCA Entity. The Consultant shall not be permitted to revise its submission after a determination that its offered price is unreasonable. In addition, the MCA Entity may also verify any information provided on the TECH Forms submitted in the Proposal. A negative determination in the post-qualification could lead to the rejection of the Proposal and the MCA Entity may, at its discretion, move to invite the next-ranked Consultant for negotiation.
 |
| 1. **Past Performance and Reference Check**
 | * 1. In accordance with the MCC PPG, the Consultant’s performance on earlier contracts will be considered a factor in the MCA Entity’s qualification of the Consultant’s evaluation. The MCA Entity reserves the right to check the performance references provided by the Consultant or to use any other source at the MCA Entity’s discretion. If the Consultant (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 MCA Entity, anywhere in the world), whether as lead Consultant, affiliate, Associate, subsidiary, Sub-Consultant, or in any other role, the Consultant must identify the contract in its list of references submitted with its Proposal using Technical Form TECH-5. Failure to include any such contracts may be used to form a negative determination by the MCA Entity on the Consultant’s record of performance in prior contracts. However, the failure to list any contracts because the Consultant (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 MCA Entity on the Consultant’s record of performance in prior contracts. That is, prior performance in connection with an MCC-funded contract is not required. The MCA Entity will check the references, including the Consultant’s past performance reports filed in MCC’s Contractor Past Performance Reporting System (“CPPRS”). A negative determination by the MCA Entity on the Consultant’s record of performance in prior contracts may be a reason for disqualification of the Consultant, or lowered evaluation scores, at the discretion of the MCA Entity.
 |
| 1. **Award of Contract**
2. **Notice of Intent to Award**
	1. After the completion of the evaluation report and having obtained all the necessary approvals per the PPG, the MCA Entity shall send the Notice of Intent to Award to the successful Consultant. The Notice of Intent to Award shall include a statement that the MCA 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 conclusion of successful negotiations. Delivery of the Notice of Intent to Award **shall not constitute the formation of a contract** between the MCA Entity 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 MCA Entity shall also notify, in writing, all other bidders of the results of the bidding. The MCA Entity shall promptly respond in writing to any unsuccessful bidder who, after receiving notification of the bidding results, makes a written request for a debriefing as provided in the MCC Program Procurement Guidelines, or submits a formal Bid challenge.
 |
| 1. **Negotiations**
 | * 1. Negotiations will be held on the date and at the address **indicated in the PDS**. The invited Consultant will, as a pre-requisite for attendance at the negotiations, confirm the availability of all the Key Professional Personnel listed in the Technical Proposal. Failure to confirm such Personnel may result in the MCA Entity proceeding to negotiate with the next-ranked Consultant. Representatives conducting negotiations on behalf of the Consultant must have written authority to negotiate and conclude the Contract on behalf of the Consultant.
 |
| **Technical Negotiations** | * 1. Negotiations will commence with a discussion of the Technical Proposal, including (a) proposed technical approach and methodology, (b) workplan, (c) organization and staffing, and (d) any suggestions made by the Consultant to improve the Terms of Reference.
	2. The MCA Entity and the Consultant 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 MCA Entity to ensure satisfactory implementation of the assignment. The MCA Entity shall prepare minutes of negotiations which will be signed by the MCA Entity and the Consultant.
 |
| **Financial Negotiations** | * 1. It is the responsibility of the Consultant, before starting financial negotiations, to determine the relevant local Tax amount to be paid by the Consultant under the Contract. In no event shall the MCA Entity be responsible for the payment or reimbursement of any Taxes. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates.
 |
| **Availability of Professional Staff/Experts** | * 1. Having selected the Consultant on the basis of, among other things, an evaluation of proposed Key Professional Personnel, the MCA Entity expects to negotiate a Contract on the basis of those Personnel named in the Technical Proposal.
	2. During Contract negotiations, the MCA 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 in the Proposal without confirming their availability, the Consultant may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate.
 |
| **Conclusion of the Negotiations** | * 1. Negotiations will conclude with a review of the draft Contract and Annexes, following which the MCA Entity and the Consultant will initial the agreed Contract. If negotiations fail, the MCA Entity will invite the Consultant whose Proposal received the second highest score to negotiate a Contract. If negotiations are successful, MCA Entity will issue a Notice of Award of Contract.
 |
| 1. **Notice of Award of Contract**
 | * 1. After the award of Contract, the MCA Entity shall publish on its website, at dgMarket and at UNDB online, the results identifying the procurement, the name of the winning Consultant and the price, duration, and summary scope of the Contract. The same information shall be sent to all Consultants who have submitted Proposals.
 |
| 1. **Bid Challenges[[1]](#footnote-2)**
 | * 1. Consultants may challenge the results of a procurement only according to the rules established in the Bid Challenge System developed by the MCA Entity and approved by MCC. The rules and provisions of the Bid Challenge System are as published on the MCA Entity’s website **indicated in the PDS.**
 |
| 1. **Return of Unopened Financial Proposals**
 | * 1. After Contract signature, the MCA Entity shall return the unopened Financial Proposals to the unsuccessful Consultants at the cost and request of the Consultant.
 |
| 1. **Commencement Date**
 | * 1. The Consultant is expected to commence the assignment on the date and at the location **specified in the PDS**.
 |
| 1. **Inconsistencies with MCC Program Procurement Guidelines**
 | * 1. The Procurement that is the subject of this RFP 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 RFP (including any Addenda that may be issued to this RFP) 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.
 |
| 1. **Applicable Threshold Conditions**
 | * 1. Consultants 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 MCA Entity’s obligations under the threshold and related agreements which, under the terms of the threshold and related documents are required to be transferred onto any Consultant or Sub-Consultant who partakes in procurement or subsequent contracts in which MCC Funding is involved.
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| 1. Proposal Data Sheet
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| 1. **General**
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| ITC Definitions | (d) “Threshold Program Grant Agreement” means the Millennium Challenge Threshold Program agreement between the United States of America, acting through the Millennium Challenge Corporation, and the Government of **Kosovo**, entered into on **September 12, 2017**, as may be amended from time to time.(m) “Government” means the Government of the Republic of **Kosovo**.(o) “MCA Entity” means **Millennium Foundation of Kosovo (MFK)**, the accountable entity designated by the Government to implement the Threshold Program agreement. |
| ITC 1.1 | The method of selection is the **Quality and Cost Based Selection (QCBS)** method. |
| ITC 1.3 | The Name of the assignment is: Program Management Consultant for Assessment and Supervision Services for the Public Access to Judicial Information Activity (Case Management Information System “CMIS”)RFP / MFK / QCBS / 2020 / No. 002 |
| ITC 1.4 | A Pre-Proposal Conference will be held at **15:00** (Kosovo time) on **06 August** **2020 ONLY through online Zoom Meeting.** Attendance is strongly advised for all prospective Consultants or their representatives but is not mandatory.Zoom Meeting Link: <https://us02web.zoom.us/j/89256765959>  |
| ITC 1.5 | The MCA Entity will provide the following inputs and facilities: **“None”**Based in Law No. 06/L-016 On business organizations there are requirements for local registration of foreign Consultants working in the Country of MCA Entity (the law can be downloaded from this link <https://gzk.rks-gov.net/ActDetail.aspx?ActID=16426> )**The MCA Entity will provide inputs as referenced under section V. Terms of Reference.** |
| 1. **Contents of the RFP**
 |
| ITC 8.1 | Clarifications may be requested by using this File Request Link not later than **23:00 hours p.m**. (Kosovo time), **16 August 2020**, so that responses will be issued to all Consultants not later than **26 August 2020.**  Please submit your clarifications using this File Request Link:[**Click here to submit Clarifications request (Dropbox Upload)**](https://www.dropbox.com/request/8r1ggpMP0qeB6nA3yrOH)All responses to clarifications requests shall be uploaded in in the website www.millenniumkosovo.org in the same site when you get access to the RFP Documents, the link is provided below.A complete set of Request for Proposal (RFP) documents including any clarifications, notices and/or addendums may be obtained by interested eligible consultants through the following website (Eventual clarifications or any changes to the RFP document shall be published at the latest 5 days before the submission deadline on the link provided below):<https://millenniumkosovo.org/procurment/program-management-consultant-for-assessment-and-supervision-services-for-the-public-access-to-judicial-information-activity-case-management-information-system-cmis-rfp-mfk/>You are strongly advised to fill in the form below to get further updates on this procurement the form can be found in the link provided below: <https://millenniumkosovo.org/procurment/program-management-consultant-for-assessment-and-supervision-services-for-the-public-access-to-judicial-information-activity-case-management-information-system-cmis-rfp-mfk/> |
| 1. **Preparation of Proposals**
 |
| ITC 10.1 | MCA Entity shall not pay any costs associated with the preparation and/or submission of the Proposal. |
| ITC 11.1 | The Proposal shall be written in English Full Technical and Financial Proposals shall be submitted in English. |
| ITC 12.2(b) | N/a |
| ITC 12.2(c) | The estimated price budget for the assignment is **400,000$ (four hundred thousand United States Dollars)**. The value of the estimated budget is an estimate. A proposal will not be rejected if it exceeds the amount of the value of the estimated budget unless the amount fails to pass the test of price reasonableness as required by the PPG (see PPG P1.A.1.18). |
| ITC 12.2 (d) | ***N/A*** |
| ITC 12.3 (a) | Information on the Consultant’s financial capacity **is** required (Form TECH-2A of Section IV A). |
| ITC 12.3(g) | Training **is** a specific component of this assignment.  |
| ITC 12.5 | Per diem and in-country travel will be included in the total price in form FIN-2 |
| ITC 15.1 | The currency of the Proposal shall be as follows: **United States Dollars (USD).**The currency of the payment shall be as follows: **United States Dollars (USD).** |
| ITC 16.1 | Proposals must remain valid for **120** days after the deadline for the submission of Proposals specified in PDS ITC 18.1. |
| 1. **Submission and Opening of Proposals**
 |
| ITC 17.2 | Written Power of Attorney **is** required.  |
| ITC 17.3 | **Consultants must submit their Proposals ONLY electronically.** Annex 1 to this Section II (Proposal Data Sheet) delineates the full procedure for electronic submission. Consultants who submit electronically (a) do not need to submit hard copies and (2) need not submit more than the single original copy of each of the Technical and Financial Proposal.Consultants when submitting their Proposals electronically can make that submission online as provided for in Annex 1 to this Section II (Proposal Data Sheet). The submission shall neither be made in any device (CD or flash/hard drive) nor by email. |
| ITC 18.1 | Proposals must be submitted no later than **14:00 hours p.m**. (Kosovo time), on **07 September, 2020**.Please submit your proposals using this File Request Link: [**Click here to submit proposal (Dropbox file request link)**](https://www.dropbox.com/request/iXecnCAA2P4YanG3lloi) |
| ITC 20.1 | Technical Proposal opening will be held by web conference using Zoom ([www.zoom.us](http://www.zoom.us)) on **07 September, 2020** at **14.30 p.m.** (Kosovo time)**.** The link will be sent to the Consultants who would have submitted the Proposals by the submission deadline.The Minutes of Opening of Technical Proposals shall be promptly sent to all Consultants who submitted Proposals. |
| 1. **Evaluation of Proposals**
 |
| ITC 23.1 | The minimum technical score (St) required to pass is **70** out of 100 possible points.For detailed scoring criteria, see Section III. |
| ITC 24.6 | The Financial Proposal opening will be held by web conference using Zoom ([www.zoom.us](http://www.zoom.us)) at the date and time specified in the correspondence to Consultants who achieves the minimum technical score and above. |
| ITC 24.8 | The Financial Proposal opening will be held by web conference using Zoom ([www.zoom.us](http://www.zoom.us)) at the date and time specified in the correspondence to Consultants who achieves the minimum technical score and above. |
| ITC 24.9 | The weight given to the Technical Proposal, T = **80%**The weight given to the Financial Proposal, F = **20%** |
| 1. **Award of Contract**
 |
| ITC 27.1 | Negotiations will be held **at the address:** Str. “Migjeni” no. 21 (ex-Bank of Ljubljana, floor IX), Prishtinë, Kosovë**.** The expected date for Contract negotiations is **21** days after the opening of the Financial Proposals. |
| ITC 29.1 | The MCA Entity’s Bid Challenge System is provided on the MCA Entity’s website **www.millenniumkosovo.org**. |
| ITC 31.1 | The date for commencement of the Services is **within 7** days after the date of contract signature, which shall be the effective date of the Contract, and the location is at the Republic of Kosovo. |

**Annex 1 to Section II – Proposal Data Sheet**

**Procedure for Electronic Submission of Proposals**

1. Each Consultant will be provided a File Request Link (via email), which is an electronic link to upload its submission when it requests the RFP. The Consultant shall use this, and only this, link to submit its Entire Proposal, where Entire Proposal = Technical Proposal + Financial Proposal.
2. The Entire Proposal shall be submitted via the File Request Link only. Proposals submitted by email shall not be accepted. Also, the Entire Proposal shall be submitted by the proposal submission deadline. A Consultant who submits only the Technical Proposal or only the Financial Proposal shall have its Entire Proposal rejected. Similarly, a Consultant who submits only its Technical Proposal by hard copy and only the Financial Proposal electronically – or vice versa – shall have their Entire Proposal rejected.
3. The File Request Link shall automatically expire on the submission deadline, specified in the relevant ITC. 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. The Technical Proposal and Financial Proposal shall be submitted in separate pdf(s)/Microsoft Word files/folders, and separately password-protected (Technical Proposal at the discretion of the Consultant; Financial Proposal mandatory, as noted below).
6. Consultants should use the filename framework for the Proposals as follows:
	1. Technical Proposals filename: ***[Consultant Name] – Technical Proposal - RFP / MFK / QCBS / 2020 / No. 002***
	2. Financial Proposals filename: ***[Consultant Name] – Financial Proposal - RFP / MFK / QCBS / 2020 / No. 002***
7. Technical Proposals are not required to be password-protected, but may be protected at the Consultant’s discretion. Consultants who choose to password-protect their Technical Proposals can do so to protect against inadvertent untimely opening of its proposal, but at their own responsibility for providing the correct password prior to the Technical Proposal opening via email to the address provided in the relevant clause under Section II – Proposal Data Sheet. If a Consultant fails to provide the correct password that opens the files so its relevant contents can be announced by the end of the formal Opening of Technical Proposals their Entire Proposal shall be rejected. Case-sensitive passwords should be sent as is, with the cases obvious.
8. Consultants who attain the minimum technical pass-mark required to pass shall be asked to provide the password for their Financial Proposal at a later date.
9. “If a Consultant submits a Technical Proposal with password protection, the password for the Technical Proposal should be sent no earlier than one day before the submission deadline and no later than 15 minutes earlier than the submission deadline local Kosovo time on14:00 hours p.m., on XX August, 2020 to the following email address: procurement@millennuimkosovo.org.
10. Financial Proposals are REQUIRED TO BE password-protected so that file(s) cannot be opened without the password. The passwords for the Financial Proposal shall NOT be submitted with the Entire Proposal, but will be sent only by those Consultants who are requested to do so by the MCA-Entity after the conclusion of the technical evaluation.
	1. Entire Proposal of a Consultant shall be rejected if the Financial Proposal is not password-protected;
	2. If a Consultant does not provide a password when requested or provides an incorrect password or fails to provide the correct password by the end of the formal Opening of the Financial Proposals, their Entire Proposal shall be rejected.
11. The password to open the Financial Proposal shall be sent to the MCA-Entity at a time and date (and to an email address) provided to a Consultant that pass the technical score at a later date, after technical proposals will have been evaluated. Consultants who send their passwords before being formally requested to do by the MCA-Entitymay have their Entire Proposal rejected. Case-sensitive passwords should be sent as is, with the cases obvious.
12. 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 a Consultant only has 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 found at
<http://www.pdfmate.com/feature-encrypt.html>.
13. 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>.
14. Each uploaded document (either as part, or whole, of the Technical Proposal or Financial Proposal) shall not exceed 10GB each.
15. Consultants are informed that the capability of their internet bandwidth will determine the speed in which their proposals are uploaded via the File Request Link. Consultants are therefore advised to commence the process of uploading their Proposals via the File Request Link in good time before the proposal submission deadline. As noted above, this link will expire at the proposal submission deadline, and cannot be reopened under any circumstances.

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| 1. Qualification and Evaluation Criteria
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1. Legal Status
Each entity forming the Consultant shall attach to Form TECH-1 a copy of its letter of incorporation, or other such document, indicating its legal status. In the event the Consultant is an Association of entities, the Consultant shall include any other document showing that it intends to associate, or it has associated with, the other entity or entities that are jointly submitting a Proposal. Each Associate must provide the information required in Form TECH-1.
2. Financial Criteria
If required by PDS ITC 12.3 (a), the Consultant shall provide evidence showing that it has the sufficient financial capacity needed for this Contract, as required in Form TECH-2A. Each Associate must provide the information required in TECH-2A.
3. Litigation Criteria
The Consultant shall provide accurate information on any current or past litigation or arbitration resulting from contracts completed, terminated, or under execution by the Consultant over the last five (5) years, as indicated in Form TECH-2B. A consistent history of awards against the Consultant or existence of high value disputes may lead to the rejection of the Proposal. Each Associate must provide the information required in TECH-2B.

Evaluation Criteria
A Proposal will be rejected if it does not earn a total minimum score of **70 points**.

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| Criteria, sub-criteria, and point system for the evaluation of Technical Proposals. |
| ITC 23.1 | **Criteria, sub-criteria** | **Points** |
|  | **Criterion A: Organizational capability and experience of the Consultant** |  |
|  | *(i) The Technical Proposal shall provide evidence of organizational capability and relevant experience in execution of similar type (preferably in quality control and/or implementation of EE incentive programs), of similar size, scope, and complexity, including the nature and value of the relevant contracts, as well as works in hand and contractually committed as provided in Form TECH-4.* *(ii) MCA Entity reserves the right to contact the Form TECH-5 references as well as other sources to check references and past performance. In addition, the Consultant’s past performance on MCC-funded contracts will be also considered* |  |
| Sub-criteria: A1 | Minimum 10 years of corporate experience in providing advisory services in the implementation of complex IT systems; | 3 |
| Sub-criteria: A2 | Minimum one (1) similar assignment (similar in scope, physical size, complexity, methods/technology or other characteristics as described in the Terms of Reference) in providing advisory services in the justice/judicial sector. | 3 |
| Sub-criteria: A3 | Demonstrated experience in planning, assessment, review of ICT infrastructure, application software, hardware capability and in providing quality assurance (QA); | 3 |
| Sub-criteria: A4 | Demonstrated ability to effectively manage projects of a similar type, scope and size; | 3 |
| Sub-criteria: A5 | Demonstrated experience in implementing judicial reforms, or improving judicial systems.  | 3 |
| Sub-criteria: A6 | Demonstrated experience in conducting, or overseeing, capacity building/training activities for government institution and/or civil society/media/private sector | 3 |
| Sub-criteria: A7 | Demonstrated experience in dialogue and communication, outreach and behavior change in the justice/judicial sector.  | 3 |
| Sub-criteria: A8 | Experience with gender-balanced and inclusive capacity building, training, and gender data disaggregation. | 3 |
|  | Total Points for Criterion A | 24 |
|  | **Criterion B: Adequacy of the proposed methodology and work plan in responding to the Terms of Reference** |  |
|  | *The Technical Proposal shall explain in detail how the Consultant will:**(i) Successfully achieve the deliverables and milestones specified in the ‘TOR’ from the point of transparency, consistency, cost-efficiency, and timeliness;**(ii) Accomplish the tasks within a specific work plan and staffing plan with responsibilities and coordination among different staff positions adequately defined;* |  |
| Sub-criteria: B1 | Proposed approach and methodology, and work plan demonstrate an understanding of requirements and assignments contained in the ToR, and accomplish the outcomes presented in the project logic. | 16 |
| Sub-criteria: B2 | Proposed project organization and staffing provides a logical and appropriate set of roles and responsibilities, showing clear relationships among the positions. | 10 |
|  | Total Points for criterion B | 26 |
|  | **Criterion C: Key Professional Personnel** |  |
| Sub-criteria:C1 | Team LeaderEducational Qualifications:- Advanced University Degree (Master’s) preferably in Computer Science/Engineering, Management of Information Systems or relevant fields. - A Bachelor’s degree in a relevant field with additional 10 years of relevant experience may be accepted in lieu of the Master’s Degree requirement.Experience Requirements:- Minimum of 10 years of progressively responsible experience in planning, design, implementation, operations, maintenance and support,- Minimum of 5 years of experience in articulating a vision, developing strategic plans and roadmaps in alignment with the objectives and goals;- Minimum of 5 years of experience in analyzing complex issues and conducting quantitative analysis to determine the feasibility of operational and investment decisions;- At least 5 years of demonstrated past experience as Project Manager in managing projects of similar complexity and nature; preferably with experience in the justice/judicial sector of Kosovo, - Demonstrated ability to communicate effectively (written and spoken) at all levels of the organization, including executive management and stakeholders from different organizations;- Demonstrated experience in robust capacity planning and infrastructure transformation from strategy to design and implementation;- Demonstrated ability to gather information in a complex environment across multiple entities, harmonize the information, developing presentations, and engage in stakeholder communications on strategic initiatives, risks and budgets;- Minimum of 5 years of proven experience in planning and conducting similar ICT assessments in the region; preferably in justice/judicial institutions,- Minimum of 5 years of experience working with institutions in the justice/judicial sector.- Fluency in oral and written English.- Fluency in the local languages of Kosovo is a plus. | 20 |
| Sub-criteria:C2 | Technical ExpertEducational Qualifications:* Advanced University Degree (Master’s) preferably in Computer Science, Management of Information Systems, Network Engineering, or relevant fields.
* A Bachelor’s degree in a relevant field with additional 5 years of relevant experience may be accepted in lieu of the Master’s Degree requirement.

Experience Requirements:* Minimum of 5 years of experience in design and implementation of IT infrastructure projects, including operating systems, middleware, databases and related infrastructure.
* Minimum of 3 years of experience conducting similar projects in developing countries and within similar technical fields.
* Demonstrated experience in the areas of developing and deploying enterprise software solutions, solutions architecture, and customer implementation in complex multi-system environments with cross system process and data flows across multiple organizations
* Demonstrated experience in the design and implementation of judicial reforms and/or improvement of judicial systems.
* Demonstrated experience in the assessment of computing capacity for business and engineering applications, including custom and COTS products.

Fluency in oral and written English. | 10 |
| Sub-criteria:C3 | Legal ExpertEducational Qualifications:* Advanced University Degree (Master’s) in Law or related field;
* A Bachelor’s degree in a relevant field with additional 7 years of relevant experience may be accepted in lieu of the Master’s Degree requirement.

Experience Requirements:* At least 7 years of professional experience in the legal landscape of Kosovo;
* Excellent knowledge of Kosovo’s court system and experience with judicial data;
* Well-versed with requirements of data protection legislation, treatment of confidential information, and the right to access to public information;
* Training and capacity building experience in adult learning environments is desirable;
* Prior experience with women, vulnerable groups or minority cases and inclusion issues in the judicial system of Kosovo is highly desirable.
* Professional fluency in English, both written and spoken.
* Fluency in the local languages of Kosovo is a plus.
 | 10 |
| Sub-criteria:C4 | Capacity Building ExpertEducational Qualifications:* Advanced University Degree (Master’s) preferably in Change Management, Human Resource Management, Public Administration, Education/Training or relevant fields.
* A Bachelor’s degree in a relevant field with additional 5 years of relevant experience may be accepted in lieu of the Master’s Degree requirement.

Experience Requirements:* Minimum of 5 years of experience in justice or public administration related capacity building.
* At least 2 similar assignments in conducting organizational or institutional assessments; preferably in the justice/judicial sector.
* Demonstrated experience in capacity building, curriculum development, developing creative approaches to institutional capacity development.
* Demonstrated experience with capacity building and training on gender and inclusion.
* Field experience in supporting civil society organizations, governance, public administration, justice/legal sector with assignments related to access to judicial information; highly preferably in Kosovo.
* Proven experience in the use of capacity building methodologies and adapting these to specific situational needs (flexible adult learning).
* Professional fluency in English, both written and spoken.
* Fluency in the local languages of Kosovo is a plus.
 | 10 |
|  | Total Points for criterion C | 50 |
|  | **Total Points for All Criteria** | 100 |
|  | The minimum technical score St required to pass is | 70 |
|  | If none of the scores awarded by the TEP reach or exceed the minimum technical score (St), the MCA Entity reserves the right to invite the Consultant receiving the highest technical score (St) to negotiate both its Technical and Financial Proposals. If the negotiations fail to result in an acceptable contract within a reasonable time, the MCA 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 Proposals. |  |
| ITC 24.10 | The formula for determining the financial scores is the following:Sf = 100 x Fm / F, in which Sf is the financial score, Fm is the lowest price and F the price of the Proposal under consideration.The weights given to the Technical and Financial Proposals are:T = **80** and F = **20** |  |

**3.5 Qualification Table**

**Documents Establishing the Qualifications of the Consultant**

**{Note to MCA: This table may be modified as necessary}**

| **Factor** | 3.5.1 Eligibility |
| --- | --- |
|  | Requirement | Consultant | Documentation Required |
| **Single Entity** | Joint Venture or Association | Sub-Consultant |
| **All members combined** | Each Member | **At least one member** |
| 3.5.1.1 Qualification and Eligibility | In accordance with ITC 5.1 to 5.4, and 5.9 | Must meet requirement | Existing or intended Joint Venture or other association must meet requirement | Must meet requirement | N/A | Must meet requirement | TECH-1 and attachments  |
| 3.5.1.2 Conflict of Interest | No conflicts of interests as described in ITC 5.5 to ITC 5.8 unless the conflict of interest has been mitigated and the mitigation is approved by MCC. | Must meet requirement | Existing or intended Joint Venture or other association must meet requirement | Must meet requirement | N / A | Must meet requirement | TECH-1 and attachments  |
| 3.5.1.3 Ineligibility and Debarment | Not having been declared ineligible based on any of the criteria set forth in ITC 5.9 or 5.10 | Must meet requirement | Existing or intended Joint Venture or other association must meet requirement | Must meet requirement  | N/A | Must meet requirement | TECH-1 and attachments  |

The Consultant shall provide the information requested in the corresponding information sheets included in Section IV, Proposal Forms, to establish that the Consultant meets the requirements established below. **Sub-Consultants that form the team shall not be replaced without the MCA Entity’s prior permission.**

| **Factor** | 3.5.2 Historical Contract Non-Performance |
| --- | --- |
|  | Requirement | **Consultant** | **Documentation Required** |
| **Single Entity** | Joint Venture or Association | **Sub-Consultant** |
| **All members combined** | **Each member** | **At least one member** |
| 3.5.2.1 Pending Litigation | All pending proceedings, litigation, arbitrations, actions, claims, investigations or disputes, in total, shall not represent more than ten percent (10%) of the Consultant’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 | Must meet requirement by itself or as a Sub-Consultant to a prime, or 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). | Form TECH-2B |

| **Factor** | 3.5.3 Financial Situation |
| --- | --- |
| **Sub-Factor** | Requirement | Consultant | Documentation Required |
| **Single Entity** | Joint Venture  | Sub-Consultant |
| **All members combined** | **Each member** | **At least one** **member** |
| 3.5.3.1 Historical Financial Performance | Submission of evidence to the Consultant’s financial capacity to mobilize and sustain the Services | Must meet requirement | N/A | Must meet requirement | N/A | N/A | Form TECH-2A, TECH-2B and Form TECH-4 |
| 3.5.3.2 Financial Resources | The Consultant must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means. | Must meet requirement | Must meet requirement | Must meet requirement  | N/A | N/A | Form TECH-2A, TECH-2B and Form TECH-4 |

| **Factor** | 3.5.4 Experience |
| --- | --- |
| **Sub-Factor** |  **Requirement** | **Consultant** | Documentation Required |
| Single Entity | **Joint Venture** | **Sub-Consultant** |
| **All members combined** | **Each member** | **At least one member** |
| 3.5.4.1 Organization Capability and Technical Experience | See Criteria table under 3.4 and specific areas of TOR | Must meet requirement  | Must meet requirement | N/A  | N/A | N/A | Form TECH-3 / Form TECH-6 |
| 3.5.4.2 General & Specific Experience | See Criteria table under 3.4 and specific areas of TOR | Must meet requirement  | Must meet requirement | N/A  | Must meet each discrete requirement | N/A | Form TECH-4 |

|  |
| --- |
| 1. A. Technical Proposal Forms
 |

**Disclosure in these technical forms of any proposed prices will constitute grounds for declaring the Proposal non-responsive; see ITC Sub-Clause 12.4.**

TECH-1 Technical Proposal Submission Form

TECH-2A Financial Capacity of the Consultant

TECH-2B Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes of the Consultant

TECH-3 Organization of the Consultant

TECH-4 Experience of the Consultant

TECH-5 References of MCC-Funded Contracts

TECH-6 Description of Approach, Methodology and Work Plan for Performing the Assignment

TECH-7 Comments and Suggestions on the Terms of Reference & Assignment

TECH-8 Team Composition and Task Assignments

TECH-9 Staffing Schedule

TECH-10 Work and Deliverables Schedule

TECH-11 Curriculum Vitae (CV) of Proposed Key Professional Personnel

TECH-12 Certification of Compliance with Sanctions Form

**Note:** Comments in brackets on the following pages serve to provide guidance for the preparation of the Technical Proposal and therefore should not appear on the Technical Proposal to be submitted.

Form TECH-1. Technical Proposal Submission Form

**[Location, Date]**

To: **Millennium Foundation Kosovo**
Att.: The Procurement Manager
Address: str. “Migjeni” no.21 (ex-Bank of Ljubljana, 9th Floor),

 Postal Code: 10000 Prishtina, Kosovo

Email: procurement@millenniumkosovo.org

Ladies and Gentlemen:

**Re: Program Management Consultant for Assessment and Supervision Services for the Public Access to Judicial Information Activity (Case Management Information System “CMIS”)**

**RFP Ref: RFP / MFK /QCBS / 2020 / No. 002**

We, the undersigned, offer to provide the consulting services for the above mentioned assignment in accordance with your Request for Proposal (RFP) dated **[Insert Date]** and our Proposal.

We hereby certify that we are not engaged in, facilitating, or allowing any of the prohibited activities described in the MCC Counter-Trafficking in Persons Policy and that we 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 Sub-Consultants, or Sub-Consultant employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.

We acknowledge notice of MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations[[2]](#footnote-3). We have taken steps to ensure that no person acting for us or on our behalf has engaged in any corruption or fraud described in ITC Clause 3. As part of this, we certify that:

1. The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to—
2. Those prices;
3. The intention to submit an offer; or
4. The methods or factors used to calculate the prices offered.
5. 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 Proposal opening or Contract award unless otherwise required by law;
6. 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; and
7. We have no conflict of interest in accordance with ITB Clause 5.5 *[insert, if needed: “*, other than listed below.*”]* *[If listing one or more conflicts of interest, insert: “*We propose the following mitigations for our conflicts of interest: *[Insert description of conflict of interest, and proposed mitigations.*”*]*.

We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal, each sealed in separate and clearly marked envelope/parcel.

We are submitting our Proposal in Association with:

**[Insert a list with full name and address of each associated Consultant]**.[[3]](#footnote-4)

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

We are attaching herewith information to support our eligibility in accordance with Section III of the RFP.

If negotiations are held during the initial period of validity of the Proposal, we undertake to negotiate on the basis of the nominated Key Professional Personnel.

Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations, and we undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in this RFP.

We understand and accept without condition that, in accordance with ITC Clause 29.1, any challenge or protest to the process or results of this procurement may be brought only through the MCA Entity’s Bid Challenge System (BCS).

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

We acknowledge that our digital/digitized signature is valid and legally binding.

Yours sincerely,

|  |  |
| --- | --- |
| **[Authorized Signatory]** |  |
| **[Name and Title of Signatory]** |  |
| **[Name of Consultant]** |  |
| **[Address of Consultant]** |  |

Annexes:

1. Power of Attorney demonstrating that the person signing has been duly authorized to sign the Proposal on behalf of the Consultant and its Associates;
2. Letter(s) of Incorporation (or other documents indicating legal status); and
3. Joint Venture or Association Agreements (if applicable, but without showing any Financial Proposal information).
4. **[Other Documents Required in PDS]**

Form TECH-2A. Financial Capacity of the Consultant

**The MCA Entity reserves the right to request additional information about the financial capacity of the Consultant. A Consultant that fails to demonstrate through its financial records that it has the financial capacity to perform the required Services may be disqualified.**

***[To MCA Entity—include this section if applicable]:***

*The Consultant’s financial capacity to mobilize and sustain the Services may be important for specific types of consulting services in which the Consultant is required to pre-finance significant expenses in advance of receiving payment from the MCA Entity. Under these circumstances, an evaluation of financial capacity will be included in the Request for Proposals in addition to the qualitative assessment conducted through Form Tech-4. Form Tech-2A will include requirements on the documentation required to assess financial capacity. The types of documentation required will vary according to the country context, the type of consulting services being solicited, and the extent of the financial capacity demanded within the assignment.*

*Examples of possible documentation required are as follows, but may be supplemented by other types of documents determined by the MCA Entity as long as the requirements are reasonable and relevant to the financial capacity demanded of the consulting services being solicited:*

* *Audited financial statements for the last three (3) years, supported by audit letters.*
* *Certified financial statements for the last three (3) years, supported by tax returns.*
* *Evidence of financing dedicated for the implementation of the consulting services as attested by an authorized representative of the Consultant.*

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

*If the Proposal is submitted by a joint venture, all parties of the joint venture are required to submit the financial capacity information requested. The reports should be submitted in the order of the Associate’s significance in the joint venture, greatest to least.*

*The MCA Entity reserves the right to request additional information about the financial capacity of the Consultant. A Consultant that fails to demonstrate through its financial records that it has the financial capacity to perform the required Services may be disqualified.*

Form TECH-2B. Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes of the Consultant

The Consultant, or any related company or entity or affiliate, has been involved in any proceeding, litigation, arbitration, action, claim, investigation or dispute within the past five (5) years the process or outcome of which the MCA Entity could reasonably interpret may impact or have the potential to impact the financial or operational condition of the Consultant in a manner that may adversely affect the Consultant’s ability to satisfy any of its obligations under the Contract:

No:\_\_\_\_ Yes:\_\_\_\_\_\_ (If “Yes,” see below)

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

Form TECH-3. Organization of the Consultant

[Provide a brief description of the background and organization of your firm/entity and of each Associate for this assignment. Include the organization chart of your firm/entity as well as the Association and each Associate, as applicable. The Proposal must demonstrate that the Consultant has the organizational capability and experience to provide home office project management of the contract as well as the necessary administrative and technical support to the Consultant’s Project Team in country. The Proposal shall further demonstrate that the Consultant has the capacity to field and provide experienced replacement Personnel on short notice.

**[Maximum 10 pages]**

Form TECH-4. Experience of the Consultant

[Using the format below, provide information on each relevant assignment for which your firm, and each Associate for this assignment, was legally contracted either individually as a corporate entity or as one of the major companies within an association, for carrying out consulting services similar to the ones requested under the Terms of Reference included in this RFP. **This shall include all MCC-funded assignments of a similar nature.** Failure to include experience in any project where MCC funds were used may result in disqualification of the Proposal. The Proposal must demonstrate that the Consultant has a proven track record of successful experience in executing projects similar in substance, complexity, value, duration, and volume of services sought in this procurement. The Consultant shall use this form to document the relevant experience of any Sub-Consultant that the Consultant is proposing to satisfy any specialized requirement under Qualification Factor 3.5.4.2.

**[Maximum 20 pages]**

|  |  |
| --- | --- |
| Assignment name: | Approx. value of the contract (in current US$): |
| Country:Location within country: | Duration of assignment (months): |
| Name of client: | Total No. of staff-months of the assignment: |
| Email and phone of references | Provide contact information for at least three (3) references that can provide substantial input about (1) the type of work performed and (2) the quality of the work. For each reference, list a contact individual, their title, address, phone and e-mail address |
| Address: | Approx. value of the services provided by your firm under the contract (in current US$): |
| Start date (month/year):Completion date (month/year): | No. of professional staff-months provided by associated consultants: |
| Name of associated consultants, if any: | Name of proposed senior professional staff of your firm involved and functions performed (indicate most significant profiles such as project director/coordinator, team leader): |
| Narrative description of project: |
| Narrative description of the project’s mobilization demands and how your firm managed that mobilization’s administrative, logistical and financial requirements. |
| Description of actual services provided by your staff within the assignment: |

Name of Firm: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Form TECH-5. References of MCC-Funded Contracts

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

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

Form TECH-6. Description of Approach, Methodology and Work Plan for Performing the Assignment

*[****Note to MCA Entity:*** *This is a model for illustrative purposes only. The instructions and the content required of the Consultant must be adapted by the MCA Entity based on the objectives of the procurement and the Evaluation Criteria.]*

In this section, the Consultant should provide a comprehensive description of how it will provide the required Services in accordance with the Terms of Reference (TOR) included in this RFP. Information provided must be sufficient to convey to the TEP that the Consultant has an understanding of the challenges in performing the required Services and that it has an approach, methodology and work plan to overcome those challenges.

Your Technical Proposal should be divided into the following three (3) chapters:

1. Technical Approach and Methodology,
2. Work Plan, and
3. Organization and Staffing
4. Technical Approach and Methodology: In this chapter, you should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them, including the cross-cutting aspects (e.g., environmental and social protections, gender and social inclusion). You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach. Also comment here on any specialized equipment and/or software of which may be necessary to perform the scope indicated in the Terms of Reference.
5. Work Plan: In this chapter, you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the MCA Entity), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work and Deliverables Schedule of Form TECH-10.
6. Organization and Staffing: In this chapter, you should propose the structure and composition of your team. The Consultant is encouraged to consider equity and diversity in the composition of its proposed team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical and support staff.

Note: Where the Terms of Reference includes tasks relevant to gender and social inclusion, the proposal should explicitly address how the Consultant will perform these tasks in the technical approach, and methodology, work plan, organization and staffing. We recognize that this type of expertise and experience may be outside of the normal work of some Consultants offering proposals, and thus call special attention to the importance of an adequately inter-disciplinary proposal and staffing plan.

**[Maximum 50 pages, including charts and diagrams]**

Form TECH-7. Comments and Suggestions on the Terms of Reference & Assignment

The MCA Entity welcomes comments and suggestions to improve the assignment to provide a better value for money. These comments and suggestions shall not be used for evaluation purposes, but may be discussed during negotiations. The MCA Entity is not bound to accept anything proposed. If the proposed modifications/suggestions would require changes in the offered price, it shall be noted as such, without giving the price of the change.

**[Maximum 5 pages]**

**A: On the Terms of Reference**

[Present and justify here any modifications or improvements to the Terms of Reference you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities).]

**B: On the Staff and Facilities**

[Comment here on the staff and facilities to be provided by the MCA Entity.]

Form TECH-8. Team Composition and Task Assignments

|  |
| --- |
| Key Professional Personnel |
| Name of Staff | Organization | Area of Expertise | Position Assigned | Task Assigned |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

Form TECH-9. Staffing Schedule (Key Professional Personnel and Support Staff)

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | Staff input (in the form of a bar chart)1 | Total staff-month input |
|  | 12 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | N | Home | Field3 | **Total** |
| Foreign |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 1 |  | [Home] |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  | [Field] |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 2 |  | [Home] |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  | [Field] |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 3 |  | [Home] |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  | [Field] |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| n |  | [Home] |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  | [Field] |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  | Subtotal |  |  |  |
| Local |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 1 |  | [Home] |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| [Field] |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 2 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| n |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Support Staff | Subtotal |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  | Total |  |  |  |

1. For Key Professional Personnel, the input shall be indicated individually; for support staff it shall be indicated by category (e.g.: draftsmen, clerical staff, etc.).
2. Months are counted from the start of the assignment. For each Personnel, indicate separately staff input for home and field work.
3. Field work means work carried out at a place other than the Consultant's home office.

|  |  |
| --- | --- |
| Full time input: | Part time input: |

Form TECH-10. Work and Deliverables Schedule

|  |  |  |
| --- | --- | --- |
|  | Task | Months |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 1 |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 3 |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 4 |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 5 |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 6 |  |  |  |  |  |  |  |  |  |  |  |  |  |
| N | And so on |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  | Deliverable |  |  |  |  |  |  |  |  |  |  |  |  |
| 1 |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 2 |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 3 |  |  |  |  |  |  |  |  |  |  |  |  |  |
| N | And so on |  |  |  |  |  |  |  |  |  |  |  |  |

[Indicate all main activities of the assignment, including deliverables and other milestones, such as the MCA Entity approvals. For phased assignments, indicate activities, deliverables and milestones separately for each phase. Duration of activities shall be indicated in the form of a bar chart. See TOR for the full list of deliverables. Above is a sample format (to be further completed by the Consultant based on the TOR requirements) that shall be used by the Consultant as an indicator of the proposed work load. The submission shall be evaluated as part of the Approach and Methodology.]

Form TECH-11. Curriculum Vitae (CV) for Proposed Key
Professional Personnel

|  |  |
| --- | --- |
| 1. Proposed Position
 | [only one candidate shall be nominated for each position] |
| 1. Name of Firm
 | [Insert name of firm proposing the staff] |
| 1. Name of Personnel
 | [Insert full name] |
| 1. Date of Birth
 | [Insert birth date] |
| 1. Nationality
 | [Insert nationality] |  |  |
| 1. Education
 | [Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment] |
| 1. Membership in Professional Associations
 |  |
| 1. Other Training
 | [Indicate appropriate postgraduate and other training] |
| 1. Countries of Work Experience
 | [List countries where staff has worked in the last ten years] |
| 1. Languages
 | [For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing] |
|  | Language | Speaking | Reading | Writing |
|  |  |  |  |  |
| 1. Employment Record
 | [Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.] |
|  | From [year]: | To [year]: |
|  | Employer: |
|  | Position(s) held: |
| 1. Detailed Tasks Assigned
 | [List all tasks to be performed under this assignment] |
| 1. Work undertaken that best illustrates capability to handle the tasks assigned:
 | [Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11.] |
|  | Name of assignment or project: |  |
|  | Year: |  |
|  | Location: |  |
|  | Client: |  |
|  | Main project features: |  |
|  | Position held: |  |
|  | Activities performed: |  |

1. References:

[List at least three individual references with substantial knowledge of the person’s work. Include each reference’s name, title, phone and e-mail contact information.] [The MCA Entity reserves the right to contact other sources as well as to check references, in particular for performance on any relevant MCC-funded projects.]

1. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualifications, and my experience. I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged.

I, the undersigned, hereby declare that I agree to participate with the **[Consultant]** in the above-mentioned Request for Proposal. I further declare that I am able and willing to work:

1. for the period(s) foreseen in the specific Terms of Reference attached to the above referenced Request for Proposal for the position for which my CV has been included in the offer of the Consultant and
2. within the implementation period of the specific contract.

|  |  |
| --- | --- |
| Signature of Key Professional Personnel |  |
| If this form has NOT been signed by the Key Professional Personnel, then in signing below the authorized representative of the Consultant is making the following declaration.“In due consideration of my signing herewith below, if the Key Professional Personnel has NOT signed this CV then I declare that the facts contained therein are, to the best of my knowledge and belief, a true and fair statement AND THAT I confirm that I have approached the said Key Professional Personnel and obtained his assurance that he will maintain his availability for this assignment if the Contract is agreed within the Proposal validity period provided for in the RFP.” |
| Signature of Authorized Representative of the Consultant |  |
|  |  |  |  |

Form TECH-12. Compliance with Sanctions Certification Form

As part of their Technical Proposal, Consultants are required to complete and submit the *Compliance With Sanctions Certification Form* included as Annex H in Section VII. *Special Conditions of Contract and Annexes to Contract*. Detailed instructions on how to complete this Form are also provided in the same Annex H.

|  |
| --- |
| 1. B. Financial Proposal Forms
 |

**Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal according to the instructions provided under Sub-Clause 12.5 of Section I, Instructions to Consultants.**

FIN-1 Financial Proposal Submission Form

FIN-2 Price Summary

FIN-3 Breakdown of Price by Activity *[****Note to MCA Entity****: Use this form as appropriate]*

FIN-4 Breakdown of Price by Remuneration *[****Note to MCA Entity****: Use this form as appropriate]*

***[Note to MCA Entity:*** *Add additional forms as appropriate****]***

**Note:** Comments in brackets on the following pages serve to provide guidance for the preparation of the Financial Proposal and therefore should not appear on the Financial Proposals to be submitted.

###

Form FIN-1. Financial Proposal Submission Form

***[The electronically-submitted Financial Forms must be password protected upon submission. If not Password-protected, the entire Proposal shall be rejected. Delete all text in square brackets when submitting Form]***

**[Location, Date]**

To: **Millennium Foundation Kosovo**
Att.: The Procurement Manager
Address: str. “Migjeni” no.21 (ex-Bank of Ljubljana, 9th Floor), Postal Code:10000 Prishtina, Kosovo

Email: procurement@millenniumkosovo.org

Ladies and Gentlemen:

**Re: Program Management Consultant for Assessment and Supervision Services for the Public Access to Judicial Information Activity (Case Management Information System “CMIS”)**

**RFP Ref: RFP / MFK /QCBS / 2020 / No. 002**

We, the undersigned, offer to provide the consulting services for the above-mentioned assignment in accordance with your Request for Proposal (RFP) dated **[Insert Date]** and our Technical Proposal.

Our attached Financial Proposal is for the fixed price of **[Insert amount(s)[[4]](#footnote-5) in words and figures]**.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, as indicated in Paragraph ITC 16.1 of the PDS.

Commissions and gratuities paid or to be paid by us to agents relating to this Proposal and Contract execution, if we are awarded the Contract, are listed below:[[5]](#footnote-6)

|  |  |  |
| --- | --- | --- |
| Name and Address of Agents | Amount and Currency | Purpose of Commission or Gratuity |
|  |  |  |
|  |  |  |

We understand you are not bound to accept any Proposal you receive.

We acknowledge that our digital/digitized signature is valid and legally binding.

Yours sincerely,

|  |  |
| --- | --- |
| Authorized Signatory |  |
| Name and title of Signatory |  |
| Name of Consultant |  |

Form FIN-2. Price Summary

**Re: Program Management Consultant for Assessment and Supervision Services for the Public Access to Judicial Information Activity (Case Management Information System “CMIS”)**

**RFP Ref: RFP / MFK /QCBS / 2020 / No. 002**

|  |  |
| --- | --- |
|  | Price1 |
| US$ |  |
|  |  |  |
| ***Base task/period (*Task 1: Kick Off Meeting and Inception Activity and Task 2: Assessment & Recommendations)** **Total Price of Financial Proposal:** ***Optional tasks/period (*Task 3: Project Management, Supervision and Verification of the Individual Case Tracking Mechanism (CTM) and the Online Data Platform (ODP)*)-*** **Total Price of Financial Proposal:** |  |  |

***The MFK defines an “option Task 3: Project Management, Supervision and Verification of the Individual Case Tracking Mechanism (CTM) and the Online Data Platform (ODP))-” as “a unilateral right in a contract by which, for a specified time, the MFK may elect to purchase additional services called for by the contract, or may elect to extend the term of the contract.***

***This means that the MFK is not contractually bound to exercise the option. The MFK can choose not to exercise the option. If the MFK chooses not to exercise an option, the contractor generally has no recourse because the failure to exercise an option is not a termination of the contract.***

***Note to Consultants : Consultants interested in submitting a proposal must price separately Phase 1 of the Contract, first two tasks of the Contract “Kick Off Meeting & Inception Activity, and Assessment, Recommendations and Roadmap” from Phase 2 of the Contract, third task “Project Management, Supervision and Verification of the Individual Case Tracking Mechanism (CTM) and the Online Data Platform (ODP)”, under the assumption that the project duration will be extended. Phase 1 of the Contract ““Project Management, Supervision and Verification of the Individual Case Tracking Mechanism (CTM) and the Online Data Platform (ODP)” shall be priced separately as it is conditioned by the performance in Phase 1, the assessment results, the award of the second contractor/supplier, as well as the extension of the Threshold program.***

*[****Note to MCA Entity****: If there are elements of cost which are not to be priced by the Consultant, but are to be reimbursed separately and will be the same for all Consultants, these should be identified on a separate line with instructions not to include the cost in the proposed price. If there are options and the cost would recur in those options, the line and accompanying instruction should be repeated under the row for each applicable option. (These types of costs are atypical.)]*

1. Indicate the total price to be paid by the MCA Entity in each currency. Such total price must coincide with the sum of the relevant sub-totals indicated in Form FIN-3. (Tax provisions relevant to this RFP are set out in Section VI, General Conditions of Contract.)
2. If the RFP contains options, the options will be fully priced and evaluated at 100%.
3. Provide **fully loaded prices** (including any international travel, communication, local transportation, office expenses, shipment of personal effects, direct and indirect rates and profits).
4. See PDS ITC 12.5 regarding travel-related expenses.

Form FIN-3. Breakdown of Price by Activity

**Re: [insert title of assignment]
RFP Ref: insert reference as shown on cover page**]

[Information to be provided in this Form shall only be used to establish payments to the Consultant for possible additional services requested by the MCA Entity and/or for the purpose of verification of the market reasonableness of the prices offered. Please complete for each phase.]

|  |  |
| --- | --- |
| Group of Activities by Phase | Description2 |
|  | Price3 |
| US$ |
|  |  |
|  |  |
|  |  |
| Total |  |

*[****Note to MCA Entity****: List activities in column before releasing RFP. Names of activities (phase) should be the same as, or correspond to the ones indicated in the second column of Form TECH-10.]*

1. Form FIN-3 shall be completed for the whole assignment. In case some of the activities require different modes of billing and payment (e.g.: the assignment is phased, and each phase has a different payment schedule), the Consultant shall fill a separate Form FIN-3 for each group of activities. Include base and option years.
2. A short description of the activities whose price breakdown is provided in this Form.
3. Provide **fully loaded prices** (including international travel, communications, local transportation, office expenses, shipment of personal effects, direct and indirect rates and profit).
4. See PDS ITC 12.5 regarding travel-related expenses.

Form FIN-4. Breakdown of Remuneration

**Re: [insert title of assignment]**

**RFP Ref: insert reference as shown on cover page]**

[Information to be provided in this form shall only be used to establish price reasonableness and to establish payments to the Consultant for possible additional services requested by the MCA Entity.]

|  |  |  |
| --- | --- | --- |
| Name2 | Position3 | Person-Month Fully Loaded Rate4 |

|  |  |  |  |
| --- | --- | --- | --- |
| Foreign Staff |  |  | US$ |
|  |  | Home |  |
|  |  | Field |  |
|  |  | Home |  |
|  |  | Field |  |
|  |  | Home |  |
|  |  | Field |  |
| Local Staff |  |  |  |
|  |  | Home |  |
|  |  | Field |  |
|  |  | Home |  |
|  |  | Field |  |
|  |  | Home |  |
|  |  | Field |  |

1. Form FIN-4 shall be filled in for the same Key Professional Personnel and other Personnel listed in Forms TECH-8 and 9.
2. Professional Personnel shall be indicated individually; support staff shall be indicated by category (e.g., draftsmen, clerical staff).
3. Positions of the Key Professional Personnel shall coincide with the ones indicated in Forms TECH-8 and 9.
4. Indicate separately person-month rates for home and field work. Provide fully loaded prices (including international travel, communication, local transportation, office expenses, and shipment of personal effects, direct and indirect rates and profit).
5. See PDS ITC 12.5 regarding travel-related expenses.

|  |
| --- |
| 1. Terms of Reference
 |

# ACRONYMS AND ABBREVIATIONS

CEPEJ Commission Européenne pour l’Efficacité de la Justice (European Commission for the Efficiency of Justice)

CMIS Case Management Information System

CoE Council of Europe

CTP Case Tracking Mechanism

GoK Government of Kosovo

GoN Government of Norway

IT Information Technology

ICT Information and Communication Technology

KJC Kosovo Judicial Council

KPC Kosovo Prosecutorial Council

LoE Level of Effort

MCC Millennium Challenge Corporation

MFK Millennium Foundation Kosovo

MoJ Ministry of Justice

ODP Open Data Platform

RoL Rule of Law

TA Technical Assistance

TAGP Transparent and Accountable Governance Project

THP Threshold Program

USAID U.S. Agency for International Development

**INTRODUCTION AND PROJECT OVERVIEW**

The United States of America, acting through the Millennium Challenge Corporation (MCC), and the Government of Kosovo have entered into a Millennium Challenge Threshold program agreement in 2012 for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in Kosovo in the amount of approximately 49 million USD. The Kosovo Threshold Program is a four-year program (2017-2021) and addresses two key constraints to Kosovo’s economic growth: an unreliable supply of electricity; and real and perceived weakness in rule of law, government accountability and transparency. The two key programs designed to address the two binding constraints are Reliable Energy Landscape Project (RELP) and Transparent and Accountable Governance Project (TAGP).The Public Access to Judicial Information activity is one of the three activities of TAGP.

The Government of Kosovo has established Millennium Foundation Kosovo (MFK) as a foundation in accordance with the Law on Freedom of Association in Non-Governmental Organizations to implement the Threshold Program and to exercise and perform the Government’s right and obligation to oversee, manage and implement the Program, including without limitation, managing the implementation of the Projects, allocating resources and managing procurements. MFK, as the Contracting Agency for this project, is responsible to procure the services of a company or consortium to implement the activities listed below. MFK is the focal point to engage and coordinate with the judicial institutions, the Government of Kosovo and other stakeholders in the field Rule of Law and institutions of the Justice Sector in Kosovo.

The Public Access to Judicial Information (PAJI) activity, implemented by the Millennium Foundation of Kosovo, aims to support the Kosovo Judicial Council (KJC) by building upon assistance provided by USAID and Norway to implement a Case Management Information System (CMIS) and using that system to improve the administration of justice in Kosovo, transparency of the rule of law institutions, as well as but also support the Kosovo Judicial Council, Kosovo Prosecutorial Council and the Ministry of Justice (MoJ) in improved communication and outreach, through the following sub-activities:

* Creating an *Online Data Platform* for the public to access statistical data generated by the case management information system (CMIS), as well as enabling disaggregation and analysis of data by meaningful categories, such as sex, region, income level or ethnicity.
* Creating an online *Case Tracking Mechanism* for authorized public users to access their individual case information, case status and procedural actions within the judicial system.
* Supporting the improvement of judicial decisions and their publication.
* Supporting the improvement of communication and outreach by the judiciary and other rule of law institutions to encourage new data analysis; establish and maintain a constructive dialogue with the public over judicial data and judicial performance.

In the current state, the data generated through CMIS on court cases and cases that are under investigation is only internally available, specifically only for the users of the system that comprise of court and prosecution staff. While such data is useful for the public, the information is not made available, distributed or exchanged with external parties. This problem is recognized by both KJC and KPC, as well as the Ministry of Justice, and is perceived as key to ensuring transparency and increasing public trust in the justice system.

**Timing:** The project is expected to be completed by 30 September 2021, unless otherwise agreed upon by both parties.

**Project location:** The project will be implemented in the offices of the Kosovo Judicial Council.

**Project Beneficiaries:** Kosovo Judicial Council**.**

**RULE OF LAW IN KOSOVO**

Some progress has been made in the rule of law, including in the investigation and prosecution of some high-level corruption cases and the roll-out of the electronic case-management system has advanced (EC, Kosovo Country Report, 2019). The administration of justice remains slow and inefficient, and rule of law institutions need sustained efforts to build up their capacities. The civil society, the private sector, and the general public continue to demand greater transparency, efficiency, and accountability. In addition, prosecutors lack professionalism as they are inadequately trained and e-justice tools remain underdeveloped (EC, 2019). The judicial system still faces challenges to improve data-based decision-making, making the judicial data publicly available, and ensuring a more proactive communication with the public, which would ultimately build greater public trust in the justice system.

Furthermore, deficiencies in enforcement legislation and the rule of law have not only impeded economic development, but have disproportionately impacted vulnerable and marginalized groups, particularly women and minorities. Examples include exclusion of women from property and inheritance rights and gender-based violence.

International stakeholders (USAID, European Union Office in Kosovo, Council of Europe, and Norwegian Embassy) for years now have invested in improving efficiency and transparency in the sector. One of the most important projects, the Case Management Information System (CMIS), entails the digitization of the judiciary, enhancing transparency and accountability of judges, and improving the overall efficiency and quality of justice in Kosovo.

The Public Access to Judicial Information (PAJI) activity, implemented by MFK, builds upon the ongoing efforts of the CMIS project and aims to take it a step further in providing citizens with access to their judicial cases. This project will also address problems caused by unequal access to justice; unequal access to judicial information and timely procedural data for victims and victim's families.

**PUBLIC ACCESS TO JUDICIAL INFORMATION**

The PAJI Activity has 6 key components and related deliverables:

1. Assessment: Includes carrying out a needs assessment to identify the legal and situational context of this project (with the two main installations consisting of the Case Tracking Mechanism and Online Data Platform, see below); as well as a comprehensive technical assessment of the necessary software and hardware, IT infrastructure tools, internet security, and training needs, training themes and potential participants from civil society, media and private sector organizations in order to successfully complete all of the components of the PAJI Activity. The training needs assessment and consideration about participants is to incorporate a focus, and inclusion of all gender and vulnerable groups, to facilitate access and usage of the platform by organizations representing women and vulnerable groups, and legal issues of particular interest to them, such as rights to property or prevention of gender-based violence.
2. Management and Coordination: Ensuring collaborative management and coordination with key stakeholders and donors.
3. Case Tracking Mechanism: Includes new software, interventions in the source code, and extranet features, IT infrastructure tools, internet security, and interface to back office systems in the current CMIS to allow for access to individual case information through a vetted authentication procedure.
4. Online Data Platform: Includes new software and extranet features, IT infrastructure tools, internet security, and easy to use interface to back office systems and the current CMIS to allow for real-time judicial data reporting service through an Online Data Platform. Includes also data disaggregation by gender, age, location, ethnicity and other variables of interest.
5. Technical Assistance to Justice Sector Institutions, Media, Civil Society, and the Private Sector on Effective Communications, Outreach, and Behavior Change: Includes designing and delivering trainings and workshops, evaluating pre and post learning needs, assessing and encouraging the application of newly learned knowledge on-the-job, organizing events in support of better communications, data-oriented policy formulations, and decision-making, outreach, and behavior change among stakeholders. Includes specific outreach to gender-focused organizations and non-governmental organizations representing the rights of women, vulnerable groups and minorities in Kosovo.
6. Information and Communication Technology (ICT): Includes providing the appropriate design, testing, deployment and support/user documentation for all developed and supplied tools, including data disaggregation and data analysis options for the Open Data Platform and individual Case Tracking Mechanism.

**SCOPE OF WORK**

In order to implement the Online Data Platform (ODP) and the individual Case Tracking Mechanism (CTM) sub-activities, MFK recognizes that several aspects such as integration with existing systems, existing data models, security standards compliance, technology platforms, and assessment of required skills and capacity need to be understood and adequately addressed. This understanding will help with the planning of sub-activities and define the scope and technical requirements.

This procurement therefore comprises of:

1. Situational and Technical Assessment, including legal Environment Assessment,
2. Project Management, Supervision and Verification of the Individual Case Tracking Mechanism (CTM) and the Online Data Platform (ODP).

**Situational and Technical Assessment**

**Objective:**

The primary objective of this assignment is to assess the environment and its components, identify constraints, pre-requisites, make actionable recommendations and provide a roadmap for the successful implementation and rollout of the case tracking system and the online data platform.

This includes a legal and situational assessment to understand what data categories can be publicly displayed, and open constructive dialogue with civil society organizations, the media and the private sector to understand what judicial data would make public access meaningful and truly advance judicial transparency in Kosovo.

The overarching principles for the recommendations and the roadmap will be based on delivering accurate information to the constituents in a secure and timely manner and minimal disruption to existing systems and operations. The expected outcome of this assessment is to obtain contextual as well as technical findings and an implementation approach, which is avoiding duplication of other donor’s efforts, and adds value to the institutional mandate of KJC.

**The broad scope of work to be performed by the Consultant is as follows:**

1. Conduct a comprehensive assessment of the existing systems, infrastructure, data models, data exchange protocols, security standards and other related components, document findings[[6]](#footnote-7) and make specific recommendations on these aspects and provide a roadmap to achieve the end state i.e. implement and rollout CTM and ODP.
2. Assess what type of data is regularly disaggregated by categories of interest to MFK, as per its SGIP, and what further and future disaggregation is feasible.
3. Work in close cooperation with MFK, KJC, Kosovo Prosecutorial Council (KPC), and the Ministry of Justice (MoJ) to carry out the situational, legal and technical assessment.
4. Identify the data exchange mechanisms and protocols required to retrieve information from the CMIS including APIs/Interfaces available, if any.
5. Identify the security standards and protocols required to be implemented for transmitting sensitive and personal information to ensure compliance with local laws and international standards and physical infrastructure such as computer rooms or data centers and physical security.
6. Determine to what extent the existing data objects in CMIS can provide the necessary information to the Case Tracking Mechanism and to what extent modifications, if any, are required to provide such information.
7. Determine to what extent the existing data objects in CMIS can provide the necessary information to the Online Data Platform and to what extent modifications, if any, are required to provide such information.
8. Identify the technology platform currently in use for CMIS including hardware, software, middleware, network and connectivity and determine upgrades required to scale the platform for supporting CTM and ODP.
9. Identify the impact on CMIS in terms of enhancements or upgrades to be made for providing case related information and aggregated data for the CTM and ODP
10. Assess and research how often users of CMIS are entering updates to case or other judicial data categories, and how to increase the frequency of updates so that both new mechanisms, CTM and ODP become a meaningful, relevant and regularly used source of information on individual cases / updates on judicial statistics.[[7]](#footnote-8)
11. Assess what components or elements would make the CTM a meaningful portal for litigants and lawyers involved in a case, allowing them access to timely information.
12. Evaluate the capabilities of KJC’s website in the context of hosting the proposed CTM and ODP solutions.
13. Assess the implementation of a calendaring function for the CTM to help judicial and justice sector entities process a case in a timely manner. This calendaring function can also help alert authorized users to add or edit new information of a case in time.
14. Assess the institutional capacity of KJC and learning needs at civil society organizations, the media and the private sector in using, operating and maintaining the CTM and ODP, and make recommendations for the assessed learning needs and appropriate training topics, as well as target training audiences.
15. Assess what type of capacity building and training KJC and other partners would need to ensure the gender equity and inclusion objectives of the activity are adequately understood and actioned by partners.
16. Propose an outreach and communication strategy for KJC to effectively and sustainably establish constructive and on-going dialogue with the civil society, the media and the private sector in Kosovo on all aspects of transparency in the judiciary, judicial performance, judicial statistics and improved public access to judicial information, as well as publicly introduce the two mechanisms CTM and ODP for maximum public use and widespread public awareness.
17. Create a separate section within the outreach and communications strategy targeted at engagement with stakeholders representing women, vulnerable groups and minorities, to ensure broad based and equitable uptake and use.
18. Propose a feasible and sustainable project phase-out plan, ensuring a successful closure of the project.
19. Propose KJC’s institutional post-project operations, support and maintenance strategy to ensure the Online Data Platform and Case Tracking Mechanism are kept current and secure after project closure.
20. All key components and recommendations must comply with the relevant sections of the *MFK Social and Gender Integration Plan[[8]](#footnote-9)* with a focus on access to justice for women, vulnerable groups, minorities and other socially excluded groups in Kosovo. The deliverables should therefore include a section describing specific activities and efforts that will be built into the activity to ensure compliance.
21. Upon completion of the technical and situational assessment, the Consultant shall propose a roadmap, and methodology, as well as present the assessment findings to MFK & MCC staff along with an Operational Plan, Final Budget Forecast, and Action Plan (i.e. Implementation Approach).

In order to meet the stated objectives, the Consultant shall perform the following tasks:

* Task 1: Kick Off Meeting and Inception Activity
* Task 2: Assessment, Recommendations and Roadmap

The Consultant shall advise MFK of the most advantageous methodology to complete the scope of work and describe the proposed Technical Approach, including a brief narrative of the methodology for completing the tasks within each activity. The following represents the specific tasks required:

**Task 1: Kick Off Meeting and Inception Activity**

Immediately before mobilization to MFK, the Consultant shall organize and participate in a kickoff meeting in the premises of the MFK with MFK staff and other key stakeholders to discuss, and refine the overall strategy, scope, objectives, and deliverables; clarify the roles and responsibilities of the Consultant and MFC; and discuss the objectives of the study. The purpose of the kickoff meeting will also include the review of the Consultant’s proposed work plan and schedule. For the kickoff meeting(s), the Consultant shall prepare the agendas, handouts, and other materials required; conduct the meeting(s); and draft the meeting minutes.

Among other documents, the Consultant should review the following documents:

* MCC Program Procurement Guidelines[[9]](#footnote-10)
* MFK’s Social and Gender Integration Plan[[10]](#footnote-11)
* MFK’s Environmental and Social Management System[[11]](#footnote-12)
* MFK’s Code of Business Ethics and Standards of Conduct[[12]](#footnote-13)
* MFK’s Confidentiality Policy[[13]](#footnote-14)
* MFK’s Conflict of Interest Policy[[14]](#footnote-15).

The Consultant shall present in detail the approach to be adopted for conducting the review in alignment with the methodology provided by the Consultant in the technical proposal. The approach should specifically address various aspects of the review and identify the level and nature of support required from MFK and the other entities.

The Consultant is expected to meet with the Kosovo Judicial Council, the Kosovo Prosecutorial Council, the Ministry of Justice, and other stakeholders, including a wide range of suitable civil society organizations, media organizations, and private sector entities relevant to this project on public access to judicial information as well as with non-governmental organizations representing women, vulnerable groups and minorities and their legal interests.

All such meetings must be organized by MFK, but the Consultant is expected to issue recommendations about who the selected civil society organizations, media organizations, and private sector entities are, and why they seem most relevant to the project.

The Consultant must research the entire Kosovo landscape of civil society organizations (including legal aid and defendant lawyers’ associations), the media and private sector companies and provide proof of the detailed research demonstrating:

* the full list of all researched organizations and groups,
* the mandate or mission of the organization and group, and their relevance to the PAJI activity,
* the initial correspondence/communication with PAJI relevant organizations or group to obtain indication of their interest in taking part in the dialogue with KJC, for example in a roundtable.

The criteria of which organization/group and mandate/mission is relevant to the PAJI activity are directly related to improving the administration of justice in Kosovo, increasing the transparency of procedures, processes and performance of justice and judicial institutions in Kosovo, as well as improvement of judicial decisions and their publication; improved communication and dialogue with justice and judicial government entities (for example on improving public to access statistical data).

Within two weeks of award of the contract, the Consultant shall submit a draft Inception Report.

The report summarizes the salient issues pertaining to this assignment, including existing initiatives/donor-funded projects that could impact positively or negatively on this assignment, or be perceived as duplication.

In addition, in the Inception Report, the Consultant will explain how the Assessment Phase is planned, along with a detailed implementation plan for all steps of the assessment.

The Inception Report should also confirm the Consultant’s approach to overcoming obstacles or mitigating risks in the course of the assessment, for example delayed or cancelled meetings by stakeholders.

The Inception Report should include a work plan for the duration of the consultancy describing activities, tasks and deliverables, including review, submittals and other project milestones. The draft Inception Report should describe any support required from MFK, or other key stakeholders.

Within 10 working days of receipt of written comments from MFK, the Consultant shall submit a final Inception Report.

**Task 1 Deliverables**: Inception Report (Draft and Final), including Work Plan and Schedule

**Task 2: Assessment, Recommendations and Roadmap**

This task comprises of two sub-tasks to facilitate review of the progress, approach and findings at intermediate points.

**Sub Task 2.1. Survey & Analysis**

This sub-task is aimed at collecting the requisite information from relevant sources, preparing an inventory of the various components in the infrastructure and environment, reviewing the state of the applications including CMIS and other related components.

Activities under this task include:

* The survey shall be conducted with KJC, KPC, MoJ, and any other relevant actors and stakeholders recommended in the initial inception report and cover the contextual environment of PAJI;
* Review and validate high level scope of the envisaged IT systems and ascertain high level infrastructure requirements;
* Capture key information including underlying technologies, proprietary nature of software, number of users and licenses, if applicable;
* Identify the current interfaces, data exchanges and integrations within an entity or across entities;
* Identify various components in the technology stack including operating systems, databases, middleware, web servers and any other relevant components;
* Identify hardware such as servers, storage and other relevant components;
* Identify the current state of network (LAN, WAN) and connectivity (internal and external to the enterprise) including network performance and bandwidth constraints;
* Review the backup and restore, disaster recovery procedures in practice;
* Review the skills and capacity available at each entity to support the infrastructure;
* Review the overall security of the systems and network such as data protection, network, data and end point security;
* Review the current state of physical infrastructure such as computer rooms, computer centers including physical security;
* Where applicable, capture additional information such as end-of-life dates, maintenance contracts or lack of support, critical components that require immediate upgrades.
* Evaluate the capabilities of KJC’s website in the context of hosting the proposed CTM and ODP solutions.
* Assess the institutional capacity of KJC and learning needs at civil society organizations, the media and the private sector in using, operating and maintaining the CTM and ODP, and make recommendations for the assessed learning needs and appropriate training topics, as well as target training audiences. The assessment also needs to ensure the gender equity and inclusion objectives of the activity are adequately understood and actioned by partners.
* Research and identify most feasible method for outreach and communication for KJC to effectively and sustainably establish constructive and on-going dialogue with the civil society, the media and the private sector in Kosovo on all aspects of transparency in the judiciary, judicial performance, judicial statistics and improved public access to judicial information, as well as publicly introducing the two mechanisms CTM and ODP for maximum public use and widespread public awareness. Create a separate section within the outreach and communications strategy targeted at engagement with stakeholders/actors representing women, vulnerable groups and minorities, to ensure broad based and equitable uptake and use.
* Research and identify a feasible and sustainable project phase-out plan, ensuring a successful closure of the project.
* Based on assessed capacity, propose KJC’s institutional post-project operations, support and maintenance strategy to ensure the Online Data Platform and Case Tracking Mechanism are kept current and secure after project closure.

**Sub Task 2.1 Deliverables:** Survey Summary, Analysis & Key Findings

This assessment report will document the findings resulting from this task. The information gathering shall be well documented, with all information referenced and sources clearly mentioned, as well as key actionable findings explained in details, and then tabulated in a summary and detailed level. All such information shall be provided as an annex in the assessment report.

**Sub Task 2.2: Recommendations & Roadmap**

The Consultant shall propose and present the overall recommendations, to-be state and include a well explained, transparent roadmap to achieve the to-be state, offer alternatives, and an estimated budget.

In the Recommendations and Roadmap, the Consultant must clearly outline the reasoning and evidence behind the suggested implementation approach and for each actionable recommendation, which need to be achievable and completed within allocated time and budget.

The Recommendations and Roadmap must also include alternatives (or contingencies) in specific implementation approaches, if any. A detailed risk mitigation and contingency plan addressing all risks to the project’s timely and accurate implementation must be included at this stage.

Activities under this task include, but are not limited to:

* Based on the initial findings propose a roadmap for developing and rolling out the CTM and ODP;
* Identify high level requirements for the CTM & ODP that will form the basis for the scope for downstream procurement of goods and related services;
* Identify the integration points for CMIS, data exchange protocols, any associated constraints and risks;
* Develop a notional infrastructure landscape to accommodate current and future demands for the CTM and ODP;
* Prepare a notional high-level transition plan in terms of major activities and milestones;
* Recommendations on applicable security standards and information security for sensitive and personal information;
* Recommendations on improving or increasing the skills capacity;
* Recommendations on overall operations, service delivery, and streamlining of operations to achieve increased productivity;
* Recommendations on changes/improvement of the physical infrastructure;
* Identify risks if any, propose mitigations and alternatives;
* Propose an IT governance model applicable to within the entity or across entities;
* Develop an estimated budget required for developing the solutions and setting up the necessary infrastructure, subsequent operations, maintenance and support.
* Propose training/learning and outreach plan for KJC and civil society organizations, the media and the private sector (enabling the usage, operating and maintaining of the CTM and ODP);
* Propose how to address the identified learning needs and achieve learning success with identified target audiences for training;
* Propose and explain most feasible method for outreach and communication for KJC to effectively and sustainably establish constructive and on-going dialogue with the civil society, the media and the private sector in Kosovo on all aspects of transparency in the judiciary, judicial performance, judicial statistics and improved public access to judicial information, as well as publicly introduce the two mechanisms CTM and ODP for maximum public use and widespread public awareness.
* Propose most feasible and sustainable project phase-out plan, ensuring a successful closure of the project.
* Describe the activities that will be carried out to ensure compliance with the MFK SGIP and with the activity’s objective of ensuring broad-based uptake and usage, including by and for the benefit of women, vulnerable groups, and minorities.
* Based on assessed capacity, propose KJC’s institutional post-project operations, support and maintenance strategy to ensure the Online Data Platform and Case Tracking Mechanism are kept current and secure after project closure

**Sub Task 2.2 Deliverables:**

a)Draft Assessment, Recommendations & Roadmap Report

b) Presentation to MFK, and

c) Final Assessment, Recommendations & Roadmap Report

The Consultant shall prepare a comprehensive Assessment, Recommendations & Roadmap Report that includes key elements and findings from work performed under Tasks 1 through 2. The report shall specifically address the activities listed above under this task. The Consultant shall provide a list of documents, data, maps, and drawings developed, used or collected during this review and provide them in an indexed and narrative format such as Excel and Word.

The Consultant shall meet with MFK and other stakeholders to present the Assessment, Recommendations & Roadmap, risks, assumptions, alternatives, evidence and sources of information, and conclusions reached in the draft report. Comments received during this meeting will be used by the Consultant to make modifications and finalize recommendations to be included in the final report.

The MFK shall provide written comments to the Consultant within 15 to 20 working days of the Consultant’s presentation at the MFK premises. The Consultant shall revise the draft report considering all feedback and submit a final report.

**Task 3**: **Project Management, Supervision and Verification of the Individual Case Tracking Mechanism (CTM) and the Online Data Platform (ODP).**

This phase of the project is anticipated to comprise of supporting the procurement of necessary hardware, software and related services that will be required to build and operate the systems followed by development, integration, testing and rollout of the systems and the training and outreach component with civil society organizations, the media and the private sector. The Consultant will provide technical and project management assistance to MFK during the procurement and implementation phase of the solutions.

Activities under this task include:

* Assist the Project Management Office (PMO) in the overall planning and execution of the project.

Specific assistance will be in the following areas:

* + Technical Assistance:
		- Provide technical assistance for downstream procurement of goods and related services including developing requirements and specifications, technical support for evaluation of all aspects of PAJI as outlined in the above broad scope of work on pages 75 and 76 in this ToR;
		- Providing technical assistance and guidance to MFK during course of development, testing and implementation of the software such as interpretation of technical requirements, functional scope, technical standards and communications with Contractors and other stakeholders
		- Assist MFK in addressing technical areas such as integration with other entities, scalability, sizing of hardware, adopting security standards, various
	+ Project Governance:
		- Establish a project governance model in consultation with MFK PMO, Contractors and stakeholders
		- Facilitate the implementation and functioning of the governance model through periodic steering committee reviews, status updates, preparing risk registers and issue resolutions
	+ Project Management:
		- Setup an integrated project plan in Microsoft Project comprising of sub-plans from contractors and other entities
		- Plan and participate in a project launch workshop with a qualified contracted company to implement the interventions. This launch workshop will serve as a detailed planning session to ensure the smooth start of the project;
		- Track progress in terms cost, time and effort and proactively flag potential time and cost overruns and advice on mitigating associated risks
		- Identify factors and pre-requisites for successful deployment of the solutions and all aspects of PAJI; roles and responsibilities of all involved parties, identify tasks on the critical path and propose contingencies
		- Provide monthly status updates to the PMO through a Monthly Status Report (MSR)
	+ Project Supervision:
		- The supervisory role starts once the implementation of the project has been contracted to a qualified company.
		- The supervision comprises of the Consultant having the authority to conduct Quality Assurance Reviews at any time of project implementation, including verification of progress claims made by the implementing company.
		- This supervision includes the Consultant making recommendations and alerting MFK to any and all issues, problems or concerns at any time (not bound to reporting intervals) noticed during project monitoring and supervision.
	+ Deliverables Validation:
		- Validate the software (and hardware, if and when applicable) delivered by the Contractor conforms to the scope, specifications and requirements stated in the contractThe Consultant will be involved in the monitoring of the implementation phase of the PAJI project to help guide and verify all the above-mentioned interventions (CMT and OPD, training and outreach components). This includes verifying if the Contractor has researched how often users of CMIS are entering updates to cases or other judicial data and what the frequency of updates is so that both new mechanisms, CTM and ODP become a meaningful, relevant and regularly used source of information on individual cases / updates on judicial statistics.[[15]](#footnote-16)
		- Assist MFK in the interpretation of scope and related communications with Contractor and proactively review and advise on scope creep
		- When required, support the verification of progress claims made by the contracted company. This includes implementation progress on training for selected/recommended civil society organizations, media and private sector, as well as the outreach component.
		- Review the testing methodology proposed by the Contractor, develop test scripts addressing the requirements and functionality of the application
		- Conduct tests on the delivered platform using the test scripts and assist MFK in the user acceptance process.
		- Advise MFK on any concerns or risks observed in terms of system performance, scalability, security prior to rollout of the solutions
	+ Training and Capacity Building:
		- Review internal and external training needs required for successful deployment, operation, support, and maintenance and use by external constituents
		- Review/prepare training plans in conjunction with the contracted implementing company and stakeholders in terms of timing, location, content creation and delivery channels, as well as quality assurance of learning and applying newly gained knowledge at their jobs (post training evaluations),
		- Advise MFK on skills and expertise required for managing, operating, and maintaining the systems, software support, upgrades required for sustaining the systems.
		- Review the help desk facilities and advise on its adequacy, scalability, and scope of operations
		- Coordinate with relevant KJC staff in planning effective communication of upcoming changes and managing expectations

**Task 3 Deliverables:**

Sub-Task 3.1: Initiation and Planning Report

The Consultant shall present in detail the approach to be adopted for this phase of the project.

This will be in alignment with the roadmap proposed in the earlier phase, and specifically address all aspects of the actionable recommendations made, as well as identify the level and nature of support required from MFK and the other entities.

It also shall include the Consultant’s approach to overcoming obstacles observed in the earlier phase of this assignment.

Sub-Task 3.2: Execution, Monitoring and Control for Full Project Duration

1. Integrated Project Plan
2. Detailed Functional and Technical Requirements/Specifications
3. Monthly Status Reports
4. Steering Committee Briefings
5. Risk Registers
6. Deliverables Validation Report

Sub-Task 3.3: Closing of Project

1. Capacity Building and Sustenance Report

This report shall identify the various aspects that need to be addressed by MFK (and the contracted implementing company) and recommend best practices that need to be adopted to own, operate, support and maintain the systems as well as the KJC outreach strategy with the public, civil society organizations, the media and the private sector. The report will include a specific and dedicated section and outreach strategy for organizations representing women, vulnerable groups, and minorities.

**Disclaimer / Note to Consultants:** Consultants interested in submitting a proposal must follow national laws and regulations concerning Covid-19, and include in the proposal any incremental costs to manage Covid-19 health risks and adhere to safety protocols. Consultants should also include any costs for consumables, such as masks, disinfectants, etc. Consultants need to familiarize themselves with the Ministry of Health’s Manual for Covid-19 Prevention and Control[[16]](#footnote-17) with guidelines, recommendations and mitigation strategies to understand the minimum requirements in mitigating health and safety risks posed by Covid =-19. Consultants need to be aware of restricted working hours and limited staffing at government offices impacting on project implementation and progress. Therefore, the contracted consultant will be required to develop, implement, and update Covid-19 mitigation plans appropriate to the situation at that time, and to the nature and type of work being performed. The Consultant’s approach should also demonstrate the ability to provide the requisite presence in-country to complete the scope of work through the assistance of local partners and resources.

**Deliverables Schedule**

Following is the schedule for the deliverables. The Consultant shall assume 15 to 20 working days MFK internal review period for each report submittal.

Note to the Consultant: Meeting the below schedule, the Consultant must consider the previously mentioned Disclaimer/Note to the Consultant and be ready to advise of any delays in meeting the timely execution of tasks and submission of deliverables. Considering the ongoing COVID-19 pandemic, the MCA Entity ("MFK") might allow a certain degree of flexibility in altering the completion date of deliverables and milestones which will be defined during contract negotiations with the selected.

**Table 2 - Deliverables Schedule**

|  |  |  |
| --- | --- | --- |
| **Task** | **Deliverable** | **Schedule of Presentation** |
| **Task 1: Kick Off Meeting and Inception Activity** | Inception Report (Draft and Final) including Work Plan and Schedule | 2 weeks after contract Effective Date |
| **Task 2: Assessment & Recommendations** |
| Sub Task 2.1: Survey & Analysis | Survey Summary, Analysis & Key Findings | 6 weeks after contract Effective Date |
| Sub Task 2.2: Recommendations & Roadmap | Draft Assessment, Recommendations & Roadmap Report | 8 weeks after contract Effective Date |
| Presentation to MFK | 9 weeks after contract Effective Date |
| Final Assessment, Recommendations & Roadmap Report | 10 weeks after contract Effective Date |
| **Task 3: Project Management, Supervision and Verification of the Individual Case Tracking Mechanism (CTM) and the Online Data Platform (ODP)** |
| Sub-Task 3.1: INITIATION and PLANNING | Consultant holds planning meeting with contracted company to brief them about the road map and key phases of implementation, with required resources, costs and time per each phase of implementation (phases can be marked by milestones or regular time periods). | 1 week after contract effective date of Contracted Company  |
| Sub-Task 3.2: EXECUTION, MONITORING and CONTROL FOR FULL PROJECT DURATION | Consultant and company agree on a Quality Assurance (QA) Plan, which outlines the frequency of internal reporting, the mechanisms of coordination and communication (when does a report go through the Consultant, and in what form). The Quality Assurance Plan details the supervision in each phase of the project implementation, plus risk management, contingency planning, procurement needs and costs, and means of verification of progress and quality claims. * Integrated Project Plan
* Detailed Functional and Technical Requirements/Specifications
* Monthly Status Reports
* Steering Committee Briefings
* Risk Registers
* Deliverables Validation Report
 | 4 weeks after contract effective date of Contracted Company (monthly) or for each phase of implementation (phases can be marked by milestones or regular time periods) |
| Sub-Task 3.3: CLOSING OF PROJECT | Final products review, close-out activities, maintenance and Institutional Capacity (Sustainability of Interventions). | Before September, 2021, unless otherwise agreed by both parties.  |

**Submission Requirements**

The Consultant shall adhere to the following submittal requirements for deliverables:

* Draft Reports (to be submitted electronically using Adobe PDF and MS Word)
* Final Reports (to be submitted electronically in Adobe PDF format)
* All deliverables shall be submitted in English and in a format acceptable to MFK and shall be submitted to MFK for review and approval.
* All native files (MS Word, Excel etc.) of work products (reports, drawings, and estimates) shall be provided to MFK.

**Reporting Requirements**

Throughout the assignment, the Consultant will work under the overall guidance and supervision, and will report to MFK.

**Period of Performance and Level of Effort**

This assignment is expected to be completed by 30 September 2021, unless otherwise agreed upon by both parties. The Consultant must indicate the total Level-of-Effort (LoE) for each individual team member in their Technical Proposal.

**Items to Be Supplied by the Consultant**

The Consultant shall be solely responsible for all of its requirements for fielding its teams, The Consultant’s responsibility shall include:

* Provision of workspace for the Consultant’s team members.
* All facilities for production of reports and other deliverables.
* All internet or telephone service that the Consultant’s team members may require.

**Information or Services to Be Provided By MFK**

MFK shall provide the following Information or services for this study:

* Access to any reports or information relevant to this assignment, including research findings, surveys, meeting notes, interviews, photos/pictures and drawings/maps, as well as correspondence with partners and stakeholders.
* Nominate a Project Coordinator who will serve as a principal point of contact for this project to facilitate access to MFK management and staff whose support may be needed to obtain data and information and to provide access to MFK facilities.

**QUALIFICATIONS**

**Firm Qualifications:**

* Proposals would be evaluated on the responsiveness of the Consultant (firm or consortium) to demonstrate its qualifications for this assignment as presented in the descriptions of its relevant corporate capabilities, project experience, qualifications of its proposed personnel, and other supporting factors and so forth.
* However, where two or more firms or organizations are proposing as a team (in the form of a JV, association, affiliation or sub-consulting arrangement), the teaming arrangements must be clearly described and the lead organization identified in the proposal. The legal status of the firm or partners in consortium must be clearly stated with evidence given.
* The Consultant shall describe their proposed project organization, methodologies and how the project will be managed. The work described in this TOR will require an interdisciplinary team with strong qualifications and experience in design, development and implementation of IT systems as well as experts with prior experience with inclusive, gender aware consultations, adult learning and professional training, justice/judicial and information capacity building, data disaggregation and data analysis.

**Key Personnel**

Key individuals and task leader should be clearly identified by name, qualification and function, distinguishing between project management and technical personnel. Up to three technical persons may be identified on the Consultant’s team. Detailed Curricula Vitae (CVs) for all proposed personnel clearly demonstrating their relevant expertise, experience and qualifications must be submitted.

The Consultant must propose a project team that includes the following key technical disciplines at a minimum:

* Team Leader
* Technical Expert
* Legal expert
* Capacity Building Expert

If the Consultant believe that other technical specialties are warranted, they should identify and offer justification for inclusion of those specialties in their proposals. CVs demonstrating relevant experience for all technical specialties included in the proposed team must be included in the proposal.

Payment schedule

|  |  |  |  |
| --- | --- | --- | --- |
| Task | Deliverable | Schedule of Presentation | Payment % including supervision of project until Sept 2021(to be processed upon acceptance of deliverables as satisfactory |
| Task 1: Kick Off Meeting and Inception Activity | Inception Report (Draft and Final) including Work Plan and Schedule | 2 weeks after contract Effective Date | 5% |
| Task 2: Assessment & Recommendations |
| Sub Task 2.1: Survey & Analysis | Survey Summary, Analysis & Key Findings | 6 weeks after contract Effective Date |  |
| Sub Task 2.2: Recommendations & Roadmap | Draft Assessment, Recommendations & Roadmap Report | 8 weeks after contract Effective Date |  |
| Presentation to MFK | 9 weeks after contract Effective Date |  |
| Final Assessment, Recommendations & Roadmap Report | 10 weeks after contract Effective Date | 20% |
| Task 3: Project Management, Supervision and Verification of the Individual Case Tracking Mechanism (CTM) and the Online Data Platform (ODP) |
| Sub-Task 3.1: INITIATION and PLANNING | Meeting with contracted company to brief them about the road map and key phases of implementation required resources, costs and time per each phase of implementation. | 1 week after contract effective date of Contractor 2. |  |
| Sub-Task 3.2: EXECUTION, MONITORING and CONTROL FOR FULL PROJECT DURATION | Develop a Quality Assurance (QA) Plan, which outlines the frequency of internal reporting, the mechanisms of coordination and communication. Detail the supervision in each phase of the project implementation, plus risk management, contingency planning, procurement needs and costs, and means of verification of progress and quality claims.  | 4 weeks after contract effective date of Contractor 2, (monthly) or for each phase of implementation (phases can be marked by milestones or regular time periods) | 10% upon Quality Assurance PlanSplit up 50% of contract fee for specified period with a satisfactory report and verified progress. The deliverables and milestones of these reports will be added later after the assessment and the contractor 2 has been awarded a contract.  |
| Sub-Task 3.3: CLOSING OF PROJECT | Final products review, close-out activities, maintenance and Institutional Capacity (Sustainability of Interventions). | Before September, 2021, unless otherwise agreed by both parties. | 15% |

# PART 2:

# CONDITIONS OF CONTRACT AND CONTRACT

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| 1. Contract Notices, Agreement and General Conditions of Contract
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| Notice of Intent to Award (NOITA) |

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***[The Notice of Intent to Award shall be filled in and sent to the successful Consultant in accordance with ITC Clause 26.1]***

**[date]**

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

**MCA ENTITY INTENDS NO CONTRACT TO BE FORMED**

**WITH THIS NOTICE.**

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

**Re: XXXXXXXXXXXXXXXXXXXXX**

**RFP Ref: XXXXXXXXXXXXXXXXX**

As provided in the Bidding Document (ITC Clause 26.1) 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 Consultant 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 filled in and sent to the successful Consultant in accordance with ITC Clause 26.1]***

**[date]**

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

**Re: XXXXXXXXXXXXXXXXXXXXX**

**RFP Ref: XXXXXXXXXXXXXXXXX**

Dear [insert name of consultant],

We wish to formally award the subject consulting services to you and invite you for negotiations on **[insert date and time].** Negotiations will be held **[in-person or online – choose as appropriate]** at our **[street or online - choose as appropriate]** address below:

**[insert Skype/Zoom/Webex or street address].**

Please confirm the date and time work for you.

The agenda for negotiations and draft contract are both attached. Please formally confirm in writing (by email or letter) the availability of all key staff in your Proposal before the commencement of negotiations.

Signed:

In the capacity of:

**[The Print Name]**

|  |
| --- |
| CONTRACT AGREEMENT |

This CONTRACT AGREEMENT (this “Contract”) made as of the **[day]** of **[month]**, **[year]**, between **Millennium Foundation of Kosovo** (the “MCA Entity”), on the one part, and **[full legal name of Consultant]** (the “Consultant”), on the other part.

***[Note: If the Consultant 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 “MCA Entity”), on the one part, and **[full legal name of lead Consultant]** (the “Consultant”) in **[joint venture / consortium / association]** with **[list names of each joint venture entity]**, on the other part, each of which will be jointly and severally liable to theMCA Entity for all of the Consultant’s obligations under this Contract and is deemed to be included in any reference to the term “Consultant.”

**RECITALS**

WHEREAS,

1. The Millennium Challenge Corporation (“MCC”) and the Government of the Republic of **Kosovo** (the “Government”) have entered into a Millennium Challenge Threshold Program agreement for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in Kosovo on 12 September 2017(the “Threshold Program agreement”) in the amount of approximately **49 million** USD (“MCC Funding”). The Government, acting through the MCA Entity, 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 Threshold Program agreement and related documents, including restrictions on the use, and conditions to disbursement, of MCC Funding. No party other than the Government and the MCA Entityshall derive any rights from the Threshold Program agreement or have any claim to the proceeds of MCC Funding; and
2. The MCA Entity has requested the Consultant to provide certain consulting Services as described in Annex A to this Contract; and
3. The Consultant, having represented to the MCA Entity that it has the required professional skills, and Personnel and technical resources, has agreed to provide such Services on the terms and conditions set forth in this Contract.

NOW THEREFORE, the Parties to this Contract agree as follows:

1. In consideration of the payments to be made by the MCA Entity to the Consultant as set forth in this Contract, the Consultant hereby covenants with the MCA Entity to perform the Services in conformity in all respects with the provisions of this Contract.
2. Subject to the terms of this Contract, the MCA Entity hereby covenants to pay the Consultant, in consideration of the performance of the Services, the Contract Price (as defined below) or such other sum as may become payable pursuant to 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]** as of the day, month and year first indicated above.

|  |  |
| --- | --- |
| For **[full legal name of the MCA Entity]:** | For **[full legal name of the Consultant]:** |
| Signature  | Signature |
| Name | Name |
| Witnessed By: | Witnessed By: |

***[Note: If the Consultant 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 Consultant

**[Name of Member]**

**[Authorized Representative]**

**[Name of Member]**

**[Authorized Representative]**

|  |
| --- |
| GENERAL CONDITIONS OF CONTRACT |

|  |  |
| --- | --- |
| 1. **Definitions**
 | * 1. Capitalized terms used in this Contract and not otherwise defined have the meanings given such terms in the Threshold Program agreement 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 Consultant. A Sub-Consultant is not an Associate.
3. “Association” or “association” or “Joint Venture” or “joint venture” means an association of entities that forms the Consultant, with or without a legal status distinct from that of its members.
4. “Threshold Program agreement” has the meaning given the term in the recital clauses to the Contract Agreement.
5. “Consultant” has the meaning given the term in the initial paragraph of the Contract Agreement.
6. “Contract” means this agreement entered into betweenthe MCA Entity and the Consultant, to provide the Services, and consists of the Contract Agreement, these GCC, the SCC, and the Annexes (each of which forms an integral part of this agreement), as the same may be amended, modified, or supplemented from time to time in accordance with the terms of this agreement.
7. “Contract Price” means the price to be paid for the performance of the Services, in accordance with GCC Sub-Clause 17.1.
8. “Effective Date” has the meaning given the term in GCC Clause 16.2.
9. "Force Majeure" has the meaning given the term in GCC Clause 22.1.
10. “GCC” means these General Conditions of Contract.
11. “Government” has the meaning given the term in the recital clauses to the Contract Agreement.
12. “Key Professional Personnel” means the Personnel listed in Annex D to this Contract.
13. “Local Currency” has the meaning given the term **in the SCC**.
14. “MCA Country” has the meaning given the term **in the SCC**.
15. “MCA Entity” or “Client” has the meaning given the term in the initial paragraph of the Contract Agreement.
16. “MCC” has the meaning given the term in the recital clauses to this Contract.
17. “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.
18. “Member” means any of the entities that make up a joint venture or other association; and “Members” means all these entities.
19. “Party” means the MCA Entity or the Consultant, as the case may be, and “Parties” means both of them.
20. “Personnel” means persons hired by the Consultant or by any Sub-Consultants and assigned to perform the Services or any part thereof.
21. “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented.
22. “Services” means the activities to be performed by the Consultant pursuant to this Contract, as described in Annex A to this Contract.
23. “Sub-Consultant” means any person or entity to whom/which the Consultant subcontracts any part of the Services.
24. “Tax” and “Taxes” have the meanings given the terms in the Threshold Program agreement or related agreement.
25. “Trafficking in Persons” has the meaning given at GCC Clause 25.
26. “US Dollars” means the currency of the United States of America.
 |
| 1. **Interpretation and General Matters**
 | * 1. In interpreting this Contract, unless otherwise indicated:
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.
 |
| **Waivers, Forbearance, Etc.** | * 1. The following shall apply with respect to any waivers, forbearance or similar actions taken under this Contract
		+ - 1. Any waiver of a Party’s or MCC’s rights, powers, or remedies under this Contract must be in writing, dated, and signed by an authorized representative of the Party (or MCC) granting such waiver, and must specify the terms under which the waiver is being granted.
				2. No relaxation, forbearance, delay, or indulgence by either Party or MCC, as the case may be, in enforcing any of the terms and conditions of this Contract or the granting of time by either Party or MCC to the other shall prejudice, affect, or restrict the rights of that Party or MCC under this Contract, neither shall any waiver by either Party or MCC of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
 |
| **Severability** | * 1. If any provision or condition of this Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of this Contract
 |
| **Documents Making Up This Contract** | * 1. The following documents are deemed to form an integral part of this Contract and shall be interpreted in the following order of priority:

(a) the Agreement consisting of the initial paragraphs, recitals and other clauses set forth immediately prior to the GCC and including the signatures of the MCA Entity and the Consultant;(b) the SCC and Annex B to this Contract;(c) the GCC;(d) the Notification of Award;(f) Annex A: Description of Services; (g) any other Annex to this Contract; (e) the Consultant’s Proposal; and(i) any other document listed in the SCC as forming part of this Contract. |
| **Assignment**  | * 1. Neither party shall assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, without the consent of the other party; provided that, the MCA Entity 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 Consultant. The MCA Entity shall use commercially reasonable efforts to notify the Consultant as soon as reasonably practicable of any such assignment. Any attempted assignment that does not comply with the terms of this GCC Sub-Clause 2.5 shall be null and void.
 |
| 1. **Language and Law**
 | * 1. This Contract has been executed in language(s) **specified in the SCC**. If the Contract is executed in both English and a specified local language, the English language version shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
	2. This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.
 |
| 1. **Communications**
 | * 1. Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Subject to Applicable Law, 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 delivered to such Party at the address **specified in the SCC**, or sent by confirmed facsimile or confirmed email, in either case if sent during normal business hours of the recipient Party.
	2. A Party may change its name or address for receiving notice under this Contract by giving the other Party notice in writing of such change to the address **specified in SCC 4.1.**
 |
| 1. **Subcontracting**
 | * 1. If the Consultant intends to subcontract for a major item of its contracted Services (deemed major if valued in excess of $100,000 USD) it shall seek the MCA Entity’s prior written approval of the subcontractor. Subcontracting shall not alter the Consultant’s obligations under this Contract.
 |
| 1. **Relationship Between the Parties**
 | * 1. Nothing contained in this Contract shall be construed as establishing a relationship of master and servant or of principal and agent as between the MCA Entity and the Consultant. The Consultant, subject to this Contract, has complete charge of Personnel and Sub-Consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf in connection with this Contract.
 |
| 1. **Location**
 | * 1. The Services shall be performed at such locations as are specified in Annex A to this Contract and, where the location of a particular task is not so specified, at such locations, whether in the MCA Country or elsewhere, as the MCA Entity may approve.
 |
| 1. **Authority of Member in Charge**
 | * 1. In case the Consultant consists of a joint venture or other association of more than one entity, the Members hereby authorize the entity **specified in the SCC** to act on their behalf in exercising all the Consultant’s rights and obligations toward the MCA Entity under this Contract, including without limitation the receiving of instructions and payments from the MCA Entity.
 |
| 1. **Authorized Representatives**
 | * 1. Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the MCA Entity or the Consultant may be taken or executed by the officials **specified in the SCC**.
 |
| 1. **Description and Approval of Personnel; Adjustments; Approval of Additional Work**
 | * 1. The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultant’s Key Professional Personnel are described in Annex D. The Key Professional Personnel and Sub-Consultants listed by title as well as by name in Annex D are hereby approved by the MCA Entity.
	2. GCC Sub-Clause 38.1 shall apply in respect of other Personnel and Sub-Consultants which the Consultant proposes to use in the carrying out of the Services, and the Consultant shall submit to the MCA Entity for review and approval a copy of their Curricula Vitae (CVs).
 |
|  | * 1. Adjustments with respect to the estimated periods of engagement of Key Professional Personnel set forth in Annex D may be made by the Consultant without the prior approval of the MCA Entity only if (a) such adjustments shall not alter the originally estimated period of engagement of any individual by more than ten percent (10%) or one week, whichever is larger and (b) the aggregate of such adjustments shall not cause payments under this Contract to exceed the Contract Price. If so **indicated in the SCC**, the Consultant shall provide written notice to the MCA Entityof any such adjustments. Any other adjustments shall only be made with the MCA Entity’s prior written approval.
 |
|  | * 1. If additional work is required beyond the scope of the Services specified in Annex A, the estimated periods of engagement of Key Professional Personnel set forth in Annex D may be increased by agreement in writing between the MCA Entity and the Consultant. In a case in which such additional work would result in payments under this Contract exceeding the Contract Price, such additional work and payments will be explicitly described in the agreement and shall be subject in all respects to the provisions of GCC Sub-Clauses 16.4, 16.5 and 17.4.
 |
| **Resident Project Manager** | * 1. **If required by the SCC**, the Consultant shall ensure that at all times during the Consultant’s performance of the Services in the MCA Country a resident project manager, acceptable to the MCA Entity, shall take charge of the performance of such Services.
 |
| 1. **Working Hours, Overtime, Leave, etc.**
 | * 1. The Consultant 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.
	2. Working hours and holidays for Key Professional Personnel are set forth in Annex D. To account for travel time, foreign Personnel carrying out Services inside the MCA Countryshall be deemed to have commenced, or finished work in respect of the Services such number of days before their arrival in, or after their departure from the MCA Countryas is specified in Annex D.
	3. The Consultant and Personnel shall not be entitled to reimbursement for overtime nor to take paid sick leave or vacation leave except as specified in Annex D, and except as specified in Annex D, the Consultant’s remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set forth in Annex D. Any taking of leave by Personnel shall be subject to the prior approval by the Consultant who shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.
 |
| **Engagement of Staff and Labor** | * 1. The Consultant 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 Consultant 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.
	2. The Consultant shall adopt recruitment, hiring and retention practices that support the employment of women and staff from diverse backgrounds.
	3. The Consultant shall ensure that the employment terms and conditions of migrant workers are not influenced by their migrant status.
	4. The Consultant shall be responsible for monitoring compliance of Sub-consultants to the labor and working conditions outlined in the IFC Performance Standards in force from time to time.
 |
| **Facilities for Staff and Labor** | * 1. Where accommodation or welfare facilities are provided to Personnel, the Consultant 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 allows individuals’ privacy and safety. Additional summary guidance may be found here: <https://www.mcc.gov/resources/doc/guidance-accommodation-welfare-staff-and-labor>
 |
| 1. **Removal and/or Replacement of Personnel**
 | * 1. Except as the MCA Entity may otherwise agree, no changes shall be made in the Key Professional Personnel. If, for any reason beyond the reasonable control of the Consultant, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Key Professional Personnel, the Consultant shall, subject to GCC Sub-Clause 38.1(a), provide as a replacement a person of equivalent or better qualifications.
 |
|  | * 1. If the MCA Entity (a) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (b) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the MCA Entity’s written request specifying the grounds therefore and subject to GCC Sub-Clause 38.1(a), provide as a replacement a person with qualifications and experience acceptable to the MCA Entity.
 |
|  | * 1. The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.
	2. The Consultant shall provide a grievance mechanism for personnel to raise workplace concerns. The Consultant shall inform the workers of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve 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. The mechanism should also allow for anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.
 |
| 1. **Settlement of Disputes**
 |  |
| **Amicable Settlement** | * 1. The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of this Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.
 |
| **Dispute Resolution** | * 1. Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after the receipt by one Party of the other Party’s request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions **specified in the SCC**.
 |
| 1. **Commissions and Fees**
 | * 1. The Consultant 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 least the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.
 |
| 1. **Entire Agreement**
 | * 1. This Contract contains all of the covenants, stipulations and provisions agreed to by the Parties. 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.
 |
| 1. **Commencement, Completion and Modification of Contract**
 |  |
| **Contract Entry into Force** | * 1. This Contract shall come into full force and be legally binding on the Parties in all respects, on the date this Contract is signed by the Parties or such other date as may be **stated in the SCC**.
 |
| **Effective Date and Commencement of Services** | * 1. The Consultant shall commence the Services on the date **specified in the SCC**, which shall be defined as the “Effective Date.”
 |
| **Expiration of Contract** | * 1. Unless terminated earlier pursuant to GCC Clause 20, this Contract shall expire at the end of such time period after the Effective Date as **specified in the SCC**.
 |
| **Modifications or Variations** | * 1. Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to GCC Sub-Clause 50.1, however, each Party shall give due consideration to any proposals for modification or variation made by the other Party.
 |
| **Substantial Modification** | * 1. In cases of any of the below, the prior written consent of MCC is required:
	2. the Contract value of a Contract that did not require approval under an MCC policy is raised to a value that would require approval
	3. the original Contract duration is extended by 25% or more, or
	4. the original value of the Contract is increased by ten percent (10%) or 1 million US Dollars or more (whichever may apply); once the 10% Contract (or 1 million US Dollars) threshold for modifications or change orders has been reached for a Contract, any subsequent Contract modification or change order that individually or collectively exceed 3% of the original Contract value will also require MCC approval.
 |
| 1. **Payments to the Consultant**
 |  |
| **Contract Price** | * 1. Except as provided in GCC Sub-Clause 17.5, the total payment due to the Consultant shall not exceed the Contract Price **set forth in the SCC** (as may be adjusted in accordance with the terms of the SCC). The Contract Price is an all-inclusive fixed-price covering all costs required to provide the Services in accordance with the terms of this Contract. The Contract Price may only be increased above the amounts **stated in the SCC** (including, without limitation, pursuant to the terms of GCC Sub-Clauses 10.4, 46.2 and 48.2) if the Parties have agreed to additional payments in accordance with GCC Sub-Clauses 16.4, 16.5 and 17.4.
 |
| **Currency of Payment** | * 1. Payments shall be made in US Dollars, or the Local Currency, or, if justified for sound business reasons and approved by the MCA Entity, a combination of the two currencies.
 |
| **Terms, Conditions and Mode of Billing and Payment** | * 1. Payments will be made to the account of the Consultant and according to the payment schedule **stated in SCC 17.1** and against an invoice. Any other payment shall be made after the conditions **listed in the SCC** for such payment have been met, and the Consultant has submitted an invoice to the MCA Entity specifying the amount. In all cases, invoices shall be delivered to the MCA Entity no later than thirty (30) days prior to the requested payment date and will not be deemed delivered until they are in form and substance satisfactory to the MCA Entity. Payments will be made to the Consultant within thirty (30) days of the date of receipt by the MCA Entity of a valid and proper invoice or the date of the MCA Entity’s acceptance of required deliverables (e.g., the delivery of reports), whichever is later. The Consultant shall comply with any other instructions related to payment as may be reasonably requested by the MCA Entity.
 |
| **Payment for Additional Services** | * 1. For the purposes of determining the remuneration due for additional Services as may be granted under GCC Sub-Clause 16.4, a breakdown of the Contract Price is provided in Annexes E and F.
 |
| **Interest on Delayed Payments**  | * 1. If the MCA Entity has delayed payments beyond thirty (30) days after the payment date determined in accordance with GCC Sub-Clause 17.3, interest shall be paid to the Consultant for each day of delay at the rate **stated in the SCC**.
 |
| 1. **Taxes and Duties**
 | * 1. **[This GCC Clause 18(a) 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 Request for Proposals]** Except as may be exempted pursuant to the Threshold Program agreement or another agreement related to the Threshold Program agreement, available in English at **[insert web link]**, the Consultant, the Sub-Consultants, and their respective Personnel may be subject to certain Taxes on amounts payable by the MCA Entity under this Contract in accordance with Applicable Law (now or hereinafter in effect). The Consultant, each Sub-Consultant and their respective Personnel shall pay all Taxes levied under Applicable Law. In no event shall the MCA Entity be responsible for the payment or reimbursement of any Taxes. In the event that any Taxes are imposed on the Consultant, any Sub-Consultant or their respective Personnel, the Contract Price shall not be adjusted to account for such Taxes.
	2. The Consultant, the Sub-Consultants 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.
	3. If the Consultant, the Sub-Consultants 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 Consultant, the Sub-Consultants or such Personnel, as the case may be, (i) shall bear such customs duties and other Taxes in conformity with Applicable Law, or (ii) shall reimburse such customs duties and Taxes to the MCA Entity if such customs duties and Taxes were paid by the MCA Entity at the time the property in question was brought into the MCA Country.
	4. Without prejudice to the rights of the Consultant under this clause, the Consultant, the Sub-Consultants and their respective Personnel will take reasonable steps as requested by the MCA Entity or the Government with respect to the determination of the Tax status described in this GCC Clause 18.
	5. If the Consultant is required to pay Taxes that are exempt under the Threshold Program agreement or a related agreement, the Consultant shall promptly notify the MCA Entity (or such agent or representative designated by the MCA Entity) of any Taxes paid, and the Consultant shall cooperate with, and take such actions as may be requested by the MCA Entity, MCC, or either of their agents or representatives, in seeking the prompt and proper reimbursement of such Taxes.
	6. The MCA Entity shall use reasonable efforts to ensure that the Government provides the Consultant, the Sub-Consultants, and their respective Personnel the exemptions from taxation applicable to such persons or entities, in accordance with the terms of the Threshold Program agreement or related agreements. If the MCA Entity fails to comply with its obligations under this paragraph, the Consultant shall have the right to terminate this Contract in accordance with GCC Sub-Clause 20.2(d).
 |
| 1. **Suspension**
 | * 1. The MCA Entity may, by giving thirty (30) days’ written notice to the Consultant, suspend all payments to the Consultant under this Contract if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (a) shall specify the nature of the failure, and (b) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.
 |
| 1. **Termination**
 |  |
| **By the MCA Entity** | * 1. Without prejudice to any other remedies that may be available to it for breach of this Contract, the MCA Entity may, upon written notice to the Consultant, terminate this Contract in case of the occurrence of any of the events specified in sub-paragraphs (a) through (i) of this GCC Sub-Clause 20.1, and in the case of the occurrence of any of the events specified in paragraphs (h) or (i) of this GCC Sub-Clause 20.1, the MCA Entity may suspend this Contract.
1. If the Consultant, in the judgment of the MCA Entity or MCC, fails to perform its obligations relating to the use of funds set out in Annex B. Termination under this provision shall (i) become effective immediately upon delivery of the notice of termination and (ii) require that the Consultant repay any and all funds so misused within a maximum of thirty (30) days after termination.
2. If the Consultant does not remedy a failure in the performance of its obligations under this Contract (other than failure to perform obligations relating to use of funds as set forth in GCC Sub-Clause 20.1(a) of this Contract, which such failure shall not be entitled to a cure period) within thirty (30) days after delivery of the notice of termination or within any further period of time approved in writing by the MCA Entity. Termination under this provision shall become effective immediately upon the expiration of the thirty (30) days (or such further period as may have been approved by the MCA Entity) or on such later date as may be specified by the MCA Entity.
3. If the Consultant (or any Member or Sub-Consultant) 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 MCA Entity in such notice of termination.
4. If the Consultant (or any Member or Sub-Consultant), in the judgment of the MCA Entity has engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption or prohibited practices in competing for or in the performance of this Contract or another MCC funded contract. Termination under this provision shall become effective immediately upon delivery of the notice of termination.
5. If, as the result of an event of Force Majeure, the Consultant is unable to perform a material portion of the Services 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 MCA Entity.
6. If the MCA Entity, in its sole discretion and for any reason whatsoever, decides to terminate this Contract. 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 MCA Entity.
7. If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 13. 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 MCA Entity.
8. If the Threshold Program agreement expires, is suspended or terminates in whole or in part in accordance with the terms of the Threshold Program agreement. 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 20.1(h), the Consultant has an obligation to mitigate all expenses, damages and losses to the MCA Entity during the period of the suspension.
9. If an event has occurred that would be grounds for suspension or termination 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 20.1(i), the Consultant has an obligation to mitigate all expenses, damages and losses to the MCA Entity during the period of the suspension.
 |
| **By the Consultant** | * 1. The Consultant may terminate this Contract, upon written notice to the MCA Entity in accordance with the time period specified below, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (e) of this GCC Sub-Clause 20.2.
1. If the MCA Entity fails to pay any money due to the Consultant pursuant to this Contract that is not otherwise subject to dispute pursuant to GCC Clause 13 hereof within forty-five (45) days after receiving written notice from the Consultant 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 MCA Entityto the Consultant within such thirty (30) days.
2. If, as the result of an event of Force Majeure, the Consultant is unable to perform a material portion of the Services 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 MCA Entity fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 13. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.
4. If the Consultant does not receive a reimbursement of any Taxes that are exempt under the Threshold Program agreement within one hundred and twenty (120) days after the Consultant gives notice to the MCA Entity that such reimbursement is due and owing to the Consultant. 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 Consultant within such thirty (30) days.
5. If this Contract is suspended in accordance with GCC Sub-Clauses 20.1(h) or (i) for a period of time exceeding three (3) consecutive months; provided that the Consultant has complied with its obligation to mitigate in accordance with GCC Sub-Clauses 20.1(h) or (i) during the period of the suspension. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.
 |
| 1. **Payment Upon Termination**
 | * 1. Upon termination of this Contract pursuant to GCC Sub-Clauses 20.1 or 20.2,the MCA Entity shall make, or cause to be made, the following payments to the Consultant:
1. payment pursuant to GCC Clause 17 for Services satisfactorily performed prior to the effective date of termination; and
2. except in the case of termination pursuant to paragraphs (a) through (d) and (g) of GCC Sub-Clause 20.1, reimbursement of any reasonable cost (as determined by the MCA Entityor MCC) incidental to the prompt and orderly termination of this Contract; provided, that in the case of suspension of this Contract pursuant to GCC Sub-Clauses 20.1 (h) or (i), the Consultant has complied with its obligation to mitigate in accordance with such clauses.
 |
| **Disputes about Events of Termination** | * 1. If either Party disputes whether an event specified in paragraphs (a), (b), (c), (e) or (g) of GCC Sub-Clause 20.1 or paragraphs (a) through (d) of GCC Sub-Clause 20.2 has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to dispute resolution in accordance with GCC Clause 13, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.
 |
| **Cessation of Rights and Obligations** | * 1. Upon termination of this Contract pursuant to GCC Clause 20, or upon expiration of this Contract pursuant to GCC Sub-Clause 16.3, all rights and obligations of the Parties under this Contract shall cease, except (a) such rights and obligations as may have accrued on the date of termination or expiration, (b) the obligation of confidentiality set forth in GCC Clause 33, (c) the Consultant’s obligation to permit inspection, copying and auditing of its accounts and records set forth in GCC Clause 37 and Annex B and (d) any right or obligation which a Party may have under the Applicable Law.
 |
| **Cessation of Services** | * 1. Upon termination of this Contract by notice of either Party to the other pursuant to GCC Sub-Clauses 20.1 or 20.2, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the MCA Entity, the Consultant shall proceed as provided, respectively, by GCC Clauses 34 or 41.
 |
| 1. **Force Majeure**
 |  |
| **Definition** | * 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 person over whom such Party has control, including any Sub-Consultant), (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.
 |
| **No Breach of Contract** | * 1. The failure of a Party to fulfil 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.
 |
| **Measures to be Taken** | * 1. Subject to GCC Sub-Clause 22.6, 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.
 |
|  | * 1. 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.
	2. 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.
 |
|  | * 1. During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions bythe MCA Entity, shall either:
1. demobilize, in which case the Consultant shall be reimbursed for additional costs it reasonably and necessarily incurred and, if the Consultant is required by the MCA Entity to reactive its performance of the Services at the time of restoration of normal conditions, the additional costs the Consultant reasonably and necessarily incurred as part of such reactivation; or
2. continue with the Services to the extent possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.
 |
|  | * 1. In the case of disagreement between the Parties as to the existence or extent of and event of Force Majeure, the matter shall be settled in accordance with GCC Clause 13.
 |
| 1. **Required Provisions; Flow Through Provisions**
 | * 1. For the avoidance of doubt, the Parties agree and understand that the provisions set forth in Annex B reflect certain obligations of the Government and the MCA Entity under the terms of the Threshold Program agreement and related documents that are also required to be transferred onto any Consultant, Sub-Consultant or Associate who partakes in procurements or contracts in which MCC Funding is involved and that, as with other clauses of this Contract, the provisions of Annex B are binding obligations under this Contract.
	2. In any subcontract or sub-award entered into by the Consultant, as permitted by the terms of this Contract, the Consultant shall ensure the inclusion of all the provisions contained in Annex B in any agreement related to such subcontract or sub-award.
 |
| 1. **Fraud and Corruption Requirements**
 | * 1. MCC requires that the MCA Entity and any other beneficiaries of MCC Funding, including any bidders, suppliers, contractors, Sub-Consultants and Consultants under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts.

MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC’s AFC Policy”) is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC’s AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC’s AFC Policy and certify to the MCA Entity that they have acceptable commitments and procedures in place to address the potential for fraud and corruption. Any entity receiving an award (including, but not limited to, both contracts and grants) of MCC Funding of over $500,000 will be required to certify to the MCA Account Entity that they will adopt and implement a code of business ethics and conduct within ninety (90) days of Contract award. Such entity will also include the substance of this clause in subcontracts that have a value in excess of $500,000. Information regarding the establishment of business ethics and conduct programs can be obtained from numerous sources, including but not limited to:<http://www.oecd.org/corruption/Anti-CorruptionEthicsComplianceHandbook.pdf>;<https://www.cipe.org/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, and sometimes referred to collectively in this document as “Fraud and Corruption”:
	1. “***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;
	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 influence improperly the actions of a public official, MCA Entity staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC Funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract;
	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) set forth in Annex B (Additional Provisions) to this Contract.
2. MCC may cancel any portion or all of the MCC Funding allocated to the Contract if it determines at any time that representatives of the MCA Entity, the Consultant or any other beneficiary of the MCC Funding were engaged in any coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the selection process or the performance of the Contract, or another MCC-funded contract, without the MCA Entity, the Consultant or such other beneficiary having taken timely and appropriate action satisfactory to MCC to remedy the situation.
3. MCC and the MCA Entity may pursue sanction of the Consultant, including declaring the Consultant 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 MCA Entity determines that the contractor has, directly or through an agent, engaged in any coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in performance of, the Contract or another MCC-funded contract.
4. If the MCA Entity or MCC determines that the Consultant, any subcontractor, any of the Consultant’s Personnel, or any agent or affiliate of any of them has, directly or indirectly, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices, in competing for or in the performance of the Contract, then the MCA Entity or MCC may, by notice, immediately terminate the Contract, and the provisions of GCC Sub-Clause 20.1 shall apply.
5. Should any of the Consultant’s Personnel be determined to have engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the competition for or execution of the Contract, but the MCA Entity or MCC determines not to terminate the Contract in accordance with the immediately preceding sub-paragraph, then the relevant Consultant’s Personnel shall be removed in accordance with GCC Clause 12.
 |
| 1. **Combatting Trafficking in Persons**
 | * 1. MCC, along with other United States Government entities, has adopted a zero-tolerance policy with regard to Trafficking in Persons (“TIP”) through its Counter-Trafficking in Persons Policy.[[17]](#footnote-18) In pursuance of this policy:
 |
|  | 1. **Defined Terms.** For purposes of the application and interpretation of this Sub-Clause:
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 Counter-Trafficking in Persons Policy (“MCC C-TIP Policy”) and such definitions are incorporated by reference into this Sub-Clause; and
3. “Trafficking in Persons” means (a) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; (b) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 |
|  | **Prohibition.** Contractors, subcontractors, Consultants, Sub-Consultants 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, |
|  | 1. **Consultant Requirements**.
2. Each contractor, subcontractor, Consultant or Sub-Consultant shall:
	* + - 1. notify its employees of the MCC C-TIP Policy and of the actions that will be taken against Personnel for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and
				2. take appropriate action, up to and including termination, against Personnel or subcontractors or Sub-Consultants that violate the prohibitions set out in this policy.
3. Each Consultant shall:
4. certify that it is not engaged in, facilitating, or allowing any activities constituting Trafficking in Persons, or related activities also prohibited under this policy, for the duration of the Contract;
5. provide assurances that activities constituting Trafficking in Persons, or related activities also prohibited under this policy, will not be tolerated on the part of its Personnel, subcontractors or Sub-Consultants (as the case may be), or their respective employees; and
6. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.
7. A bidder, supplier, contractor, subcontractor, Consultant or Sub-Consultant shall inform the MCA Entity within 24 hours of:
8. any information it receives from any source (including law enforcement) that alleges its Personnel, subcontractor, Sub-Consultant, or the employee of a subcontractor or Sub-Consultant, has engaged in conduct that violates this policy;
9. and any actions taken against any Personnel, subcontractor, subcontractor/consultant, or the employee of a subcontractor or Sub-Consultant, pursuant to these requirements.
 |
|  | 1. **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:
2. the MCA Entity requiring the Consultant to remove the involved Personnel, Sub-Consultant or any of its involved Personnel, or any involved agent or affiliate;
3. the MCA Entity requiring the termination of a subcontract or sub-award;
4. suspension of Contract payments until the breach is remedied to the satisfaction of the MCA Entity;
5. loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the MCA Entity determined non-compliance;
6. the MCA Entity pursuing sanctions against the Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract;
7. termination of the Contract by the MCA Entity for default or cause in accordance with the termination clause of the Contract; and
8. the MCA Entity directing the Consultant to provide reasonable financial support or restitution to the victim(s) of any such incident, in each case in accordance with the Consultant’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.
 |
| 1. **Gender and Social Inclusion**
 | * 1. The Consultant shall ensure that its activities under the Contract comply with the MCC Gender Policy[[18]](#footnote-19) 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.
 |
|  |  |
| 1. **Prohibition of Harmful Child Labor**
 | * 1. The Consultant 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. The Consultant will identify the presence of all persons under the age of eighteen (18). Where Applicable Law does not specify a minimum age, the Consultant shall ensure that children aged below 15 are not employed to perform work under this contract. Where Applicable Law diverges from this specified age standard, the higher age should apply. Children under the age of eighteen (18) will not be employed in hazardous work. All work of persons under the age of eighteen (18) will be subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work.
 |
| 1. **Prohibition of Sexual Harassment**
 | * 1. The Consultant, including all Sub-Consultants and any Personnel, shall prohibit, and refrain from, sexual harassment behaviors directed at Threshold Program agreement 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 Consultant 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 Consultant shall be responsible for ensuring that all Consultant and Sub-Consultant 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 Consultant shall fully cooperate with any investigation conducted by the MCA Entity regarding breach of this provision. The Consultant will ensure that any incident of sexual harassment investigated by the MCA Entity has been resolved to the MCA Entity and MCC’s satisfaction.
 |
| 1. **Non-Discrimination and Equal Opportunity**
 | * 1. The MCA Entity adheres to the principle of equal opportunity and fair treatment in its employment practices. The MCA Entity expects that the Consultant 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 Consultant 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.
 |
| 1. **Grievance Mechanism for Consultant and Subcontractor Personnel**
 | * 1. The Consultant 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 Consultant shall inform its Personnel of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve 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. The mechanism should also allow for anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.
 |
| 1. **Standard of Performance**
 | * 1. The Consultant shall perform the Services and carry out its obligations under this Contract with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the MCA Entity, and shall at all times support and safeguard the MCA Entity’s legitimate interests in any dealings with Sub-Consultants or third parties.
 |
| **Law Governing Services** | * 1. The Consultant shall perform the Services in accordance with Applicable Law and shall take all practicable steps to ensure that any Sub-Consultants, as well as the Personnel of the Consultant and any Sub-Consultants, comply with the Applicable Law.
 |
| 1. **Conflict of Interests**
 | * 1. The Consultant shall hold the MCA Entity’s interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or its own corporate interests.
 |
| **Consultant Not to Benefit from Commissions, Discounts, etc.** | * 1. The payment of the Consultant pursuant to GCC Clause 17 shall constitute the Consultant’s only payment in connection with this Contract and, subject to GCC Clause 32.3, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations under this Contract, and the Consultant shall use its best efforts to ensure that any Sub-Consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional payment.
 |
|  | * 1. Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the MCA Entity on the procurement of goods, works or services, the Consultant shall comply with the “MCC Program Procurement Guidelines” from time to time in effect as posted on the MCC website at [www.mcc.gov/ppg](http://www.mcc.gov/ppg) and shall at all times exercise such responsibility in the best interest of the MCA Entity. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the MCA Entity.
 |
| **Consultant and Affiliates Not to Engage in Certain Activities** | * 1. The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Services.
 |
| **Prohibition of Conflicting Activities** | * 1. The Consultant shall not engage, and shall cause its Personnel as well as its Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.
 |
| 1. **Confidential Information; Rights of Use**
 | * 1. Except with the prior written consent of the MCA Entity, or as may be required to comply with Applicable Law, the Consultant and its Personnel shall not (and shall cause any Sub-Consultants and their Personnel not to) at any time (a) communicate to any person or entity any confidential information acquired in the course of the Services, or (b) make public the recommendations formulated in the course of, or as a result of, the Services.
 |
|  | * 1. The Consultant and its Personnel shall not (and shall cause any Sub-Consultants and their Personnel not to), without the previous written consent of the MCA Entity, disclose this Contract, or any provision of this Contract, or any specification, plan, drawing, pattern, sample or information provided by or on behalf of the MCA Entity in connection therewith, to any person other than a person employed by the Consultant in the performance of this Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
 |
|  | * 1. The Consultant and its Personnel shall not (and shall cause any Sub-Consultants and their Personnel not to), without the previous written consent ofthe MCA Entity, make use of any document or information related to or delivered in connection with this Contract, except for the purpose of performing this Contract.
 |
|  | * 1. Any document related to or delivered in connection with this Contract, other than this Contract itself, shall remain the property of the MCA Entity and shall be returned (including, except as provided in GCC Clause 34, all the copies) to the MCA Entity on completion of the Consultant’s performance under this Contract.
 |
| 1. **Documents Prepared by the Consultant to be the Property of the MCA Entity**
 | * 1. All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant under this Contract shall become and remain the property of the MCA Entity, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the MCA Entity, together with a detailed inventory thereof in accordance with this GCC Sub-Clause 34.1 and Sub-Clause 33.4, and in format and substance specifically required in the Terms of Reference. The Consultant may retain a copy of such documents and software, and use such software for its own use with prior written approval of the MCA Entity. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of the development or use of any such computer programs, the Consultant shall obtain the MCA Entity’s prior written approval to such agreements, and the MCA Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be **specified in the SCC**.
 |
| 1. **Liability of the Consultant**
 | * 1. Subject to additional provisions, if any, **set forth in the SCC**, the Consultants’ liability under this Contract shall be provided by the Applicable Law.
 |
| 1. **Insurance to be taken out by the Consultant**
 | * 1. The Consultant (a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at its (or the Sub-Consultants’, as the case may be) own cost but on terms and conditions approved by the MCA Entity, insurance against the risks, and for the coverage **specified in the SCC** and in Annex B, and (b) at the MCA Entity’s request, shall provide evidence to the MCA Entity showing that such insurance has been taken out and maintained and that the current premiums have been paid. The Consultant shall ensure that insurance is in place prior to commencing the Services as stated in GCC Sub-clause 16.2.
 |
| 1. **Accounting, Inspection and Auditing**
 | * 1. The Consultant shall keep accurate and systematic accounts and records in respect of the provision of the Services under this Contract, in accordance with the provisions of Annex B and internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and costs, receipt and use of goods and services and the base thereof, together with a detailed inventory thereof.
 |
| **Reporting Obligations** | * 1. The Consultant shall maintain such books and records and submit to the MCA Entity the reports, documents and other information specified in Annexes B and C, in the form, in the numbers and within the time periods set forth in such Annexes. The Consultant shall submit to the MCA Entity such other reports, documents and information as may be requested by the MCA Entity from time to time. Final reports shall be delivered in an electronic form specified by the MCA Entity in addition to the hard copies specified in Annexes B and C. The Consultant consents to the MCA Entity’s sharing of the reports, documents and information delivered by the Consultant pursuant to this Contract with MCC and the Government.
 |
| 1. **Consultant’s Actions Requiring the MCA Entity’s Prior Approval**
 | * 1. In addition to any modification or variation of the terms and conditions of this Contract pursuant to GCC Sub-Clause 16.4, the Consultant shall obtain the MCA Entity’s prior approval in writing before taking any of the following actions:
1. any change or addition to the Personnel listed in Annex D;
2. in accordance with Section 5.1 above, entering into a subcontract with a Sub-Consultant for the performance of a major item of the Services; and
3. any other action that may be **specified in the SCC**.
 |
| 1. **Obligations with Respect to Subcontracts**
 | * 1. Notwithstanding the MCA Entity’s approval for the Consultant to enter into a subcontract pursuant to GCC Clause 38, the Consultant shall retain sole and full responsibility for the Services and all payments due to subcontractors thereof. In the event that any Sub-Consultants are found by the MCA Entity to be incompetent or incapable in discharging assigned duties, the MCA Entity may require that the Consultant provide a replacement, with qualifications and experience acceptable to the MCA Entity, or to resume the performance of the Services itself.
 |
| 1. **Use of Funds**
 | * 1. The Consultant shall ensure that its activities do not violate provisions relating to use of funds and the prohibition of activities likely to cause a significant environmental, health or safety hazard, as set out in Annex B. Environmental, health, and safety hazards are defined in Appendix A of the MCC Environmental Guidelines available at [www.mcc.gov](http://www.mcc.gov).
 |
| 1. **Equipment, Vehicles and Materials Furnished by the MCA Entity**
 | * 1. Equipment, vehicles and materials made available to the Consultant by the MCA Entity, or purchased by the Consultant wholly or partly with funds provided by the MCA Entity, shall be the property of the MCA Entity and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the MCA Entity an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the MCA Entity’s instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the MCA Entity in writing, shall insure them in an amount equal to their full replacement value.
 |
| 1. **Equipment and Materials Provided by the Consultant**
 | * 1. Equipment, vehicles or materials brought into the MCA Country by the Consultant, Sub-Consultants and Personnel, or purchased by them without funds provided by the MCA Entity, and used either for provision of the Services or personal use shall remain the property of the Consultant, its Sub-Consultants or the Personnel concerned, as applicable.
 |
| 1. **Assistance and Exemptions**
 | * 1. Unless otherwise **specified in the SCC**,the MCA Entity shall use its best efforts to ensure that the Government shall:
1. Provide the Consultant, Sub-Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Sub-Consultants or Personnel to perform the Services.
2. Arrange for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Government’s country.
3. Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents.
4. To the extent permitted by Applicable Law, exempt the Consultant, Sub-Consultants and their Personnel employed for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity.
5. Grant to the Consultant, Sub-Consultants and their Personnel the privilege, pursuant to the Applicable Law, of bringing into the MCA Country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services.
 |
| 1. **Access to Land**
 | * 1. The MCA Entity warrants that the Consultant, Sub-Consultants and their Personnel shall have, free of charge, unimpeded access to all land in the MCA Country in respect of which access is required for the performance of the Services. The MCA Entity will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultant, Sub-Consultants and their Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultant or Sub-Consultants or their Personnel.
 |
| 1. **Change in the Applicable Law Related to Taxes and Duties**
 | * 1. If, after the date of this Contract, there is any change in the Applicable Law with respect to Taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, payments to the Consultant shall not be adjusted. However, the provisions of GCC Sub-Clause 18(e) shall be applicable in such a situation.
 |
| 1. **Services, Facilities and Property of the MCA Entity**
 | * 1. The MCA Entity shall make available to the Consultant and the Personnel, for the purposes of performing the Services and free of any charge, the services, facilities and property described in Annex G at the times and in the manner specified in Annex G.
 |
|  | * 1. In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Annex G, the Parties shall agree on (a) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (b) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (c) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to GCC Sub-Clause 17.1.
 |
| 1. **Payment**
 | * 1. In consideration of the Services performed by the Consultant under this Contract**,** the MCA Entity shall make to the Consultant payments in the manner provided in GCC Clause 17.
 |
| 1. **Counterpart Personnel**
 | * 1. The MCA Entity shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the MCA Entity with the Consultant’s advice, if specified in Annex G.
 |
|  | * 1. If counterpart personnel are not provided by the MCA Entity to the Consultant as and when specified in Annex G, the MCA Entity and the Consultant shall agree on (a) how the affected part of the Services shall be carried out, and (b) the additional payments, if any, to be made by the MCA Entity to the Consultant as a result thereof pursuant to GCC Sub-Clause 17.1.
 |
|  | * 1. Professional and support counterpart personnel, excluding the MCA Entity’s liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the MCA Entity shall not unreasonably refuse to act upon such request.
 |
| 1. **Good Faith**
 | * 1. The Parties undertake to act in good faith with respect to each other’s rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.
 |
| 1. **Operation of the Contract**
 | * 1. The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of this Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness.
 |
| 1. **Contractor Past Performance System**
 | * 1. The Consultant acknowledges that during the performance of the Contract the Employer shall maintain a performance record of the Consultant in accordance with MCC’s Contractor Past Performance Reporting System, as described on MCC’s website. The Consultant 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 (SCC) and Annexes to Contract
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| SPECIAL CONDITIONS OF CONTRACT |
| Amendments of, and Supplements to, Clauses in the General Conditions of Contract of this Contract |
| GCC 1.1 | (a) “Applicable Law” means the laws and any other instruments having the force of law in **Kosovo**, as they may be issued and in force from time to time.(m) “Local Currency” means **Euro**.(n) “MCA Country” means the country of **Kosovo**. |
| GCC 3.1 | This Contract shall be executed in the English language  |
| GCC 4.1 | The addresses for serving notices under this Contractare:For the MCA Entity:**[Millennium Foundation of Kosovo** Att.: Contract ManagerAddress: str. “Migjeni” no. 21 (ex-Bank of Ljubljana, 9th floor) Postal Code: 10000 Prishtina, KosovoEmail: TBDFor the Consultant: |
| GCC 8.1 | The Member in charge is **[insert name of member]*****[Note: If the Consultant consists of a joint venture or another association of more than one entity, the name of the entity whose address is specified in SCC 9.1 should be inserted here. If the Consultant consists only of one entity, this is not applicable.]*** |
| GCC 9.1 | The Authorized Representatives are:Forthe MCA Entity:**Millennium Foundation of Kosovo** Att.: Chief Executive OfficerAddress: str. “Migjeni” no.21 (ex-Bank of Ljubljana, 9th floor) Postal Code: 10000 Prishtina, Kosovo:Email: Petrit@millenniumkosovo.org For the Consultant: |
| GCC 10.3 | Written notification to the MCA Entityof adjustments **is** required. |
| GCC 10.5 | A resident project manager **shall** be required for the duration of this Contract. |
| GCC 13.2 | All disputes shall be settled by arbitration in accordance with the following provisions:***[Note: The following provisions 1-6 are by way of an example of acceptable arbitration provisions. The MCA Entity may also propose an alternative arbitration/dispute resolution mechanism]*** 1. Selection of Arbitrators. Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three arbitrators, in accordance with the following provisions:1. Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to **the International Chamber of Commerce** for a list of not fewer than five (5) nominees and, on receipt of such list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, **the International Chamber of Commerce** shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.
2. Where the Parties do not agree that the dispute concerns a technical matter, theMCA Entity and the Consultant shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by **the International Chamber of Commerce, Paris.**
3. If, in a dispute subject to SCC Sub-Clause 13.2.1(b), one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the **International Chamber of Commerce** to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.

2. Rules of Procedure. Except as stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract.3. Substitute Arbitrators. If for any reason an arbitrator is unable to perform his function, a substitute shall be appointed in the same manner as the original arbitrator.4. Nationality and Qualifications of Arbitrators. The sole arbitrator or the third arbitrator appointed pursuant to paragraphs (a) through (c) of Sub-Clause SCC 13.2.1 shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultant’s home country ***[Note: If the Consultant consists of more than one entity, add: or of the home country of any of their Members or Parties]*** or of the Government’s country. For the purposes of this Clause, “home country” means any of:1. the country of incorporation of the Consultant **[Note: If the Consultant consists of more than one entity, add: or of any of their Members or Parties]**; or
2. the country in which the Consultant’s **[or any of their Members’ or Parties’]** principal place of business is located; or
3. the country of nationality of a majority of the Consultant’s **[or of any Members’ or Parties’]** shareholders; or
4. the country of nationality of the Sub-Consultants concerned, where the dispute involves a subcontract.

5. Costs. Upon the occurrence of a dispute, the Parties shall agree on the allocation of the costs associated with any settlement efforts before arbitration or associated with arbitration. Where the Parties fail to agree on the allocation, the allocation shall be determined by the arbitrator.6. Miscellaneous. In any arbitration proceeding under this Contract:1. proceedings shall, unless otherwise agreed by the Parties, be held in **[select a country which is neither the MCA Entity’s country nor the Consultant’s country]**;
2. the English language shall be the official language for all purposes; and
3. the decision of the sole arbitrator or of a majority of the arbitrators shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.
 |
|  | ***[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]***7. 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 16.1 | This Contract shall enter into force on the date of signing of the Contract by both parties.ORThis Contract shall enter into force on **[insert date].*****[Note: delete whichever is not appropriate]***. |
| GCC 16.2 | The Effective Date shall be **[insert date]**. |
| GCC 16.3 | The Contract shall expire on **[insert date]**. |
| GCC 17.1 | The amount of the fixed price Contract is **XXXXX [US Dollars]** (the “Contract Price”).The accounts are:For US Dollars: **[insert account number]**Bank Name Full Bank addressBranch NameAccount NameAccount NumberSWIFT Code |
| GCC 17.3 | Payments for the deliverables shall be made according to the following schedule of percentages of the amounts included in the Contract: See TOR for more detailed information. |
| GCC 17.5 | 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 33.5 | The Consultant represents and warrants that it will observe all applicable personal data protection and/or privacy requirements in the Republic of Kosovo. In addition to the above, the Consultant shall comply with the requirements of the Law no. 06/L –082 on Protection of Personal Data in Kosovo during the implementation of the activities as set out under Annex A of this Contract Agreement. |
| GCC 36.1 | The risks and the minimum coverage shall be as follows:1. third party motor vehicle liability insurance in respect of motor vehicles operated in **Kosovo** by the Consultant or its Personnel or any Sub-Consultants or their Personnel, with a minimum coverage of **[insert amount and currency]**;
2. professional liability insurance, with a minimum coverage of **amount and currency equal to the value of the contract**;
3. employer’s liability and workers’ compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultants, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and
4. insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant’s property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.
 |
| GCC 43.1 | ***not applicable*** |

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| ANNEXES TO CONTRACT |

Annex A: 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 Consultant’s Proposal, so any changes recommended or requested by the Consultant do not alter the services the Consultant is required to perform unless agreed to during negotiations and incorporated into this Description of Services.]

This Annex A shall incorporate by reference: the proposal dated **[insert date of awarded Proposal]** submitted by **[insert name of Consultant awarded the Contract]** in connection with the procurement for this Contract (the “Proposal”), 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.

Annex B: Additional Provisions

The additional provisions of contract can be found on the MCC website: <https://www.mcc.gov/resources/doc/annex-of-general-provisions>

Capitalized terms that are used but not defined in this Annex shall have the meaning given to them in the GCC, the SCC, or in the Grant Agreement or related agreements.

The MCA Entity is responsible for the oversight and management of the implementation of the Program on behalf of the Government, and intends to apply a portion of the proceeds of the Grant Agreement to eligible payments under this Contract, provided that (a) such payments will only be made at the request of and on behalf of the MFK and as authorized by the Fiscal Agent, (b) MCC shall have no obligations to the Consultant under the Grant Agreement or this Contract, (c) such payments will be subject, in all respects, to the terms and conditions of the Grant Agreement, and (d) no party other than the Government and **t**he MFK shall derive any rights from the Grant Agreement or have any claim to MCC Funding.

**A. MCC Status; Reserved Rights; Third-Party Beneficiary**

1. MCC Status. MCC is a United States Government corporation acting on behalf of the United States Government in the implementation of the Program. MCC has no liability under this Contract, and is immune from any action or proceeding arising under or relating to this Contract. In matters arising under or relating to this Contract, MCC is not subject to the jurisdiction of the courts or any other juridical or other body of any jurisdiction.
2. MCC Reserved Rights.
	* 1. Certain rights are expressly reserved to MCC under this Contract, the Grant Agreement and other related Program documents, including the right to approve the terms and conditions of this Contract, as well as any amendments or modifications hereto, and the right to suspend or terminate this Contract.
		2. MCC, in reserving such rights under this Contract, the Grant Agreement or other related Program documents, has acted solely as a funding entity to assure the proper use of United States Government funds, and any decision by MCC to exercise or refrain from exercising these rights shall be made as a funding entity in the course of funding the activity and shall not be construed as making MCC a Party to this Contract.
		3. MCC may, from time to time, exercise its rights, or discuss matters related to this Contract with the Parties or the Government, as appropriate, jointly or separately, without thereby incurring any responsibility or liability to any Party.
		4. Any approval (or failure to approve) or exercise of (or failure to exercise) any rights by MCC shall not bar the Government,the MFK, MCC or any other person or entity from asserting any right against the Consultant, or relieve the Consultant of any liability which the Consultant might otherwise have to the Government, the MFK, MCC, or any other person or entity. For the purposes of this clause (d), MCC shall be deemed to include any MCC officer, director, employee, affiliate, contractor, agent or representative.
3. Third-Party Beneficiary. MCC shall be deemed to be a third-party beneficiary under this Contract.

**B. Limitations on the Use or Treatment of MCC Funding**

The use and treatment of MCC Funding in connection with this Contract does not, and shall not, violate any limitations or requirements specified in the Grant Agreement or any other relevant agreement or Implementation Letter or applicable laws or United States Government policy. No MCC Funding shall be used for military purposes, for any activity likely to cause a substantial loss of United States jobs or a substantial displacement of United States production, to support any activity likely to cause a significant environmental, health or safety hazard, or to fund abortions or involuntary sterilizations as a method of family planning. MCC Funding shall be free from the payment or imposition of all Taxes as set forth in the Grant Agreement.

**C. Procurement**

The Consultant shall ensure that all procurements of goods, works or services under, related to or in furtherance of this Contract shall be consistent with the general principles set forth in the Grant Agreement and in the MCC Program Procurement Guidelines from time to time in effect as posted on the MCC website at [www.mcc.gov/ppg](http://www.mcc.gov/ppg). The Consultant shall comply with the eligibility requirements related to prohibited source or restricted party provisions in accordance with U.S. laws, regulations and policy, applicable World Bank policies or guidelines and in accordance with other eligibility requirements as may be specified by MCC or the MCA Entity.

**D. Reports and Information; Access; Audits; Reviews**

1. Reports and Information. The Consultant shall maintain such books and records and provide such reports, documents, data or other information to the MCA Entity in the manner and to the extent required by the Grant Agreement or related documents, and as may be reasonably requested by the MCA Entity from time to time in order to comply with its reporting requirements arising under the Grant Agreement or related documents. MCC may freely use any information it receives in any report or document provided to it in any way that MCC sees fit. The provisions of the Grant Agreement and related documents that are applicable to the Government in this regard shall apply, *mutatis mutandis*, to the Consultant as if the Consultant were the Government under the Grant Agreement.
2. Access, Audits and Reviews. Upon MCC’s request, the Consultant shall permit authorized representatives of MCC, an authorized Inspector General of MCC, the United States Government Accountability Office, any auditor responsible for an audit contemplated by the Grant Agreement or conducted in furtherance of the Grant Agreement, and any agents or representatives engaged by MCC or the Government to conduct any assessment, review or evaluation of the Program, the opportunity to audit, review, evaluate or inspect activities funded by MCC Funding. The provisions of the Grant Agreement and related documents that are applicable to the Government in this regard shall apply, *mutatis mutandis*, to the Consultant as if the Consultant were the Government under the Grant Agreement.
3. Application to Providers. The Consultant shall ensure the inclusion of the applicable audit, access and reporting requirements from the Grant Agreement in its contracts or agreements with other providers in connection with this Contract.

**E. Compliance with Anti-Corruption, Anti-Money Laundering, Terrorist Financing, and Trafficking in Persons Statutes and Other Restrictions**

1. The Consultant shall ensure that no payments have been or will be made by the Consultant to any official of the Government, the MCA Entity, or any third party (including any other government official) in connection with this Contract in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. 78a et seq.) (the “FCPA”) or that would otherwise be in violation of the FCPA if the party making such payment were deemed to be a United States person or entity subject to the FCPA, or similar statute applicable to this Contract, including any local laws. The Consultant affirms that no payments have been or will be received by any official, employee, agent or representative of the Consultant in connection with this Contract in violation of the FCPA or that would otherwise be in violation of the FCPA if the party making such payment were deemed to be a United States person or entity subject to the FCPA, or similar statute applicable to this Contract, including any local laws.
2. The Consultant shall not provide material support or resources directly or indirectly to, or knowingly permit MCC Funding to be transferred to, any individual, corporation or other entity that the Consultant 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](file:///C%3A/Users/knutsongm/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/AXUJJHAT/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](file:///C%3A/Users/knutsongm/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/AXUJJHAT/www.sam.gov) or (iv) on such other list as the MFK may request from time to time. For purposes of this provision, “material support and resources” includes currency, monetary instruments or other financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.
3. The Consultant shall ensure that its activities under this Contract comply with all applicable U.S. laws, regulations, executive orders, and policies regarding money laundering, terrorist financing, trafficking in persons, 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. § 1956, 18 U.S.C. § 1957, 18 U.S.C. § 2339A, 18 U.S.C. § 2339B, 18 U.S.C. § 2339C, 18 U.S.C. § 981, 18 U.S.C. § 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 this 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 MCA Entity’s permitted account bank, as may be applicable. The Consultant 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 ProcurementGuidelines (Eligibility Verification Procedures) that can be found on MCC’s website at [www.mcc.gov/ppg](http://www.mcc.gov/ppg). The Consultant shall (A) conduct the monitoring referred to in this paragraph on at least a quarterly basis, or such other reasonable period as the MCA Entityor 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.
4. Other restrictions on the Consultant shall apply as set forth in the Grant Agreement or related documents with respect to any activities in violation of other applicable U.S. laws, regulations, executive orders or policies, any misconduct injurious to MCC orthe 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 Grant Agreement or any related document or that materially and adversely affects the Program assets or any Permitted Account.

**F. Publicity, Information and Marking**

1. The Consultant shall cooperate with the MCA Entity and the Government to provide the appropriate publicity to the goods, works and services provided under this Contract, including identifying Program activity sites and marking Program assets as goods, works and services funded by the United States Government, acting through MCC, all in accordance with the MCC Standards for Global Marking available on the MCC website at [www.mcc.gov](file:///C%3A/Users/knutsongm/Desktop/Consulting%20Services%20SBD/www.mcc.gov); provided, however, that any press release or announcement regarding MCC or the fact that MCC is funding the Program or any other publicity materials referencing MCC, shall be subject to MCC’s prior written approval and must be consistent with any instructions provided by MCC from time to time in relevant Implementation Letters.
2. Upon the termination or expiration of the Grant Agreement, the Consultant shall, upon MCC’s request, cause the removal of any such markings and any references to MCC in any publicity materials.

**G. Insurance**

The Consultant shall obtain insurance, performance bonds, guarantees or other protections appropriate to cover against risks or liabilities associated with performance of this Contract. The Consultant shall be named as payee on any such insurance and the beneficiary of any such performance bonds and guarantees. The MCA Entity and, at MCC’s request MCC, shall be named as additional insureds on any such insurance or other guarantee, to the extent permissible under applicable laws. The Consultant shall ensure that any proceeds from claims paid under such insurance or any other form of guarantee shall be used to replace or repair any loss or to pursue the procurement of the covered goods, works and services; provided, however, that at MCC’s election, such proceeds shall be deposited in an account as designated by the MCA Entity and acceptable to MCC or as otherwise directed by MCC.

**H. Conflict of Interest**

The Consultant shall ensure that no officer, director, employee, affiliate, contractor, Sub-Consultant, agent, advisor or representative of the Consultant participates in the selection, award, administration or oversight of a contract, grant or other benefit or transaction funded in whole or in part (directly or indirectly) by MCC Funding in connection with this Contract, in which (i) the entity, the person, members of the person’s immediate family or household or his or her business partners, or organizations controlled by or substantially involving such person or entity, has or have a financial or other interest or (ii) the person or entity is negotiating or has any arrangement concerning prospective employment, unless such person or entity has first disclosed in writing to the parties under this Contract and MCC the conflict of interest and, following such disclosure, the parties to this Contract agree in writing to proceed notwithstanding such conflict. The Consultant shall ensure that none of its officers, directors, employees, affiliates, contractors, Sub-Consultants, agents, advisors or representatives involved in the selection, award, administration, oversight or implementation of any contract, grant or other benefit or transaction funded in whole or in part (directly or indirectly) by MCC Funding in connection with this Contract shall solicit or accept from or offer to a third party or seek or be promised (directly or indirectly) for itself or for another person or entity any gift, gratuity, favor or benefit, other than items of *de minimis* value and otherwise consistent with such guidance as MCC may provide from time to time. The Consultant shall ensure that none of its officers, directors, employees, affiliates, contractors, Sub-Consultants, agents, advisors or representatives engage in any activity which is, or gives the appearance of being, a conflict of interest in connection with this Contract. Without limiting the foregoing, the Consultant shall comply, and ensure compliance, with the applicable conflicts of interest and ethics policies of the MCA Entity as provided by the MCA Entity to the Consultant.

**I. Inconsistencies**

In the event of any conflict between this Contract and the Grant Agreement, the term(s) of the Grant Agreement shall prevail.

**J. Other Provisions**

The Consultant shall abide by such other terms or conditions as may be specified by the MCA Entity or MCC in connection with this Contract.

**K. Flow-Through Provisions**

In any subcontract or sub-award entered into by the Consultant, as permitted by this Contract, the Consultant shall ensure the inclusion of all the provisions contained in paragraphs (A) through (J) above.

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| Annex C: Reporting Requirements |

**Note:** List format, frequency, and contents of reports; persons to receive them; dates of submission; etc.

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| Annex D: Key Professional Personnel and Sub-Consultants |

**Note:** List under:

D-1 Titles **[and names, if already available]**, detailed job descriptions and minimum qualifications of foreign Key Professional Personnel to be assigned to work in **[Country]**, and estimated staff-months for each.

D-2 Same as D-1 for foreign Key Professional Personnel to be assigned to work outside **[Country]**.

D-3 List of approved Sub-Consultants (if already available) and same information with respect to their Personnel as in D-1 or D-2.

D-4 Same information as D-1 for local Key Professional Personnel.

D-5 Working hours, holidays, sick leave and vacations, as provided for in GCC Clause 11 (if applicable)

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| Annex E: Breakdown of Contract Price in US Dollars |

**Note:** List here the monthly rates for Personnel (Key Professional Personnel and other Personnel) (fully loaded, including direct and indirect expenses and profit), used to arrive at the breakdown of the price - US Dollars portion (from Form FIN-4).

This Annex will exclusively be used for determining remuneration for additional services.

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| Annex F: Breakdown of Contract Price in Local Currency |

**Note:** List here the monthly rates for Personnel (Key Professional Personnel and other Personnel) (fully loaded, including direct and indirect expenses and profit), used to arrive at the breakdown of the price - Local Currency portion (from Form FIN-4).

This Annex will exclusively be used for determining remuneration for additional services.

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| Annex G: Services and Facilities to be Provided by the MCA Entity |

**Note:** List here the services, facilities and counterpart personnel to be made available to the Consultant bythe MCA Entity.

Annex H: Compliance with Sanctions Certification Form

In satisfaction of Clause G of the Additional Provisions at Annex B of the Contract, this form is to be completed by the Consultant upon submission of the Proposal and, if selected, 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[[19]](#footnote-20), for the duration of the Contract.

The form is to be submitted to the MCA Procurement Manager 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.

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 Consultant 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 Consultant or canceling the Contract, and such Consultant 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.

**Compliance with Sanctions Certification Form**

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

**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 B **“Additional Provisions”, Paragraph G “Compliance with Terrorist Financing Legislation and Other Restrictions”,** including (without limiting the scope of paragraph G):
	+ The Consultant, 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[[20]](#footnote-21)), 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 Consultant 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 Consultant itself).

 **OR*** All eligibility verifications have been completed in accordance with **Annex B “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 “fraud” for purposes of the ITC or Contract between the Consultant and the MCA Entity, the MCC Program Procurement Guidelines, and other applicable MCC policy or guidance, including MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations.

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

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

**INSTRUCTIONS FOR COMPLETING THE COMPLIANCE WITH SANCTIONS CERTIFICATION FORM:**

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

The Consultant shall verify that any individual, corporation, or other entity that has access to or is (or would be) a recipient of MCC Funding, including Consultant 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 Consultant 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 Consultant 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 |
| Consultant (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 Consultant 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 Consultant 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 Consultant itself, the Consultant must conduct additional research to determine whether the finding is a “false positive.” If it is a false positive, the Consultant 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 Consultant’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 Consultant 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 Consultant 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 Consultant as part of the overall record of the Contract with the MCA Entity for the duration of the Contract, and for the further period after the Contract expiration that is required for document retention under the Contract (typically five years after the expiration date of the Compact Program or Threshold Program). Access to these documents must be provided to the MCA Entity, MCC, or their designees in accordance with the access provisions of the Contract.

**Annex B “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 Threshold Program agreement 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 Threshold Program agreement or any Supplemental Agreement or that materially and adversely affects the Program Assets or any Permitted Account.

Annex I: Self-Certification Form for Consultants/Contractors/Suppliers

The below self-certification form should be signed by the Consultant as part of the Contract. This self-certification declares that the Consultant 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 Consultant must comply with the International Finance Corporation’s *Performance Standards on Environmental and Social Sustainability* regarding labor standards and protections. In turn, the Consultant must ensure that their primary suppliers, i.e., any person or legal entity who provides goods or materials essential for the Contract, do not use forced and child labor in the production of such goods and materials, and provide the Consultant’s direct workers with a safe and hygienic workplace.

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

* + I understand the requirements in the contract with the MCA**-[Name of Country].**
	+ **[Name of Consultant]** will ensure that all operations undertaken are done in accordance with the IFC Performance Standards, as described in the Contract.
	+ **[Name of Consultant]** does not and will not use forced or child labor, and provides workers with a safe and hygienic workplace.
	+ **[Name of Consultant]** does not and will not procure material or goods from suppliers that employ forced or child labor.
	+ **[Name of Consultant]** will only procure material or goods from suppliers that provide a safe and hygienic working place for all laborers.
	+ **[Name of Consultant]** is committed to equal opportunity and non-discrimination in workplace practices, and to a respectful workplace that is free from sexual-harassment.
	+ **[Name of Consultant]** has a system in place to monitor our suppliers, identify any new and emerging risks. This system also allows **[Name of Consultant]** to effectively remedy any risks.
	+ Where remedy is not possible for any new risks or incidents, **[Name of Consultant]** 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 Consultant]*** *AND HAVE THE LEGAL AUTHORITY TO SIGN.*

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

Printed Name of Signatory:

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

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

*In satisfaction of Clause 24.1 of the General Conditions of Contract, this form is to be completed by the Consultant and submitted for any MCC-Funded Contract[[21]](#footnote-22)with a value in excess of $500,000. This form is to be completed by the Consultant and submitted together with the signed Contract Agreement.*

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

*If the Consultant 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 Consultant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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

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

As stipulated in GCC 24.1 of the Contract, the Consultant 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 Consultant 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 24.1 of the Contract, I certify that with respect to this contract:

* + **[Name of Consultant]** 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 Consultant]** will adopt and implement a code of business ethics and conduct within ninety (90) days after the date of Contract signature. **[Name of Consultant]** 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 Consultant]** 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 Consultant 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

1. 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-2)
2. Available at www.mcc.gov/resources/doc/policy-fraud-and-corruption [↑](#footnote-ref-3)
3. [Delete in case no Association is foreseen.] [↑](#footnote-ref-4)
4. Amount must coincide with the ones indicated under total price of Form FIN-2. [↑](#footnote-ref-5)
5. If applicable, replace this paragraph with “No commissions or gratuities have been or are to be paid by us to agents relating to this Proposal and Contract execution”. [↑](#footnote-ref-6)
6. All findings in the assessment report must be documented and clearly identify the source of information, the method of sourcing/research, as well as transparency of how information is interpreted. The report must also provide referencing to meetings minutes, dates and interviews conducted during the assessment. This is necessary to allow MFK understand the reasoning behind a recommendation or implementation approach. [↑](#footnote-ref-7)
7. The frequency of data updates to individual cases as well as to other judicial data categories is a key success element for both, the CTM and ODP. If a case is requiring 18 months (or more) to move from one instance to the other, and updates to the case are appearing in the same speed, then users of the CTM will stop using the new mechanism and return to courts to personally inquire about their case status. The same for ODP. If - for example -the number of newly recruited prosecutors is updated on an annual basis only, then the Open Data Platform will be visited only a few times after inception and then it will be considered useless, as it does not allow data analysis on a more frequent basis. [↑](#footnote-ref-8)
8. Millennium Foundation Kosovo, Social and Gender Integration Plan, available on: <https://millenniumkosovo.org/mfk_documents/mfk-social-gender-integration-plan/> [↑](#footnote-ref-9)
9. Millennium Challenge Corporation, Procurement Guidelines, available at: <https://millenniumkosovo.org/work-with-us/procurment/procuement-guideline/> [↑](#footnote-ref-10)
10. Millennium Foundation Kosovo, Social and Gender Integration Plan, available at: <https://millenniumkosovo.org/mfk_documents/mfk-social-gender-integration-plan/> [↑](#footnote-ref-11)
11. Millennium Foundation Kosovo, Environmental and Social Management System, available at: <https://millenniumkosovo.org/mfk_documents/environmental-and-social-management-system/> [↑](#footnote-ref-12)
12. Millennium Foundation Kosovo, Code of Business Ethics and Standards of Conduct, available at: <https://millenniumkosovo.org/mfk_documents/code-of-business-ethics-and-standards-of-conduct/> [↑](#footnote-ref-13)
13. Millennium Foundation Kosovo, Confidentiality Policy, available at: <https://millenniumkosovo.org/mfk_documents/confidentiality-policy/> [↑](#footnote-ref-14)
14. Millennium Foundation Kosovo, Conflict of Interest Policy, available at: <https://millenniumkosovo.org/mfk_documents/conflict-of-interest-policy/> [↑](#footnote-ref-15)
15. The frequency of data updates to individual cases as well as to other judicial data categories is a key success element for both, the CTM and ODP. If a case is requiring 18 months (or more) to move from one instance to the other, and updates to the case are appearing in the same speed, then users of the CTM will stop using the new mechanism and return to courts to personally inquire about their case status. The same for ODP. If - for example -the number of newly recruited prosecutors is updated on an annual basis only, then the Open Data Platform will be visited only a few times after inception and then it will be considered useless, as it does not allow data analysis on a more frequent basis. [↑](#footnote-ref-16)
16. Republic of Kosovo, Ministry of Health, National Institute for Public Health of Kosovo, Manual for Covid-19 Prevention and Control, available at: <https://msh.rks-gov.net/wp-content/uploads/2020/06/Final-Draft_COVID-19-Manual-3.docx> [↑](#footnote-ref-17)
17. <https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy> [↑](#footnote-ref-18)
18. Available at: https://assets.mcc.gov/guidance/mcc-policy-gender.pdf [↑](#footnote-ref-19)
19. “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-20)
20. “MCC Funding” is defined as funding provided by MCC, through a Compact Program, a Threshold Program, or 609(g) funding [↑](#footnote-ref-21)
21. “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-22)