**BIDDING DOCUMENT**

**Issued on: 11.03.2021**

**Millennium Foundation Kosovo**

**On Behalf of:**

**The Government of Kosovo**

**Millennium Foundation Kosovo (MFK)**

**Program**

**Funded by**

**THE UNITED STATES OF AMERICA**

**Through**

**THE MILLENNIUM CHALLENGE CORPORATION**

**for**

**Procurement of Goods and Related Services**

**\*\*\***

**Project name: Supply, Installation, Maintenance of relevant equipment and services for the introduction of consumption-based heat metering and thermostatic heating valves in District Heating, Prishtina**

**\*\*\***

**BD / QPBS / 2021/003**

**Letter of Invitation for Bids**

**Pristina, Kosovo**

**11.03.2021**

**Re: Supply, Installation, Maintenance of relevant equipment and services for the introduction of consumption-based heat metering and thermostatic heating valves in Termokos and ID number of procurement: BD / QPBS / 2021/003**

Dear Madam/Sir:

The United States of America, acting through the Millennium Challenge Corporation (“MCC”) and the Government of **Kosovo** (the “Government”) have entered into a Millennium Challenge Threshold for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in **Kosovo** (the “Threshold”) in the amount of approximately **49 Million** USD (“MCC Funding”). The Government, acting through **Millennium Foundation Kosovo** (“MCA Entity” or the “Purchaser”), intends to apply a portion of the MCC Funding to eligible payments under a contract for which this Invitation for Bids (“IFB”) is issued. Any payments made by the MCA Entity under the proposed contract will be subject, in all respects, to the terms and conditions of the Compact and related documents, including restrictions on the use and distribution of MCC Funding. No party other than the Government and the MCA Entity shall derive any rights from the Compact or have any claim to the proceeds of MCC Funding. The Compact and its related documents can be found on the MCC website ([www.mcc.gov](http://www.mcc.gov)) and on the website of the MCA Entity at www.millenniumkosovo.org.

Description of the Compact program: District heating service in Pristina is provided by Termokos, which is an enterprise owned by the Municipality of Pristina. Termokos provides service for approximately 14,500 apartments in Pristina through distribution of piped hot water heat from a central plant. This district heating system has recently been revitalized and could be a cost-effective alternative for many households, utilizing cogeneration from the Kosovo B power plant. However, heating energy from district heating in Pristina could be consumed more efficiently, which is not currently the case. One reason why district heating is presently not as cost-effective, is that individual households cannot control the hot water flow in their own system and its use is billed based on surface area (m²) rather than on actual consumption. As a result, households will often use the “open-window” technique to regulate temperature.

Therefore, the program aims to help test the cost-effectiveness of charging households for the actual energy they use and allow for energy savings to allow for expansion of the district heating network and service in Pristina. Additionally, it will test the responsiveness of households to direct price signals and aims to save households money by making them more aware of how much energy they’re using and giving them more control over that energy use.

This IFB follows the General Procurement Notice that appeared in dgMarket during the year 2020 and lastly on **03 February 2021**, UNDB Online on **03 February 2021**, the MCA Entity’s website www.millenniumkosovo.orgon **03 February 2021**, and local newspapers **Koha ditore** on **04 February 2021** and **Epoka e Re** on **04 February 2021**.

The Purchaser now invites eligible entities (“Bidders”) to submit sealed Bids (containing separate sealed envelopes for the Technical Offers and the Financial Offers) for the provision of: supply, installation and maintenance of control- and metering equipment for all the existing clients of District Heating Company Termokos in Prishtina; billing and networking solution in conjunction with above-mentioned equipment; any necessary capacity building of Termokos employees. The Contract contains different modification and adaption works on the internal building heating system. Depending on the internal heating system configuration (dual pipe system and vertical/ horizontal system) of each building the parts (as stated in Section V – Schedule of Requirement) of the system could be affected and need an update and/ or must be refitted with new equipment. More details on these goods and related services are provided in the Schedule of Requirements in the bidding document associated with this IFB (the “Bidding Document”).

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

The supplier is expected to execute the contract in its entirety in 12 months from the contract signing date.

A Supplier will be selected using Quality and Price Based Selection (“QPBS”) procedures which modify the Competitive Selection procedures as described in this Bidding Document, in accordance with the “MCC Program Procurement Guidelines,” which are provided on the MCC website ([www.mcc.gov/ppg](http://www.mcc.gov/ppg)). The selection process, as described, will include a review and verification of qualifications and past performance, including a reference check, prior to the contract award.

This Bidding Document includes the following sections:

**PART 1 – BIDDING AND SELECTION PROCEDURES**

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

This section provides information to help prospective Bidders prepare their Bids; it also provides information on the submission, opening, and evaluation of Bids and on the award of Contracts.

**Section II Bid Data Sheet (“BDS”)**

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

**Section III Qualification and Evaluation Criteria**

This section describes the required qualifications of the Bidder to perform the Contract, and the process to determine the highest combined technical and financial scored Bid.

**Section IV Technical and Financial Offer Bid Forms**

This section contains the Bid Submission Form, Price Schedules for Goods, Bid Security, the Manufacturer’s Authorization (if required) and other forms which are to be completed by the Bidders and submitted as part of their Bids.

**PART 2 – SUPPLY REQUIREMENTS**

**Section V Schedule of Requirements**

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

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

**Section VI Contract Notices and Agreement**

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

**Section VII General Conditions of Contract (“GCC”)**

This section contains the General Conditions of Contract clauses.

**Section VIII Special Conditions of Contract (“SCC”) and Annex to Contract**

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

**Section IX Contract Annexes**

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

**Annex 1 – Price for Goods and Related Services**

**Annex 2 – Part 2 – Supply Requirements**

**Annex 3 - SR1 – List of Goods and Delivery Schedule and SR2 – List of Related Services and Completion Schedule**

**Annex H – Environmental and Social Management Plan**

Please note that a Pre-Bid Conference **will** be held as described in the Bid Data Sheet (“BDS”), Section II of the Bidding Document.

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

**Mr Arton Citaku**

**MFK - Millennium Foundation Kosovo**

**Address: The Governmental Building, Migjeni str 21, floor 9, 10000 Prishtina, Kosovo.**

**Tel: Email: procurement@millenniumkosovo.org**

Bids must be delivered in the manner specified in the Instructions to Bidders (ITB) 24, no later than **22 April 2021; 14:00 pm (Kosovo Time)**. The outer envelopes/cartons will be opened thereafter in a public Bid opening at the address and time specified in the ITB 28.

Submissions from Bidders will be evaluated by a qualified Technical Evaluation Panel. The evaluation will be undertaken in two distinct steps (in either sequence): the first step includes a technical assessment of the Bidders’ ability and past references to carry out the assignment, and the second step includes evaluation of the Bidders’ Financial Offer with the proposed prices, all in accordance with Section III. Qualification and Evaluation Criteria.

Late Bids will not be accepted under any circumstances and will be returned unopened at the written request and cost of the Bidder. All Bids must be accompanied by a bid security (as required) in the manner and amount specified in the BDS.

Please note that only electronic Bids **“shall”** be accepted.

Yours sincerely,

**Arton Citaku**

**For Millennium Foundation Kosovo**

**The Governmental Building,**

**Migjeni str 21, floor 9, 10000 Prishtina, Kosovo**

**procurement@millenniumkosovo.org**

**Table of Contents**

[Section I. Instructions to Bidders 2](#_Toc63348094)

[A. General 2](#_Toc63348095)

[1. Scope of Bid 4](#_Toc63348096)

[2. Source of Funds 4](#_Toc63348097)

[3. Corruption and Fraud 5](#_Toc63348098)

[4. Environmental and Social Requirements 7](#_Toc63348099)

[5. Bidders’ Qualification and Eligibility 8](#_Toc63348100)

[6. Eligible Goods and Related Services 11](#_Toc63348101)

[B. Contents of Bidding Document 11](#_Toc63348102)

[7. Sections of Bidding Document 11](#_Toc63348103)

[8. Clarification of Bidding Document 12](#_Toc63348104)

[9. Amendment of Bidding Document 13](#_Toc63348105)

[C. Preparation of Bids 13](#_Toc63348106)

[10. Cost of Bidding 13](#_Toc63348107)

[11. Language of Bid 13](#_Toc63348108)

[12. Documents Comprising the Bid 13](#_Toc63348109)

[13. Letters of Technical and Financial Offers and Price Schedules 14](#_Toc63348110)

[14. Alternative Bids 14](#_Toc63348111)

[15. Bid Prices and Discounts 14](#_Toc63348112)

[16. Currencies of Bid 15](#_Toc63348113)

[17. Documents Establishing the Eligibility of the Bidder 15](#_Toc63348114)

[18. Documents Establishing the Eligibility of the Goods and Related Services 15](#_Toc63348115)

[19. Documents Establishing the Conformity of the Goods and Related Services 15](#_Toc63348116)

[20. Documents Establishing the Qualifications of the Bidder 16](#_Toc63348117)

[21. Period of Validity of Bids 16](#_Toc63348118)

[22. Bid Security 16](#_Toc63348119)

[23. Format and Signing of Bid 17](#_Toc63348120)

[D. Submission and Opening of Bids 18](#_Toc63348121)

[24. Bid Submission 18](#_Toc63348122)

[25. Deadline for Submission of Bids 19](#_Toc63348123)

[26. Late Bids 19](#_Toc63348124)

[27. Withdrawal, Substitution, and Modification of Bid 19](#_Toc63348125)

[28. Bid Opening 20](#_Toc63348126)

[E. Evaluation and Comparison of Bids 21](#_Toc63348127)

[29. Confidentiality 21](#_Toc63348128)

[30. Clarification of Bids 21](#_Toc63348129)

[31. Evaluation of Technical Offers 21](#_Toc63348130)

[32. Opening and Evaluation of Financial Offers: Arithmetical Errors 23](#_Toc63348131)

[33. Price reasonableness 24](#_Toc63348132)

[34. No margin of preference 25](#_Toc63348133)

[35. Past Performance and Reference Check 25](#_Toc63348134)

[36. Purchaser’s Right to Accept Any Bid, and to Reject Any or All Bids 26](#_Toc63348135)

[F. Award of Contract 26](#_Toc63348136)

[37. Award Criteria 26](#_Toc63348137)

[38. Purchaser’s Right to Vary Quantities at Time of Award 26](#_Toc63348138)

[39. Notice of Intent to Award 26](#_Toc63348139)

[40. Bid Challenges 27](#_Toc63348140)

[41. Signing of Contract 27](#_Toc63348141)

[42. Performance Security 27](#_Toc63348142)

[43. Publication of Award and Return of Bid Securities 27](#_Toc63348143)

[44. Compact Conditionalities 28](#_Toc63348144)

[45. Inconsistencies with MCC Program Procurement Guidelines 28](#_Toc63348145)

[Section II. Bid Data Sheet 29](#_Toc63348146)

[A. General 29](#_Toc63348147)

[B. Preparation of Bids 30](#_Toc63348148)

[C. Submission and Opening of Bids 32](#_Toc63348149)

[D. Evaluation and Comparison of Bids 32](#_Toc63348150)

[E. Award of Contact 33](#_Toc63348151)

[Annex 1 to Section II. Bid Data Sheet 34](#_Toc63348152)

[Procedure for Electronic Submission of Bids 34](#_Toc63348153)

[Section III. Qualification and Evaluation Criteria 36](#_Toc63348154)

[Eligibility 42](#_Toc63348155)

[Historical Contract Non-Performance 43](#_Toc63348156)

[Financial Situation 45](#_Toc63348157)

[Experience 47](#_Toc63348158)

[Section IV. Technical and Financial Offer Bid Forms 49](#_Toc63348159)

[Letter of Technical Offer 50](#_Toc63348160)

[Form of Bid Security (Bank Guarantee) 52](#_Toc63348161)

[Description of Goods 54](#_Toc63348162)

[BSF 1.1 - Government-Owned Enterprise Certification Form 55](#_Toc63348163)

[BSF 1 - Bidder Information Form 59](#_Toc63348164)

[BSF 2 - Party to Joint Venture/Association Information Form 60](#_Toc63348165)

[BSF 3 - Environmental, Social, Health and Safety Forms 61](#_Toc63348166)

[BSF 4 - Manufacturer’s Authorization 62](#_Toc63348167)

[FIN-1: Financial Situation 63](#_Toc63348168)

[FIN-2: Average Annual Turnover 64](#_Toc63348169)

[FIN-3: Financial Resources 65](#_Toc63348170)

[FIN-4: Current Contract Commitments 66](#_Toc63348171)

[Form CON–1 Historical Contract Non-Performance 67](#_Toc63348172)

[BSF 5 - References of MCC-Funded Contracts 70](#_Toc63348173)

[Form EXP-1: General Experience 71](#_Toc63348174)

[Form EXP-2 A: Similar Experience 72](#_Toc63348175)

[Form EXP-2 B: Similar Experience 74](#_Toc63348176)

[Form EXP-3: Specific Experience in Key Activities 76](#_Toc63348177)

[BSF 6 - Compliance with Sanctions Certification Form 77](#_Toc63348178)

[Sworn Statement 1: Installed Units 78](#_Toc63348179)

[Sworn Statement 2: Gender and Social Inclusion 79](#_Toc63348180)

[Sworn Statement 3: Facility Spare Parts 80](#_Toc63348181)

[Methodological Approach 81](#_Toc63348182)

[Statement 4: Performance of the equipment 82](#_Toc63348183)

[Letter of Financial Offer 83](#_Toc63348184)

[Section V. Schedule of Requirements 88](#_Toc63348185)

[SR 1 - List of Goods and Delivery Schedule 89](#_Toc63348186)

[SR 2 - List of Related Services and Completion Schedule 90](#_Toc63348187)

[SR 3 - Technical Specifications 91](#_Toc63348188)

[SR 4 - Drawings 92](#_Toc63348189)

[SR 5 - Inspections and Tests 93](#_Toc63348190)

[SR 6 - Environmental, Health and Safety Procedures 94](#_Toc63348191)

[Section VI. Contract Notices and Agreement 96](#_Toc63348192)

[Notice of Intent to Award 97](#_Toc63348193)

[Notification of Award 98](#_Toc63348194)

[Contract Agreement 99](#_Toc63348195)

[Section VII. General Conditions of Contract 101](#_Toc63348196)

[1. Definitions 101](#_Toc63348197)

[2. Interpretation and General Matters 103](#_Toc63348198)

[3. Fraud and Corruption Requirements 105](#_Toc63348199)

[4. Commissions and Fees 107](#_Toc63348200)

[5. Law and Language Governing the Contract 108](#_Toc63348201)

[6. Association 108](#_Toc63348202)

[7. Eligibility 108](#_Toc63348203)

[8. Notices 108](#_Toc63348204)

[9. Settlement of Disputes 109](#_Toc63348205)

[10. Scope of Supply 109](#_Toc63348206)

[11. Delivery and Documents 109](#_Toc63348207)

[12. Supplier’s Responsibilities 109](#_Toc63348208)

[13. Contract Price 109](#_Toc63348209)

[14. Terms of Payment 110](#_Toc63348210)

[15. Taxes and Duties 110](#_Toc63348211)

[16. Performance Security 111](#_Toc63348212)

[17. Copyright 112](#_Toc63348213)

[18. Confidential Information 112](#_Toc63348214)

[19. Engagement of Staff and Labor 113](#_Toc63348215)

[20. Prohibition of Sexual Harassment 114](#_Toc63348216)

[21. Non-Discrimination and Equal Opportunity 114](#_Toc63348217)

[22. Subcontracting 115](#_Toc63348218)

[23. Specifications and Standards 115](#_Toc63348219)

[24. Packing and Documents 116](#_Toc63348220)

[25. Insurance 116](#_Toc63348221)

[26. Transportation 116](#_Toc63348222)

[27. Inspections and Tests 116](#_Toc63348223)

[28. Liquidated Damages 117](#_Toc63348224)

[29. Warranty 118](#_Toc63348225)

[30. Patent Indemnity 118](#_Toc63348226)

[31. Limitation of Liability 119](#_Toc63348227)

[32. Change in Laws and Regulations 120](#_Toc63348228)

[33. Force Majeure 120](#_Toc63348229)

[34. Change Orders and Contract Amendments 121](#_Toc63348230)

[35. Extensions of Time 122](#_Toc63348231)

[36. Termination by Purchaser 122](#_Toc63348232)

[37. Termination by the Supplier 125](#_Toc63348233)

[38. Combating Trafficking in Persons 126](#_Toc63348234)

[39. Prohibition of Harmful Child Labor 128](#_Toc63348235)

[40. Reimbursable Amounts 128](#_Toc63348236)

[41. Accounting, Inspection and Auditing 128](#_Toc63348237)

[42. Use of Funds; Compliance with Environmental Guidelines 129](#_Toc63348238)

[43. MCC Conditionalities 129](#_Toc63348239)

[44. Flow through Provisions 129](#_Toc63348240)

[45. Assignment 129](#_Toc63348241)

[46. Acceptance 130](#_Toc63348242)

[47. Contractor Past Performance Reporting System 131](#_Toc63348243)

[Section VIII. Special Conditions of Contract 132](#_Toc63348244)

[**Section IX. Contract Annexes** 143](#_Toc63348245)

[Annex A: Annex of Additional Provisions 144](#_Toc63348246)

[Annex B: Compliance with Sanctions Certification Form 145](#_Toc63348247)

[Annex C: Self-Certification Form 151](#_Toc63348248)

[Annex D: Code of Business Ethics and Conduct Certification Form 153](#_Toc63348249)

[Annex E: Securities 155](#_Toc63348250)

[Annex E1: Bank Guarantee for Performance Security 156](#_Toc63348251)

[Annex E2: Bank Guarantee for Advance Payment Security 158](#_Toc63348252)

[Annex F: Acceptance Certificate 160](#_Toc63348253)

[Annex G: Completion Certificate 161](#_Toc63348254)

[Annex H: Environmental and Social Management Plan 162](#_Toc63348255)

**PART 1:**

**BIDDING AND SELECTION PROCEDURE**

|  |  |
| --- | --- |
| Section I. Instructions to Bidders | |
| General | |
| *In Part 1 (Bidding and Selection Procedures) of this Bidding Document, the following words and expressions shall have the meanings stated below. These definitions shall not apply to any words or expressions in the sections that make up Part 3 (Conditions of Contract and Contract Forms) of this Bidding Document, in which such words and expressions shall have the meanings stated in GCC Sub-Clauses 1.1 and 1.2 unless otherwise specified.* | |
|  | 1. “Addendum” or “Addenda” means a modification to this Bidding Document issued by the MCA Entity. 2. “Associate” means any entity that forms the Bidder or Supplier. A Subcontractor is not an Associate. 3. “Association” or “association” or “Joint Venture” or “joint venture” means an association of entities that forms the Bidder or Supplier, with or without a legal status distinct from that of its members. 4. “BDS” means the Bid Data Sheet in Section II of this Bidding Document used to reflect specific requirements and/or conditions. 5. “Bid” means a bid for the provision of the Goods and Related Services submitted by a Bidder in response to this Bidding Document. 6. “Bid Security” means the security a Bidder may be required to furnish as part of its Bid in accordance with ITB 22. 7. “Bidder” means any eligible entity or person, including any associate of such eligible entity or person that submits a Bid. 8. “Bidding Document” means this document, including any subsequent amendments, prepared by the Purchaser for the selection of the Supplier. 9. “Compact” means the Millennium Challenge Compact **identified in the BDS**. 10. “confirmation” means confirmation in writing. 11. “Contract” means the contract proposed to be entered into between the Purchaser and the Supplier, including all attachments, annexes, and all documents incorporated by reference therein, a form of which is included in Part 3 of this Bidding Document. 12. “days” refers to calendar days. 13. “Final Destination” means the place(s) where the Goods are to be delivered, and/or installed, as prescribed in ITB Clause 15.6. 14. “Financial Offer” means the financial information provided as part of the Bidder’s Bid in accordance with ITB 12.3. 15. “GCC” means the General Conditions of Contract. 16. “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract. 17. “Government” means the Government **identified in the BDS**. 18. “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability. 19. “Instructions to Bidders” or “ITB” means Section I of this Bidding Document, including any amendments, which provides Bidders with all information needed to prepare their Bids. 20. “in writing” means communicated in written form (e.g., by mail, e-mail or facsimile) delivered with proof of receipt. 21. “Letter of Financial Offer” means the completed form with the heading “Letter of Financial Offer” included in Section IV. Technical and Financial Offer Bid Forms, which are part of the Bidder’s Bid. 22. “Letter of Technical Offer” means the completed form with the heading “Letter of Technical Offer” included in Section IV. Technical and Financial Offer Bid Forms, which are part of the Bidder’s Bid. 23. “MCC’s AFC Policy” has the meaning provided in ITB Clause 3. 24. “Millennium Challenge Corporation” or “MCC” means a United States Government corporation, acting on behalf of the United States Government. 25. “MCC Funding” means the funding MCC has made available to the Government pursuant to the terms of the Compact. 26. “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). 27. “Pre-Bid Conference” means the pre-bid conference specified in BDS ITB 8.2, if any. 28. “Purchaser” or “MCA Entity” means the accountable entity **identified in the BDS**, and the party with which the Supplier signs the Contract for the supply of Goods and Related Services. 29. “Related Services” means the services incidental to the supply of the Goods such as insurance, installation, training and initial maintenance and other similar obligations of the Supplier under the Contract. 30. “SCC” means the Special Conditions of Contract. 31. “Schedule of Requirements” means the documents included in Part 2 of this Bidding Document that explain the technical specifications and other requirements related to the Goods and Related Services. 32. “Subcontractor” means any entity to whom a Bidder intends to subcontract any part of the Goods and Related Services. 33. “Supplier” means the entity that provides the Goods and Related Services to the Purchaser under the Contract. 34. “Taxes” has the meaning given to the term in the Compact. 35. “Technical Evaluation Panel” or “TEP” is the body responsible for examining and evaluating the Technical and Financial Offers. 36. “Technical Offer” means the technical information provided as part of the Bidder’s Bid in accordance with ITB 12.2. 37. “Trafficking in Persons” or “TIP” has the meaning given to the term in the MCC Program Procurement Guidelines. |
| Scope of Bid | * + - 1. The Purchaser has issued an Invitation for Bids for the procurement of Goods and Related Services as specified in Section V. Schedule of Requirements. The winner will be determined by the selection method **specified in the BDS**,according to Quality and Price Based Selection principles set out in the MCC Program Procurement Guidelines and in accordance with Section II. Instructions to Bidders – Bid Data Sheet and Section III. Qualification and Evaluation Criteria. The name and identification number of the Contract, and number and description of the lot(s), are **specified in the** **BDS**.       2. Throughout this IFB except where the context requires otherwise, words indicating the singular also include the plural, words indicating the plural also include the singular, and the feminine means the masculine and vice versa.       3. Bidders are encouraged to attend a Pre-Bid Conference if one is specified in the BDS. Attending any Pre-Bid Conference is strongly advised, but not mandatory. Attending any Pre-Bid Conference and/or a site visit shall not be taken into account for the purpose of evaluation of Bids.       4. The Purchaser is not bound to accept any Bid, and reserves the right to cancel the procurement at any time prior to Contract award, without thereby incurring any liability to any Bidder. |
| Source of Funds | * + - 1. The United States of America, acting through MCC and the Government have entered into the Compact. The Government, acting through the MCA Entity, intends to apply a portion of the proceeds of MCC Funding to eligible payments under the Contract. Any payments made under the Contract with MCC Funding will be subject, in all respects, to the terms and conditions of the Compact and related documents, including restrictions on the use and distribution of MCC Funding. No party other than the Government and the MCA Entity shall derive any rights from the Compact or have any claim to the proceeds of MCC Funding. The Compact and related documents can be found on the MCC website ([www.mcc.gov](http://www.mcc.gov)) or the website of the MCA Entity. |
| Corruption and Fraud | * + - 1. 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 fraudulent and corrupt practices.          1. For the purposes of these provisions, the terms set forth below are defined as follows, and sometimes referred to collectively in this document as “Fraud and Corruption”:   (i)“***coercion***” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to improperly influence the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including such actions taken in connection with a procurement process or the execution of a contract;  (ii)“***collusion***” means a tacit or explicit agreement between two or more parties to engage in coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice, including any such agreement designed to fix, stabilize, or manipulate prices or to otherwise deprive the MCA Entity of the benefits of free and open competition;  (iii)“***corruption***” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, 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.;  (iv)“***fraud***” means any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including any act or omission designed to influence (or attempt to influence) improperly a selection process or the execution of a contract, or to avoid (or attempt to avoid) an obligation;  (v)“***obstruction of investigation into allegations of fraud or corruption***” means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC Funding: (a) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of coercion, collusion, corruption, fraud, or a prohibited practice; or (b) that threatens, harasses, or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; or (c) that is intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or the Office of the Inspector General (OIG) responsible for MCC provided under a Compact, Threshold Program agreement, or related agreements.  (vi)“***prohibited practice***” means any action that violates Section E (Compliance with Anti-Corruption Legislation), Section F (Compliance with Anti-Money Laundering Legislation), and Section G (Compliance with Terrorist Financing Legislation and Other Restrictions) of the Annex of Additional Provisions that will be made a part of MCC-funded contracts.   * + - * 1. The MCA Entity will reject a Bid (and MCC will deny approval of a proposed Contract award) if it determines that the Bidder recommended for award has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for the Contract.         2. MCC and the MCA Entity have the right to sanction a Bidder, including declaring the Bidder ineligible, either indefinitely or for a stated period of time, to be awarded an MCC-funded contract if at any time either MCC or the MCA Entity determines that the Supplier has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in executing, such a contract.         3. MCC and the MCA Entity have the right to require that a provision be included in the Contract requiring the selected Supplier to permit the MCA Entity, MCC, or any designee of MCC, to inspect the Supplier’s or any Subcontractor’s accounts, records and other documents relating to the preparation and submission of the Bid or performance of the Contract and to have such accounts, records and other documents audited by auditors appointed by MCC or by the MCA Entity with the approval of MCC.         4. In addition, MCC has the right to cancel any portion of the MCC Funding allocated to the Contract if it determines at any time that any representative of a beneficiary of MCC Funding engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or 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. |
| Environmental and Social Requirements |  |
| **Trafficking in Persons** | * + - 1. MCC has a zero-tolerance policy with regard to Trafficking in Persons. Trafficking in Persons (“TIP”) is the crime of using force, fraud, and/or coercion to exploit another person. Trafficking in Persons can take the form of domestic servitude, peonage, forced labor, sexual servitude, bonded labor, and the use of child soldiers. This practice deprives people of their human rights and freedoms, increases global health risks, fuels growing networks of organized crime, and can sustain levels of poverty and impede development. MCC is committed to ensuring appropriate steps are taken to prevent, mitigate, and monitor TIP risks in the projects it funds.       2. The Additional Provisions (Annex A of the Contract) sets out certain prohibitions, Bidder 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 trafficking in persons can be found in the MCC Counter-Trafficking in Persons Policy (“C-TIP”) that can be found on MCC’s website (<https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy>). All contracts funded by MCC are required to comply with the Policy’s Counter-TIP Minimum Compliance Requirements. Contracts for projects categorized by MCC as high-risk for TIP are required to implement a TIP Risk Management Plan (which is to be developed by the MCA Entity and implemented by the corresponding Supplier). |
| **MCC Environmental Guidelines and IFC Performance Standards** | * + - 1. The Bidder shall ensure that its activities, including any activities carried out by Sub-contractors, under the Contract comply with MCC’s Environmental Guidelines (as such term is defined in the Compact or related agreement, which are available at http://www.mcc.gov), and are not ‘likely to cause a significant environmental, health, or safety hazard’ as defined in such Environmental Guidelines. The Bidder is also required to comply with IFC Performance Standards for the purposes of the Contract. Additional information on the IFC Performance Standards can be found here:   <http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards> |
| Bidders’ Qualification and Eligibility | * + - 1. The qualification and eligibility criteria set out in this Bidding Document will apply to the Bidder, including all parties constituting the Bidder, for any part of the Contract, including Related Services.       2. Bidders must satisfy the eligibility criteria set forth in this Bidding Document and as contained in the MCC PPG governing MCC-funded procurements under the Compact. |
| **Joint Venture or Association; Subcontractors** | * + - 1. In the case where a Bidder is or proposes to be a Joint Venture or Association, (a) all members of the Joint Venture or Association must satisfy the legal, financial, litigation and other requirements set out in this Bidding Document; (b) all members will be jointly and severally liable for the execution of the Contract; and (b) the Joint Venture or Association will nominate a representative who will have the authority to conduct all business for and on behalf of any and all the members of the Joint Venture or Association.       2. Subject to the restrictions set forth in this Bidding Document, any Bidder may propose to sub-contract a part of the Contract in accordance with its terms and provided that the names and details of the sub-contract are clearly stated in the Bid submitted by the Bidder.       3. Qualification requirements for the Bidder in addition to those set out in these Instructions to Bidders are specified in Section III. Qualification and Evaluation Criteria.       4. Bidders must also satisfy the eligibility criteria contained in the MCC PPG governing MCC-funded procurements under the Compact. In the case where a Bidder intends to join with an associate or sub-contract part of the Contract, then such associate or Subcontractor shall also be subject to the eligibility criteria set forth in this Bidding Document and the MCC PPG.       5. Bidders shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request. |
| **Conflict of Interest** | * + - 1. A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified, unless the conflict of interest has been mitigated and the mitigation is approved by MCC. The Purchaser requires that Bidders and the Supplier hold the Purchaser’s interests paramount at all times, strictly avoid conflicts of interest, including conflicts with other assignments or their own corporate interests, and act without any consideration for future work. Without limitation on the generality of the foregoing, a Bidder or Supplier, including all parties constituting the Bidder or Supplier, and any subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates, may be considered to have a conflict of interest and disqualified or terminated if they:          1. have at least one controlling partner in common with one or more other parties in the process contemplated by this Bidding Document, or          2. have the same legal representative as another Bidder for purposes of this Bid; or          3. have a relationship, directly or through common third parties, that puts them in a position to have access to information about or influence over the Bid of another Bidder, or influence the decisions of the Purchaser regarding the selection process for this procurement; or          4. participate in more than one Bid in this process; participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the party is involved; however, this provision does not limit the inclusion of the same Subcontractor in more than one Bid; or          5. are, or have been associated in the past, with a person or entity, or any of their affiliates, which has been engaged to provide consulting services for the preparation of the specifications, requirements, or other documents to be used for the procurement and provision of the Goods and Related Services under the Contract; or          6. are themselves, or have a business or family relationship with, (i) a member of the MCA Entity’s board of directors or staff, (ii) the project’s Implementing Entity’s staff, or (iii) the Procurement Agent, Fiscal Agent, or Auditor (as defined in the Compact or related agreements) hired by the MCA Entity in connection with the Compact, any of whom is directly or indirectly involved in any part of (A) the preparation of this Bidding Document, (B) the selection process for this procurement, or (C) supervision of the Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to MCC; or          7. any of their affiliates have been or, at present, are engaged by the MCA Entity in the capacity of the Implementing Entity, Procurement Agent, Fiscal Agent, or Auditor under the Compact.       2. A Bidder that has been engaged by the Purchaser to provide goods, works or non-consulting services for a project, and any of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a Bidder hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods, works or non-consulting services resulting from or directly related to such consulting services for such preparation or implementation.       3. Bidders and the Supplier have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Purchaser, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Bidder or the termination of the Contract. |
| **Government-Owned Entities** | * + - 1. Government-Owned Enterprises (“GOEs”) are not eligible to compete for MCC-funded contracts. GOEs (a) may not be party to any MCC-funded contract for works or goods and related services procured through an open solicitation process, limited bidding, or direct contracting, and (b) may not be pre-qualified for any MCC-funded contract anticipated to be procured through these means. This prohibition does not apply to Government-owned Force Account units or Government-owned educational institutions and research centers, any statistical, mapping or other technical entities not formed primarily for a commercial or business purpose, or where a waiver is granted by MCC in accordance with the MCC PPG. All Bidders must certify their status as requested in the Bid Submission Form BSF1.1. |
| **Ineligibility and Debarment** | * + - 1. A Bidder or Supplier, all parties constituting the Bidder or Supplier, and any Subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates, will not be any person or entity under (a) a declaration of ineligibility for engaging in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices as contemplated by ITB 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 Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC’s website at [www.mcc.gov/ppg](http://www.mcc.gov/ppg). This would also remove from eligibility for participation in this procurement any entity that is organized in, or has its principal place of business or a significant portion of its operations in, any country that is subject to sanctions or restrictions by law or policy of the United States. |
|  | * + - 1. A Bidder or Supplier, all parties constituting the Bidder or Supplier, and any Subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates not otherwise made ineligible for a reason described in this ITB Clause 5 will nonetheless be excluded if:          1. as a matter of law or official regulation, the Government prohibits commercial relations with the country of the Bidder or Supplier (including any Associates, Subcontractors and any respective affiliates); or          2. by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government prohibits any import of goods from the country of the Bidder or Supplier (including any Associates, Subcontractors and any respective affiliates) or any payments to entities in such country; or          3. such Bidder or Supplier, any parties constituting the Bidder or Supplier, any Subcontractor, Associate, or respective personnel or affiliates are otherwise deemed ineligible by MCC pursuant to any policy or guidance that may, from time to time, be in effect as posted on MCC’s website ([www.mcc.gov](http://www.mcc.gov)). |
| **Evidence of Continued Eligibility** | * + - 1. Bidders and the Supplier shall provide such evidence of their continued eligibility in a manner satisfactory to the Purchaser, as the Purchaser shall reasonably request. |
| **Commissions and Gratuities** | * + - 1. A Bidder or Supplier will furnish information on commissions and gratuities, if any, paid or to be paid relating to this procurement or its Bid and during performance of the Contract if the Bidder is awarded the Contract, as requested in Section IV. Technical and Financial Offer Bid Forms. |
| Eligible Goods and Related Services | * + - 1. The Goods and Related Services to be supplied under the Contract may have their origin in any country subject to the same restrictions specified for Bidders and the Supplier in ITB Clause 5 above. At the Purchaser’s request, Bidders will be required to provide evidence of the origin of Goods and Related Services.       2. For purposes of ITB Clause 6.1, “origin” means the place where the Goods are mined, grown, cultivated, produced, manufactured or processed. Goods are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized article results that differs substantially in its basic characteristics, purposes or utility from its underlying components. With respect to Related Services, “origin” means the place from which the Related Services are supplied. |
| Contents of Bidding Document | |
| Sections of Bidding Document | * + - 1. This Bidding Document consists of Parts 1, 2, and 3, which include all the sections indicated below and should be read in conjunction with any Addenda issued in accordance with ITB Clause 9.   **Part 1 – Bidding and Selection Procedures**   * Section I. Instructions to Bidders * Bid Data Sheet * Qualification and Evaluation Criteria * Technical and Financial Offer Bid Forms   **Part 2 – Supply Requirements**   * Section V. Schedule of Requirements   **Part 3 – Conditions of Contract and Contract Forms**   * Section VI. Contract Notices and Agreement * Section VII. General Conditions of Contract * Section VIII. Special Conditions of Contract * Section IX. Contract Annexes   + - 1. The Letter of Invitation for Bids issued by the Purchaser is not part of the Bidding Document.       2. The Purchaser is not responsible for the completeness of this Bidding Document and its Addenda if they were not obtained directly from the source stated by the MCA Entity in the Invitation for Bids.       3. The Bidder is expected to examine all instructions, forms, terms, and Schedule of Requirements in this Bidding Document. Failure to furnish all information or documentation required by this Bidding Document may result in the rejection of the Bid. |
| Clarification of Bidding Document | * + - 1. A prospective Bidder requiring any clarification of this Bidding Document shall contact the MCA Entity in writing, by email or fax at the MCA Entity’s address **indicated in the BDS**. The MCA Entity will respond to any request for clarification, provided that such a request is received no later than the number of days **indicated in the BDS** prior to the deadline for submission of Bids. The MCA Entity shall send written copies of the responses, including a description of the inquiry but without identifying its source, to Bidders who have registered or obtained the Bidding Document directly from the MCA Entity by the date **specified in the BDS**. The MCA Entity will also post a copy of the responses and inquiry descriptions to the MCA Entity’s website **indicated in the BDS**. Should the clarification result in changes to the essential elements of this Bidding Document, the MCA Entity shall amend this Bidding Document following the procedure under ITB Clause 9.       2. The Bidder’s designated representative is invited to attend a Pre-Bid Conference, **if provided for in the BDS**. The purpose of the conference will be to clarify the issues and to answer questions on any matter that may be raised at that stage. Attending any Pre-Bid Conference is strongly advised, but not mandatory. Attending any Pre-Bid Conference and/or a site visit shall not be taken into account in the evaluation of Bids.       3. Minutes of the Pre-Bid Conference, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the conference, will be posted on the MCA Entity’s website as indicated in BDS ITB 8.1 and shall be transmitted in writing to all Bidders who have registered or obtained the Bidding Document directly from the MCA Entity. Any modification to this Bidding Document that may become necessary as a result of the Pre-Bid Conference shall be made by the MCA Entity exclusively through the issue of an Addendum and not through the minutes of the Pre-Bid Conference. |
| Amendment of Bidding Document | * + - 1. At any time prior to the deadline for submission of Bids, the MCA Entity may amend this Bidding Document by issuing Addenda.       2. All Addenda issued shall be part of this Bidding Document, posted on the MCA Entity’s website, and shall be communicated in writing to all Bidders that have registered or obtained the Bidding Document directly from the MCA Entity.       3. To give prospective Bidders reasonable time in which to take an Addendum into account in preparing their Bids, the MCA Entity may extend the deadline for the submission of Bids at its sole discretion. |
| Preparation of Bids | |
| Cost of Bidding | * + - 1. Except as otherwise **specified in the BDS**, the Bidder shall bear all costs associated with the preparation and submission of its Bid and Contract finalization, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. |
| Language of Bid | * + - 1. The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Purchaser, shall be written in the language **specified in the BDS.** Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages into the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern. |
| Documents Comprising the Bid | * + - 1. The Bid shall comprise of a single outer envelope, containing two inner sealed envelopes with the Technical Offer and Financial Offer.       2. The Technical Offer shall include the Bidder’s proposal for the delivery of the Goods and Related Services as stipulated in Section IV. Technical and Financial Offer Bid Forms, in sufficient detail to demonstrate the adequacy of the Bidder’s Technical Offer to meet the Purchaser’s requirements and the completion time. **The Technical Offer shall not include any financial information other than the required information in Form BSF5.** A Technical Offer containing financial information that is specifically required to be submitted with the Financial Offer shall be treated as non-responsive and shall be rejected. The Technical Offer shall comprise the documents **specified in the BDS**:.       3. The Financial Offer shall include the information as stipulated in the Section IV. Technical and Financial Offer Bid Forms, in sufficient detail to demonstrate the adequacy of the Bidder’s Financial Offer to meet the Purchaser’s requirements and the completion time. The Financial Offer shall comprise the documents **specified in the BDS**. |
| Letters of Technical and Financial Offers and Price Schedules | * + - 1. The Letter of Technical Offer, the Letter of Financial Offer Form and all other forms and schedules **specified in the BDS ITB 12.1** shall be prepared using the relevant forms furnished in Section IV. Technical and Financial Offer Bid Forms. These forms must be completed without any alterations to its text, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested. |
| Alternative Bids | * + - 1. Unless otherwise **specified in the BDS**, alternative Bids shall not be considered. |
| Bid Prices and Discounts | * + - 1. The prices and discounts quoted by a Bidder in the Letter of Financial Offer and in the Price Schedules for Goods shall conform to the requirements specified below. Discounts are permitted only when bidding for multiple lots and will be considered in the evaluation process as specified in Section III. Qualification and Evaluation Criteria.       2. The Bidder shall list and price all lots and items separately in the Price Schedules for Goods. Items against which no price is entered by the Bidder will not be paid for by the Purchaser, and shall be deemed covered by the prices of other items in the Price Schedules for Goods. Lots or items not listed in the Price Schedules for Goods shall be assumed not to be included in the Bid, and provided that the Bid is substantially responsive, the corresponding adjustment, as appropriate, shall be applied in accordance with ITB Clause 31.7.       3. The price to be quoted in the Letter of Financial Offer, in accordance with ITB Clause 13.1, shall be the total price of the Bid, excluding any discounts offered.       4. The Bidder shall quote any unconditional discounts and indicate the method for their application in the Letter of Financial Offer, in accordance with ITB Clause 13.1.       5. The terms EXW, CIF, CIP, and other similar terms shall be governed by the rules prescribed in Incoterms edition **specified in the BDS** published by The International Chamber of Commerce.       6. Prices shall be quoted as specified in each Price Schedule for Goods included in Section IV. Technical and Financial Offer Bid Forms and shall be entered in the manner **specified in the BDS**.       7. Prices quoted by the Bidder shall be fixed during a Bidder’s performance of the Contract and not subject to variation on any account, unless otherwise **specified in the** **BDS**. A Bid submitted with “adjustable prices” shall be treated as non-responsive and shall be rejected. However, if **in accordance with the** **BDS**, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a Bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero for the evaluation purpose.       8. If so indicated in the BDS ITB 1.1, Bids shall be invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise **indicated in the** **BDS**, prices quoted shall correspond to 100% of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Bidders wishing to offer any price reduction (discount) for the award of more than one contract (lot) shall specify the applicable price reduction in accordance with ITB Clause 15.4 provided the Bids for all lots are submitted and opened at the same time.       9. Clause 15 of the General Conditions of Contract (Section VI) sets forth the tax provisions of the Contract. Bidders should review this clause carefully in preparing their Bid. |
| Currencies of Bid | * + - 1. The currency(ies) of the Bid shall be as **specified in the BDS**. |
| Documents Establishing the Eligibility of the Bidder | * + - 1. To establish their eligibility in accordance with ITB Clause 5, Bidders shall complete the Bid Submission Form (BSF1) and the Government-Owned Enterprise Certification Form (BSF1.1), included in Section IV. Technical and Financial Offer Bid Forms. |
| Documents Establishing the Eligibility of the Goods and Related Services | * + - 1. To establish the eligibility of the Goods and Related Services in accordance with ITB Clause 5, Bidders shall complete the country of origin declarations in the Price Schedule for Goods Forms (BSF8, BSF9), included in Section IV. Technical and Financial Offer Bid Forms.       2. If so **indicated in the BDS**, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer’s Authorization using the form included in Section IV. Bidding Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in the Purchaser’s Country. Alternatively, if so **indicated in the BDS**, the Bidder must be an Original Equipment Manufacturer (OEM) and manufacture or produce the Goods it offers to supply.       3. If so **indicated in the BDS**, in case of a Bidder not doing business within the Purchaser’s Country, the Bidder shall be (if awarded the Contract) represented by an Agent in the country equipped and able to carry out the Supplier’s maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and this Agent shall meet the qualification criteria related to the post-delivery period specified in Section III. Evaluation and Qualification Criteria, if any. |
| Documents Establishing the Conformity of the Goods and Related Services | * + - 1. To establish the conformity of the Goods and Related Services to the Bidding Document, the Bidder shall furnish as part of its Bid the documentary evidence that the Goods conform to the technical specifications, including all requirements and standards specified in Section V. Schedule of Requirements.       2. The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, including all requirements and standards, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of Requirements.       3. A Bidder shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period **specified in the** **BDS**, following commencement of the use of the Goods by the Purchaser. Unless specified otherwise in the BDS and Section III. Qualification and Evaluation Criteria, these prices shall not be included in the bid evaluation.       4. Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Schedule of Requirements, are intended to be descriptive only and not restrictive. A Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to Purchaser’s satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements. |
| Documents Establishing the Qualifications of the Bidder | * + - 1. The documentary evidence of the Bidder’s qualifications to perform the Contract if its Bid is accepted shall establish, to the Purchaser’s satisfaction, the criteria specified in Section III. Qualification and Evaluation Criteria. |
| Period of Validity of Bids | * + - 1. Bids shall remain valid for the period **specified in the** **BDS** after the bid submission deadline date prescribed by the Purchaser. A Bid valid for a shorter period shall be rejected by the Purchaser as non-responsive.       2. In exceptional circumstances, prior to the expiration of the Bid validity period, the Purchaser may request Bidders to extend the period of validity of their Bids. The request and the Bidder’s responses shall be made in writing. If required, the Bid Security shall also be extended for a period of twenty-eight (28) days beyond the deadline of the extended bid validity period. A Bidder may refuse the request without forfeiting its Bid security. A Bidder granting the request shall not be required or permitted to modify its Bid. |
| Bid Security | * + - 1. **If so required in the BDS,** theBidder shall furnish, as part of its Technical Offer, a Bid Security in original form**. The submissions without a Bid Security shall not be considered, if the Bid Security is required in the BDS.**       2. The Bid Security shall be in the amount and currencies **specified in the** **BDS** and shall:          1. at the Bidder’s option, be in the form of either an unconditional bank guarantee substantially in the format of Form of Bid Security (Bank Guarantee) (BSF6) included in Section IV. Bid Forms, or another type of security **specified in the BDS**;          2. be issued by a reputable institution selected by the Bidder and located in any eligible country (as determined in accordance with ITB Clause 5); if the institution issuing the bank guarantee is located outside Purchaser’s country, it shall have a correspondent financial institution located within Purchaser’s country to make it enforceable;          3. be payable promptly upon written demand by the Purchaser in case the conditions listed in ITB Clause 22.2 are invoked;          4. be submitted in its original form; copies will not be accepted;          5. remain valid for a period of twenty-eight (28) days beyond the original validity period of Bids, or beyond any period of extension subsequently requested under ITB Clause 21.2.       3. Any Bid not accompanied by a substantially responsive Bid Security (if required) in accordance with ITB Clause 22, shall be rejected by the Purchaser as nonresponsive. The Bid Security may be forfeited:          1. if a Bidder withdraws its Bid during the period of Bid validity specified by the Bidder on the Bid Submission Form, except as provided in ITB Clause 21.2;          2. if a Bidder does not accept the correction of its Bid Price pursuant to ITB Clause 32; or          3. if the successful Bidder fails within the specified time to:   furnish the required Performance Security in accordance with GCC Clause 16 as described in ITB Clause 42; or  sign the Contract in accordance with ITB Clause 41.   * + - 1. The Bid Security of a Joint Venture or Association must be in the name of the association that submits the Bid. If the association has not been legally constituted at the time of bidding, the Bid Security shall be in the names of all future partners, or in the name of the designated representative (partner in charge or lead member) as named in the letter of intent or similar document in connection with the formation of the Joint Venture or Association. |
| Format and Signing of Bid | * + - 1. If submitting by hard copy, a Bidder shall prepare ONE (1) original set of the documents comprising the Bid pursuant to ITB Clause 12 and clearly mark it “Original.” The original shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as **specified in the** **BDS** and shall be attached to the Bid. The person or persons signing the Bid shall initial all pages of the Bid where entries and amendments have been made.       2. In addition, the Bidder shall prepare copies of the Bid (photocopies of the signed original are acceptable), in the number **specified in the** **BDS** and clearly mark them “Copy.” In the event of discrepancy between the original and the copies, the original shall prevail.       3. The Bid shall contain no alterations or additions, except those made to comply with the instructions issued by the Purchaser, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.       4. The Bidder shall furnish information as described in the Bid Submission Form (BSF1) Section IV. Technical and Financial Offer Bid Forms on commissions and gratuities, if any, paid or to be paid to agents relating to this Bidding Document or its Bid or to Contract execution if the Bidder is awarded the Contract. |
| Submission and Opening of Bids | |
| Bid Submission | * + - 1. Bidders may submit their Bids electronically, by mail or by hand. Bidders submitting bids electronically, **if so permitted in** **BDS,** shall follow the electronic bid submission procedures **specified in the** **BDS**.       2. Bidders who submit their Bids by mail or by hand are reminded that distance and customs formalities may require longer than expected delivery times.       3. The authorized representative of the Bidder signing the “Originals” of the Technical and of the Financial Offer shall provide within the Technical Offer an authorization in the form of a written letter of authorization demonstrating that the person signing has been duly authorized to sign the “Originals” on behalf of the Bidder. The signed Technical Offers and the signed Financial Offers shall be clearly marked “Original”.       4. Copies of the Technical Offer and the Financial Offer shall be clearly marked “Copy.” It is preferred that all copies required should be made by photocopying the “Original” as appropriate. However, the Bidder should note that if copies are made by any other means and discrepancies are found between the original and any of the copies of the relevant documents, then the “Original” shall govern.       5. The “Original” and each “Copy” of the Technical Offer shall be placed in a sealed envelope/parcel clearly marked “**Technical Offer.**” Similarly, the “Original” and each “Copy” of the Financial Offer shall be placed in a separate sealed envelope/parcel clearly marked “**Financial Offer.**”       6. Each envelope/parcel shall bear the name and address of the MCA Entity **as stated in the BDS**,the name and address of the Bidder (in case they have to be returned unopened, and the Name of the Bid as stated in the BDS).       7. In addition, the envelope/parcel containing the original and copies of the Financial Offer shall be marked with a warning **“Do Not Open With the Technical Offer.”**  If the Financial Offer is not submitted in a separate sealed envelope/parcel duly marked as indicated above, this will constitute grounds for declaring the Offer non-responsive.       8. The two envelopes/parcels containing the Technical Offer and the Financial Offer 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 Bidder, name of the assignment reference number, and be clearly marked **“Do Not Open, Except In Presence of the Official Appointed, Before [state submission time and date]” as indicated in the BDS.**       9. 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 Bid rejection. |
| Deadline for Submission of Bids | * + - 1. Bids must be received by the Purchaser at the address **specified in the BDS** and no later than the date and time **specified in the BDS**.       2. The Purchaser may, at its discretion, extend the deadline for the submission of Bids by issuing an amendment in accordance with ITB Clause 9, in which case all rights and obligations of the Purchaser and the Bidders previously subject to the original deadline shall then be subject to the deadline as extended. |
| Late Bids | * + - 1. The Purchaser shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB Clause 25. Any Bid received by the Purchaser after the deadline for submission of Bids shall be declared late, rejected and returned unopened at the request and cost of the Bidder. |
| Withdrawal, Substitution, and Modification of Bid | * + - 1. A Bidder may withdraw, substitute, or modify its Bid prior to the deadline for the submission of Bids by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization of the person signing in accordance with ITB Clause 23.1, (except that no copies of the withdrawal notice are required). The corresponding substitution or modification of the Bid must accompany the respective written notice. All notices must be:          1. submitted in accordance with ITB Clauses 24 and 25 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “Withdrawal,” “Substitution,” or “Modification,” and          2. received by the Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 25. |
|  | * + - 1. Bids requested to be withdrawn in accordance with this ITB Clause shall be returned unopened to the Bidders, at the request and cost of the Bidders. |
|  | * + - 1. No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Financial Offer or any extension thereof. |
| Bid Opening | * + - 1. The Purchaser shall open the outer envelopes/cartons of the Bids in a public bid opening that will include Bidders’ representatives as well as anyone who chooses to attend at the time and in the place **specified in the** **BDS**. Any specific opening procedures required if electronic Bidding is permitted in **accordance with the BDS**, shall be as **specified in the** **BDS**. |
|  | * + - 1. Firstly, the outer envelopes/cartons marked “Withdrawal” shall be opened and read out, while Bids for which an acceptable notice of withdrawal has been submitted pursuant to ITB Clause 27 shall not be opened. No Bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Bid opening. Next, the outer envelopes/cartons marked “Substitution” shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Bid opening. Outer envelopes/cartons marked “Modification” shall be opened and read out with the corresponding Bid. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening. Only submissions that are opened and read out at Bid opening shall be considered further. |
|  | * + - 1. All other outer envelopes/cartons shall be opened one at a time, and the official shall read aloud: the name of the Bidder and whether there is a modification. No Bid shall be rejected at Bid opening except for late Bids, pursuant to ITB Clause 26.       2. After the opening of the outer envelopes/cartons, the Technical Offers and Financial Offers should be sorted as appropriate. The Technical Offers will be opened as **specified in the BDS**. In the cases when Technical Offers are not opened publicly, the envelopes with the Technical Offers shall remain sealed until the Technical Evaluation Panel is ready to convene. **The MCA Entity shall ensure that the Financial Offers remain sealed and securely stored until after the evaluation of the Technical Offers has been completed.** |
|  | * + - 1. The Purchaser shall prepare minutes of the Bid opening, which shall include, at a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification. A copy of the record shall be distributed to all Bidders who submitted Bids on time, and posted on the MCA Entity’s website, if so exists. |
| Evaluation and Comparison of Bids | |
| Confidentiality | * + - 1. From the time Bids are opened to the time the Contract is awarded, Bidders may not contact the Purchaser on any matter related to its Technical Offer or Financial Offer. Information relating to the examination, clarification, evaluation, and comparison of Bids and recommendations for the award of the Contract shall not be disclosed to the Bidders or any other persons not officially concerned with such process until the intention to award to the successful Bidder has been announced pursuant to ITB Clause 39. The undue use by any Bidder of confidential information related to the process may result in the rejection of its Bid or may invalidate the entire procurement process.       2. Any attempt or effort by a Bidder to influence the Purchaser in the evaluation of Bids or Contract award decisions may subject the Bidder to the provisions of the Government’s, the Purchaser’s, and MCC’s anti-fraud and corruption policies and the application of other sanctions and remedies to the extent applicable.       3. Notwithstanding the above, from the time of Bid opening to the time of Contract award, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, it may do so in writing at the address **specified in the BDS**. |
| Clarification of Bids | * + - 1. To assist in the examination, evaluation, and comparison of Bids, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder that is not in response to a request by the Purchaser shall not be considered. The Purchaser’s request for clarification and the Bidder’s response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by Purchaser in the evaluation of the Bids in accordance with ITB Clause 32. |
| Evaluation of Technical Offers | * + - 1. The Technical Evaluation Panel shall evaluate the Technical Offers on the basis of their responsiveness to the Purchaser’s Requirements, applying the evaluation criteria, sub-criteria, and point system **specified in Section III**. Each responsive Offer will be given a technical score (St). A Bid shall be rejected at this stage if it does not respond to important aspects of the Bidding Document, and particularly the Purchaser’s Requirements or if it fails to achieve **the minimum technical score indicated in the BDS.**       2. As part of the evaluation of the Technical Offers, the Technical Evaluation Panel will also conduct a review of the qualifications requirements to determine if the Bidder satisfies the qualification requirements as described in ITB 5, 6, 17, 18, 19, 20 and Section III. Qualification and Evaluation Criteria. The determination shall be based upon an examination of the documentary evidence of the Bidder’s qualifications submitted by the Bidder, the Bidder’s record of past performance, a review of references, and any other source at the Purchaser’s discretion. An affirmative determination of qualification shall be a prerequisite for award of the Contract to the Bidder, and failing to meet the required qualifications shall be considered as a non-responsive Technical Offer. Bidders shall provide such evidence of their continued qualification to deliver the Goods and Related Services (including any changes in their litigation history) in a manner satisfactory to the Purchaser, as the Purchaser shall reasonably request at any time prior to the award of contract. |
| **Nonconformities**  **Notifications of Technical Offer evaluation results to Bidders** | * + - 1. If a Bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Purchaser, and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.       2. Provided that a Bid is substantially responsive, the Purchaser may waive any nonconformities in the Bid.       3. Provided that a Bid is substantially responsive, the Purchaser may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the bid related to documentation requirements. Such omission shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.       4. Provided that a Bid is substantially responsive, the Purchaser shall rectify quantifiable nonmaterial nonconformities related to the Bid Price.      * + - 1. Following completion of the evaluation of Technical Offers, and after receiving a “no objection” from MCC (if applicable), the Purchaser shall inform those Bidders whose Technical Offers achieved the minimum qualifying mark, advising them of the following:  1. that their Technical Offer met the minimum qualifying mark; 2. the name of each Bidder whose Technical Offer met or exceeded the minimum qualifying mark and the total technical score assigned to each; and 3. the date, time, and location for the opening of the Financial Offers, inviting them to the opening but indicating that their attendance is not mandatory.    * + 1. The Purchaser shall also advise those Bidders whose Technical Offers did not meet the minimum qualifying mark, advising them of the following: 4. that their Technical Offer did not meet the minimum qualifying mark; 5. the total technical score assigned to their own Technical Offer; 6. the name of each Bidder whose Technical Offer met or exceeded the minimum qualifying mark and the total technical score assigned to each; 7. the date, time, and location for the opening of the Financial Offers, inviting them to the opening but indicating that their attendance is not mandatory; and 8. that their Financial Offer will be returned unopened, at the cost and expense of the Consultant, after the Purchaser has completed the selection process.    * + 1. The Purchaser shall also advise those Bidders whose Technical Offers were not evaluated or were rejected, advising them of the following: 9. the grounds on which their Technical Offer was not evaluated or was rejected; 10. the name of each Bidder whose Technical Offer met or exceeded the minimum qualifying mark and the total technical score assigned to each; 11. the date, time, and location for the opening of the Financial Offers, inviting them to the opening but indicating that their attendance is not mandatory; and   (iv) that their Financial Offer will be returned unopened (if such offer was submitted as a hard-copy), at the cost and expense of the Bidder, after the Purchaser has completed the selection process. |
| Opening and Evaluation of Financial Offers: Arithmetical Errors | * + - 1. Financial Offers shall be opened publicly in the presence of those Bidders’ representatives who choose to attend at the date, time and location stated in the notice issued pursuant to ITB 31.3. If so **specified in the BDS, Financial Offers will be opened electronically.** All Financial Offers will first be inspected to confirm that they have remained sealed and unopened or password protected if electronically submitted. Only the Financial Offers of those Bidders who met the minimum qualifying mark and are also responsive to the required qualifications, following the Technical Evaluation stage will be opened. The Technical Score (St) and only the Total Bid Price, as stated in the Letter of Financial Offer shall be read out aloud and recorded. A copy of the record shall subsequently be sent to those Bidders whose Financial Offers were opened and to MCC.       2. The Technical Evaluation Panel will correct as part of the Price Review any computational errors, and in cases of a discrepancy between a partial amount and the total amount, or between words and figures the former will prevail. In addition to the above corrections, activities and items described in the Technical Offer but not priced, shall be assumed to be included in the prices of other activities or items. In cases where an activity or line item is quantified differently in the Financial Offer from the Technical Offer, no corrections will be applied to the Financial Offer in this respect. If Bidders are not required to submit Financial Offers 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 BDS.**       3. During the price review as per ITB 32.2, the Purchaser shall correct arithmetical errors on the following basis:          1. if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;          2. if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and          3. if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.       4. If a Bidder does not accept the correction of errors, its Bid shall be rejected and the Bid Security may be forfeited in accordance with ITB Clause 22.2(b).       5. The lowest evaluated Financial Offer (Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Offers will be computed **as indicated in the BDS**.Bids will be ranked according to their combined technical (St) and financial (Sf) scores, calculated with the formula: S = St x T% + Sf x P%, using the weights (T = the weight given to the Technical Offer; P = the weight given to the Financial Offer; T + P = 1) indicated in Section III.       6. The Bidder achieving the highest combined technical and financial score, and also successfully meeting the qualifications requirements, will be recommended for Contract award. |
| Price reasonableness | * + - 1. The Purchaser shall make a determination of price reasonableness as required in the MCC Program Procurement Guidelines. If the price reasonableness analysis suggests that a Bid is significantly unbalanced or front loaded, the Purchaser may require the Bidder to produce a detailed price analysis for any or all items of the Price Schedules that demonstrates the internal consistency of prices with the implementation methods and schedule proposed.       2. After the evaluation of the information and detailed price analysis presented by the Bidder, the Purchaser may as appropriate:          1. accept the Bid; or          2. require that the total amount of the Performance Security be increased at the expenses of the Bidder to a level not exceeding the percentage **specified in the BDS**; or          3. reject the Bid.       3. A negative determination of price reasonableness (either unreasonably high or unreasonably low) may be a reason for rejection of the Bid at the discretion of the Purchaser. The Bidder shall not be permitted to revise its Technical Offer or Financial Offer after this determination |
| No margin of preference | * + - 1. In accordance with the MCC PPG, a margin of preference for domestic Bidders or any other nationality shall not be used. |
| Past Performance and Reference Check | * + - 1. In accordance with the MCC PPG, the Bidder’s performance on earlier contracts will be considered a factor in the Purchaser’s qualification of the Bidder. The Purchaser reserves the right to check the performance references provided by the Bidder or to use any other source at the Purchaser’s discretion. If the Bidder (including any of its associates or joint venture/association members) is or has been a party to an MCC-funded contract (either with MCC directly or with any Millennium Challenge Account Entity, anywhere in the world), whether as a lead contractor, affiliate, associate, subsidiary, subcontractor, or in any other role, the Bidder must identify the contract in its list of references submitted with its Bid using Bidding Form BSF7: References of Past Contracts. Failure to include any such contracts may be used to form a negative determination by the Purchaser on the Bidder’s record of performance in prior contracts. However, the failure to list any contracts because the Bidder (including any of its associates or joint venture/association members) has not been a party to any such contract will not be grounds for a negative determination by the Purchaser on the Bidder’s record of performance in prior contracts. That is, prior performance in connection with an MCC-funded contract is not required. The Purchaser will check the references, including the Bidder’s past performance reports filed in MCC’s Contractor Past Performance Reporting System (“CPPRS”). A negative determination by the Purchaser on the Bidder’s record of performance in prior contracts may be a reason for disqualification of the Bidder at the discretion of the Purchaser. |
| Purchaser’s Right to Accept Any Bid, and to Reject Any or All Bids | * + - 1. The Purchaser reserves the right to accept or reject any Bid, and to annul the bidding process and reject all Bids at any time prior to Contract award, without thereby incurring any liability to Bidders. In case of annulment, all Bids submitted and specifically Bid Securities shall be promptly returned to the Bidders at the Bidder’s request but at the Purchaser’s expense. If all Bids are rejected, the Purchaser shall review the causes justifying the rejection and consider making revisions to the conditions of Contract, specifications, scope of the Contract, or a combination of these, before inviting new Bids. The Purchaser reserves the right to cancel the procurement if this is no longer in the interest of the Purchaser. Rejection of all Bids and canceling the procurement requires prior approval by MCC. |
| Award of Contract | |
| Award Criteria | * + - 1. Subject to ITB Clause 1.2 and 36.1, the Purchaser shall award the Contract to the Bidder whose Bid has been determined to have the highest combined technical and financial score, including that the Bidder is determined to be qualified to perform the Contract satisfactorily. |
| Purchaser’s Right to Vary Quantities at Time of Award | * + - 1. At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section V. Schedule of Requirements, provided this does not exceed the percentages **indicated in the** **BDS**, and without any change in the unit prices or other terms and conditions of the Bid and the Bidding Document. |
| Notice of Intent to Award | * + - 1. Prior to the expiration of the period of Bid validity, the Purchaser shall send the Notice of Intent to Award (“NOITA”) to the successful Bidder. NOITA shall include a statement that the Purchaser shall issue a formal Notification of Award and draft Contract Agreement after expiration of the period for filing a Bid challenge and the resolution of any Bid challenges that are submitted. Delivery of the NOITA **shall not constitute the formation of a contract** between the Purchaser and the successful 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 NOITA the Purchaser shall also notify, in writing, all other Bidders of the results of the bidding and information that a NOITA has been issued. The Purchaser shall promptly respond in writing to any unsuccessful Bidder who, after receiving notification of the bidding results, makes a written request for a debriefing as provided in the MCC PPG, or submits a formal Bid challenge. |
| Bid Challenges[[1]](#footnote-1) | * + - 1. Bidders may challenge the results of a procurement only according to the rules established in the Bid Challenge System developed by the Purchaser and approved by MCC. The rules and provisions of the Bid Challenge System are as published on the Purchaser’s website **indicated in the BDS**. |
| Signing of Contract | * + - 1. Upon expiration of the period for timely filing and the resolution of any Bid challenges that are submitted, the Purchaser shall send the Notification of Award to the successful Bidder.       2. The Notification of Award (or “Letter of Acceptance”) shall include the Contract Forms for the review and signature of the successful Bidder.       3. Within fourteen (14) days of receipt of the Notification of Award, the successful Bidder shall sign, date, and return the Contract to the Purchaser. |
| Performance Security | * + - 1. Within twenty-eight (28) days of receipt of the Notification of Award from the Purchaser, the successful Bidder shall furnish a Performance Security in accordance with GCC Clause 16, using for that purpose the Performance Security Form included in Part 3. Conditions of Contract and Contract Forms. The Bidder shall also furnish the Compliance with Sanctions Certification Form and Supplier Self-Certification Form.       2. Failure of the successful Bidder to submit the Performance Security or to sign the Contract in accordance with ITB Sub-Clauses 41 and 42 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Purchaser may award the Contract to the next Bidder, whose offer provides the best value for money, is determined by the purchaser to be substantially responsive and qualified to perform the Contract satisfactorily or call for new Bids or annul the bidding process. |
| Publication of Award and Return of Bid Securities | * + - 1. Upon receipt of the signed Contract Agreement and a valid Performance Security, the Purchaser shall return the Bid Securities of unsuccessful Bidders and shall publish in UNDB Online, in dgMarket, and on the Purchaser’s website and other places as MCC may specify and in accordance with MCC’s Program Procurement Guidelines, the results identifying the Bid and the following information:  1. the name of the winning Bidder; 2. the price of the winning Bid and the price of the Contract award if different; and 3. the duration and the summary scope of the Contract awarded. |
| Compact Conditionalities | * + - 1. Bidders are advised to examine and consider carefully the provisions that are set forth in Annex A to the Contract as these are a part of the Government’s and the Purchaser’s obligations under the Compact and related documents which, under the terms of the Compact and related documents, are required to be transferred onto any Bidder, Supplier or Subcontractor who partakes in procurement or subsequent contracts in which MCC Funding is involved.       2. The provisions set forth in Annex A to the Contract apply during the bidding procedures as well as throughout the performance of the Contract. |
| Inconsistencies with MCC Program Procurement Guidelines | * + - 1. The procurement that is the subject of this Bidding Document is being conducted in accordance with and is subject in all respects to MCC’s Program Procurement Guidelines. In the event of any conflict between any section or provision of this Bidding Document (including any Addenda that may be issued to this Bidding Document) and the MCC Program Procurement Guidelines, the terms and requirements of the MCC Program Procurement Guidelines shall prevail, unless MCC has granted a waiver of the guidelines. |

|  |  |
| --- | --- |
| Section II. Bid Data Sheet | |
| General | |
| ITB Definitions | (j) “Compact” means the Millennium Challenge Compact between the United States of America, acting through the Millennium Challenge Corporation, and the Government, entered into on **12 September 2019**, as may be amended from time to time.  (r) “Government” means the government of **Kosovo**.  (aa) “Purchaser” or “MCA Entity” means **Millennium Foundation Kosovo**. |
| ITB 1.1 | The name and identification of the proposed Contract is:  **Supply, Installation, Maintenance of relevant equipment and services for the introduction of consumption-based heat metering and thermostatic heating valves in District Heating system in Prishtina and identification number 2021/003**  The number and description of the lot(s) is:  **N/A** |
| 1. **Contents of Bidding Document** | |
| ITB 8.1 | Clarifications may be requested by using this File Request Link not later than **20** days before the deadline for submission of Bids, so that responses can be issued to all Bidders not later than **7** days prior to the deadline for submission of Bids.  The address for requesting clarifications is:  Please submit your clarifications using this File Request Link:  Click here to submit Clarification’s request (Dropbox Upload):  https://www.dropbox.com/request/A8M0tgerTD8uRUg3Sz6k  All responses to clarifications requests shall be uploaded in the website www.millenniumkosovo.org in the same site when you get access to the BD Documents, the link is provided below.  A complete set of Bidding Document (BD) documents including any clarifications, notices and/or addendums may be obtained by interested eligible bidders through the following website (Eventual clarifications or any changes to the BD document shall be published at the latest 7 days before the submission deadline on the link provided below):  https://millenniumkosovo.org/procurment/procurement-of-supply-installation-maintenance-of-relevant-equipment-and-services-for-the-introduction-of-consumption-based-heat-metering-and-thermostatic-heating-valves-in-district-heating-system-i  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/procurement-of-supply-installation-maintenance-of-relevant-equipment-and-services-for-the-introduction-of-consumption-based-heat-metering-and-thermostatic-heating-valves-in-district-heating-system-i](https://www.google.com/url?q=https://millenniumkosovo.org/procurment/procurement-of-supply-installation-maintenance-of-relevant-equipment-and-services-for-the-introduction-of-consumption-based-heat-metering-and-thermostatic-heating-valves-in-district-heating-system-i&sa=D&source=hangouts&ust=1615542240912000&usg=AFQjCNFIwHQ20kXT42c-gGBRwQYmzvbyWg) |
| ITB 8.2 | A Pre-Bid Conference will be held at **14:00** (**Kosovo Time**) on **23 March 2021** via ONLY through online Zoom Meeting.  Attendance is strongly advised for all prospective bidders or their representatives but is not mandatory.  Zoom Meeting Link:  <https://us02web.zoom.us/j/83157535797> |
| ITB 10.1 | The Purchaser shall not refund the costs associated with the preparation and submission of the bid |
| ITB 11.1 | The Bid shall be submitted in English**.** |
| Preparation of Bids | |
|  |  |
| ITB 12.2 | Documents comprising the Technical Offer are the following:   1. Letter of Technical Offer 2. Form of Bid Security (Bank Guarantee) 3. Scanned copy of postal/courier receipt as evidence that the Bid Security has been dispatched to the Purchaser 4. Description of Goods 5. BSF1.1 - Government-Owned Enterprise Certification Form 6. BSF1 - Bidder Information Form 7. BSF2 - Party to Joint Venture/Association Information Form 8. BSF3 - Environmental, Social, Health and Safety Forms 9. BSF4 Manufacturer’s Authorization 10. FIN-1: Financial Situation 11. FIN-2: Average Annual Turnover 12. FIN-3: Financial Resources 13. FIN-4: Current Contract Commitments / Works in Progress 14. Form CON–1 Historical Contract Non-Performance 15. BSF5 – Past References of MCC-Funded Contracts 16. Form EXP-1: General Experience 17. Form EXP-2 A: Similar Experience 18. Form EXP-2 B: Similar Experience 19. Form EXP-3: Specific Experience in Key Activities 20. BSF6 Compliance with Sanctions Certification Form 21. Sworn Statement 1: Installed Units 22. Sworn Statement 2: Gender and Social Inclusion 23. Methodological Approach (Section III. Technical Evaluation Criteria) 24. Statement 5: Performance of the equipment 25. Sworn Statement 3: Facility for Spare Parts |
| ITB 12.3 | Documents comprising the Financial Offer are the following:   1. Letter of Financial Offer; 2. Price Schedule for Goods; 3. Price and Completion Schedule for Related Services |
| ITB 14.1 | Alternative bids **shall not** be considered. |
| ITB 15.5 | The Incoterms edition is **“Incoterms 2020”** |
| ITB 15.6 | Prices shall be quoted in the following manner:   * + - * 1. The all-inclusive price of Goods quoted on a **DDP** basis, including transportation, insurance and all services required to deliver the Goods to their Final Destination specified below;         2. The price for each item comprising the Related Services as specified in the Schedule of Requirements (other than transportation, insurance and other services required to deliver the Goods to their Final Destination).   The Final Destination of Goods and Related Services is:  **Pristina, Kosovo** |
| ITB 15.7 | The prices quoted by a Bidder shall be fixed for the duration of the Contract. |
| ITB 15.8 | **Not Applicable** |
| ITB 16.1 | The currency of the Bid shall be as follows: **EUR.** |
| ITB 18.2 | Manufacturer’s authorization is: ***required***  The Bidder: ***is not required to be the Original Equipment Manufacturer (OEM).***  **If a Bidder is not an OEM, it is mandatory that the Bidder is an authorized distributor of the manufacturer.** |
| ITB 18.3 | In case of not doing business in the Purchaser’s Country, the Bidder **shall** be represented by an Agent in the Country. |
| ITB 19.3 | The list of spare parts, special tools, etc., shall cover a period of **5** years from the date of acceptance of the Goods by the Purchaser. |
| ITB 21.1 | Bids shall remain valid for 120 days after the deadline of the submission of Bids. |
| ITB 22.1 | Bid Security **is** required to be submitted with a Bid.  In addition, the Bidder shall upload a scanned copy of its postal/courier receipt as evidence that the original of the duly completed and signed Bid Security has been dispatched to the Purchaser. The uploaded postal/courier receipt shall clearly show the time, date of dispatch and the correct Purchaser’s address details. |
| ITB 22.2 (a) | The Bid Security shall be in the amount of EUR 85.000.  The Bidder shall submit The Bid Security using the form included in Section IV. |
| ITB 23.1 | The written confirmation of authorization to sign on behalf of and bind the Bidder shall consist of: **Name of the authorized person, Position, Address, Telephone number and Email address.** |
| ITB 23.2 | Electronically only (One electronic copy). |
| Submission and Opening of Bids | |
| ITB 24.1 | Bids may be submitted electronically.  A Bid submitted electronically shall follow the procedures as outlined in Annex 1 to this Section II. Bid Data Sheet. |
| ITB 24.6 | Please submit your bid using this File Request Link:  [Click here to submit bid (Dropbox file request link)](https://www.dropbox.com/request/iXecnCAA2P4YanG3lloi)  https://www.dropbox.com/request/fMpYznuZl8E8guv0kaSj |
| ITB 25.1 | The deadline for submission of Bids is as follows:  **22 April 2021** (14:00 Kosovo time) |
| ITB 28.1 | For Bids submitted electronically in accordance with ITB Clause 24.1(b), the Bid opening procedures shall be as described in Annex 1 to this Section II. Bid Data Sheet. |
| ITB 28.4 | Technical Offers **will** be opened publicly (electronic)  Technical offers opening will be held by web conference using Zoom ([www.zoom.us](http://www.zoom.us)) on 22 April 2021 at 14.30 p.m. (Kosovo time).  Zoom Meeting Link:  https://us02web.zoom.us/j/83913870800  The Minutes of Opening of Technical offers shall be promptly sent to all bidders who submitted offers. |
| Evaluation and Comparison of Bids | |
| ITB 29.3 | All correspondence must be addressed to the Purchaser at **procurement@millenniumkosovo.org**. |
| ITB 31.1 | The minimum technical score (St) required to pass is: **70** |
| ITB 32.1 | Not applicable |
| ITB 32.2 | The currency that shall be used for Bid evaluation and comparison is: **EUR**. |
| ITB 32.5 | **The lowest evaluated Financial Offer (Fm) is given the maximum financial score (Sf) of 100.**  **The formula for determining the financial scores (Sf) of all other Offers is calculated as following:**  Sf = 100 x Fm/ F, in which “Sf” is the financial score, “Fm” is the lowest price, and “F” the price of the Offer under consideration.  **The weights given to the Technical (T) and Financial (P) Offers are**:  **T** = 70, and  **P** = 30  Bids will be ranked according to their combined technical (St) and financial (Sf) scores according to the formula provided in ITB 32.5: S = St x T% + Sf x P% |
| ITB 33.2 | The total amount of the Performance Security may be increased to a level not exceeding 10 % of the Contract Price. |
| Award of Contract | |
| ITB 38.1 | The Purchaser reserves the right to increase or decrease the quantities of each item.  The estimated quantities specified are only indicative quantities and do not compel the Purchaser to buy any of them. The Purchaser may at its own discretion purchase fewer or more quantities than those estimated quantities per item. |
| ITB 40.1 | The Purchaser’s Bid Challenge System is provided on the MCA Entity’s website **www.millenniumkosovo.org** |

# Annex 1 to Section II. Bid Data Sheet

# Procedure for Electronic Submission of Bids

1. Each Bidder will be provided a File Request Link (via email), an electronic link to upload its submission when it requests the Bidding Document. The Bidder shall use this, and only this, link to submit its Bid, where Bid = Technical Offer + Financial Offer.
2. The Bid shall be submitted via the File Request Link only. Bids submitted by email shall not be accepted. Also, the Bid shall be submitted by the bid submission deadline. A Bidder who submits only the Technical Offer or only the Financial Offer shall have its Bid rejected. Similarly, a Bidder who submits only its Technical Offer by hard copy and only the Financial Offer electronically – or vice versa – shall have its Bid rejected.
3. The File Request Link shall automatically expire on the submission deadline, specified in the relevant ITB. 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 Offer and Financial Offer shall be submitted in separate pdf(s)/Microsoft Word files/folders, and separately password-protected (Technical Offer at the discretion of the Bidder; Financial Offer mandatory, as noted below).
6. Bidders should use the filename framework for the Bids as follows:
   1. Technical Offer filename: ***[Bidder Name] - TechnicalOffer - IFB# [insert IFB number]***
   2. Financial Offer filename: ***[Bidder Name] - FinancialOffer - IFB# [insert IFB number]***
7. Technical Offers are not required to be password-protected, but may be protected at the Bidder’s discretion. Bidders who choose to password-protect their Technical Offer can do so to protect against inadvertent untimely opening of its Offer, but at their own responsibility for providing the correct password prior to the Technical Offer opening via email to the address listed below. If they fail 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 Offers shall have their Bid rejected.
8. Bidders who attain the minimum technical score required to pass shall be asked to provide the password for their Financial Offer at a later date.
9. *“If a Bidder submits a Technical Offer with password protection, the password for the Technical Offer should be sent no earlier than* ***21.04.2021*** *and**no later than* ***13:45*** *local time on* ***22.04.2021*** *to the following email address: procurement@millenniumkosovo.org*
10. Financial Offers are REQUIRED TO BE password-protected so that file(s) cannot be opened without the password. The passwords for the Financial Offer shall NOT be submitted with the Bid, but will be sent only by those Bidders who are requested by the MCA-Entity after the conclusion of the technical evaluation.
    1. Bid shall be rejected if the Financial Offer is not password-protected;
    2. If a Bidder does not provide a password when requested or provides an incorrect password when requested or fails to provide the correct password by the end of the formal Opening of the Financial Offers, its Bid shall be rejected.
11. The password to open the Financial Offer shall be sent to the MCA-Entity at a time and date (and to an email address) provided to the bidders that pass the technical score at a later date, after Technical Offers will have been evaluated. Bidders who send their passwords before being formally requested to do by the MCA-Entitymay have their Bid rejected.
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 Bidder 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 Offer or Financial Offer) shall not exceed 10GB each.
15. Bidders are informed that the capability of their internet bandwidth will determine the speed in which their Bids are uploaded via the File Request Link. Bidders are therefore advised to commence the process of uploading their Bids via the File Request Link in good time before the bid submission deadline. As noted above, this link will expire at the bid closing time, and cannot be reopened under any circumstances.

|  |
| --- |
| Section III. Qualification and Evaluation Criteria |
| In addition to the evaluation and qualification listed in Section II, this Section contains all the criteria that the Purchaser shall use to review the Technical and Financial Offers, and select the winning Bid. No other factors, methods or criteria shall be used in the evaluation of Bids. The Bidder shall provide all the information requested in the forms included in Section IV. Technical and Financial Offer Bid Forms. This review shall be based on the information provided by the Bidder in the forms plus the Bidder’s record of past performance, other references and any other sources at the Purchaser discretion to confirm and verify the Bidder’s qualifications and representations in its Bid. |

**Technical Offer**

1. **Administrative Completeness Review**

This review is conducted to determine that the Technical Offer is complete, all required documents are included and all forms are included and are completed. The Bidder may be requested to submit additional information or documentation within a reasonable period of time and/or to correct nonmaterial nonconformities in the Bid related to Technical Offer documentation requirements. Determinations made during this review include:

* Determine if the Letter of Technical Offer is included and signed as per the requirements of ITB 23 and ITB 24;
* Determine eligibility of Bidder;
* Determine if the bid and bid security are valid as per the provisions of the bidding document;
* Determine if all other required forms are included and completed.

1. **Legal Status**

Each entity forming the Bidder shall attach to Form BSF-1 a copy of its letter of incorporation, or other such document, indicating its legal status. In the event the Bidder is an association of entities, the Bidder 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 Bid. Each member of the association that forms the Bidder must provide the information required in Form BSF-1.

1. **Financial Criteria**
2. The Bidder shall provide evidence showing that it has the sufficient financial capacity needed for this Contract, as required in Form FIN-1. Each member of the association that forms the Bidder must provide the information required in Form FIN-1.
3. **Litigation Criteria**

The Bidder shall provide accurate information on any current or past litigation or arbitration resulting from contracts completed, terminated, or under execution by the Bidder over the last five (5) years, as indicated in Form CON-1. A consistent history of awards against the Bidder or existence of high value dispute, which may threaten the financial standing of the Bidder, may lead to the rejection of the Bid. Each member of the association that forms the Bidder must provide the information required in Form CON-1.

1. **Qualifications Review**

This process will be conducted to determine if the Bidder continues to satisfy the qualification requirements. The determination shall be based upon an examination of the documentary evidence of the Bidder’s qualifications submitted by the Bidder as requested in Section IV. Technical and Financial Offer Bid Forms, plus the Bidder’s record of past performance and a review of references and any other source at the Purchaser’s discretion. All qualification requirements shall be considered on a pass/fail basis. An affirmative determination of qualification shall be a prerequisite for award of the Contract to a Bidder.

In this section, it is mandatory for the Bidder to note if the prime bidder or any of its subsidiary are under sanctions or debarment or suspension from the World Bank or United Nations or from the U.S. Government. Failure to mention this will be a reason for rejection of the Bid.

1. **References and Past Performance Review.**

In accordance with ITB 35, the Bidder’s performance on earlier contracts will be considered in determining if the Bidder is qualified for award of the Contract. The Purchaser reserves the right to check the performance references provided by the Bidder or to use any other source at the Purchaser’s discretion. If the Bidder (including any of its associates or joint venture/association members) is or has been a party to an MCC-funded contract (either with MCC directly or with any MCA Entity, anywhere in the world), whether as a lead contractor, affiliate, associate, subsidiary, subcontractor, or in any other role, the Bidder must identify the contract in its lists of references submitted with its Bid using Bidding Form BSF5: References of Past Contracts. Failure to include any such contracts may be used to form a negative determination by the Purchaser on the Bidder’s record of performance in prior contracts. However, the failure to list any contracts because the Bidder (including any of its associates or joint venture/association members) has not been a party to any such contract will not be grounds for a negative determination by the Purchaser on the Bidder’s record of performance in prior contracts. That is, prior performance in connection with a MCC-funded contract is not required. The Purchaser will check the references, including the Bidder’s past performance reports filed in MCC’s Contractor Past Performance Reporting System.

1. Technical Evaluation Criteria

|  |  |
| --- | --- |
| ***Criteria, sub-criteria*** | ***Points 50*** |
| 1. ***Organizational Capability and Experience of the Bidder*** 2. *(The MCA Entity reserves the right to contact the Form BSF5 references as well as other sources to check references and past performance)* | |
| *The evidence of organizational capability and relevant experience in the supply of Goods and Related Services of a similar nature, will be scored as follows:* | |
|  |  |
| *1.1 Experience in supplying Goods and Related Services of a similar nature (The similarity shall be based on the size, complexity, methods/technology or is given for project which comprise: in-house heating installations, electronic metering for heat, gas, electricity or water)****;***  *Higher points for regional and/or in-country experience. Max 5 references to be provided using the Form EXP-2A.* | *Maximum 30 points,*  *- 4 points per reference*  *- 5 points for each reference in region (in**South East Europe (Albania, Bosnia & Herzegovina, Bulgaria, Croatia, Montenegro, Kosovo, North Macedonia, Serbia, Rumania, Slovenia, Greece, Turkey)*  *- 6 points for in country reference* |
| *1.2 Installed Base (the number of units of the system or product that are currently in use) in Supplier’s country/region: number of customers where similar Goods have been installed and serviced. Documentation required: Sworn Statement 1 - Installed Units.*   |  |  |  |  | | --- | --- | --- | --- | |  | *1 Point for:* | *Linear Interpolation* | *5 Points for:* | | *heat meters* | *<1.000* |  | *>30.000* | | *heat cost allocators* | *<40.000* |  | *>150.000* | | *thermostatic radiator control valves* | *< 20.000* |  | *>100.000* | | *See the table for pointing.*  *Max 15 Points.* |
| *1.3 Bidders shall employ a reasonable number of women within their company. In case of Joint Venture, criteria apply to all members (an average will be determined).*  *The status presented shall be not later that 1 (one) month before the submission deadline. Documentation required: Sworn Statement 2 - Gender and Social Inclusion.* | *Max Points: 5.*  *> 10% women employed- 5 points*  *5% - 10% women employed – 3 points*  *1% - 5% total – 1 point*  *<1% - 0 points* |
| ***Total Points for this criterion 1*** | ***50*** |
| ***2. Approach for Performance, Support and Maintenance*** *Max Points: 50* | |
| *2.1 Methodological approach including:*  *a) Technological solutions for the metering systems required under technical specifications of the Supply Requirements document (chapter 7) related to data communication, software, SCADA Integration.*  *b) Reading/billing platform (user friendliness, transparency, alarm reporting, signal to Termokos for improper usage, building and flat consumption analysis for end users, daily data reading.*  *c) System Compatibility with wider smart city solutions and/or other public utilities.*  *Documentation required: Methodological Approach* | *Max Points: 20.*  *0-10*  *0-5*  *0-5* |
| *2.2.1 Performance of the equipment (thermostatic header)*  *a) Thermostat with liquid filling**-0;*  *Thermostat with gas filling – 3;*  *Thermostat with normal sensor – 0;*  *Electronic thermostat with Bluetooth/WLAN – 3*  *b) Additional features:*   * *Lifetime 20 years and over* *– 3;* * *Easier installation of thermostatic header without usage of additional tools– 3;* * *Reaction time less than 10 minutes – 3;* * *Possibility to lock minimal and maximal temperatures – 3;*   *2.2.2 Performance of the equipment (heat cost allocators)*   * *Parallel communication (AMR & walk by)*   *at the same time – 2*  *2.2.3 Billing software*  *- Possibility for system configuration from distance - 5*  *Documentation required: Statement 4 –* *Performance of the equipment* | *Max Points: 25.* |
| *2.3 Spare Parts and After Sales Service Facilities in Purchaser’s Country: Higher points for Bidder currently maintaining such facility, lower points if Bidder proposes to set up such facility, lowest points if such facility does not exist and the Bidder does not intend to set up.*  *Bidder currently maintaining such facility – 5*  *Bidder proposes to set up such facility – 2*  *Facility does not exist, and the Bidder does not intend to set up - 0*  *Documentation required: Sworn Statement 3 - Facility Spare Parts.* | *Max Points: 5.* |
| ***Total Points for this criterion 2*** | ***50*** |
| ***Total Points*** *(criterion 1 + 2)* | ***100*** |
| ***The minimum technical score St required to pass is***  ***All of the above will be checked through references and technical documents provided to support the Bidder’s claims.*** | ***70*** |
|  |  |

**Financial Offer**

1. **Administrative Completeness Review**

This review is conducted to determine that the Financial Offer is complete, all required documents are included and all forms are included and are completed. The Bidder may be requested to submit additional information or documentation within a reasonable period of time and/or to correct nonmaterial nonconformities in the Bid related to Financial Offer documentation requirements. Determinations made during this review include:

* Determine if the Letter of Financial Offer Bid Price is included and signed as per the requirements of ITB 23 and ITB 24;
* Determine if the Bid Security in the correct format is enclosed; and
* Determine if all other required forms are included and completed.

1. **Review of the Prices in the Financial Offer**

This review is conducted to determine the Evaluated Financial Offer Price of each Bid. The “Evaluated Bid Price” shall be the Bid price adjusted for correction of arithmetical errors, omissions, clarifications, etc., in accordance with ITB 32.3.

After the above adjustments and corrections are made, the Purchaser will convert the Evaluated Bid Price to a single currency in accordance with ITB 32.2.

1. **Work, services, facilities, etc., to be provided by the Purchaser**

Where bids include the undertaking of work or the provision of services or facilities by the Purchaser in excess of the provisions called for in the Bidding Document, the Purchaser shall assess the costs of such additional work, services and/or facilities during the duration of the contract. Such costs shall be added to the Financial Offer price for evaluation.

1. **Price Reasonableness Determination**

Price Review also includes a determination of price reasonableness as required in ITB 33.

**Qualification - Documents Establishing the Qualifications of the Bidder**

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Eligibility | | | | | | |
| **Sub-Factor** | **Requirement** | **Bidder** | | | | **Documentation Required** |
| **Single Entity** | **Joint Venture or Association** | | |
| **All members combined** | **Each Member** | **At least one member** |
| **Nationality** | Nationality in accordance with ITB 5.13. | Must meet requirement | Existing or intended Joint Venture or other association must meet requirement | Must meet requirement | N/A | BSF1 – Bidder Information Form |
| **Conflict of Interest** | No conflicts of interests as described in ITB 5.8. | Must meet requirement | Existing or intended Joint Venture or other association must meet requirement | Must meet requirement | N/A | Letter of Technical Offer and Letter of Financial Offer |
| **Ineligibility** | Not having been declared ineligible based on any of the criteria set forth in ITB 5.12. | Must meet requirement | Existing or intended Joint Venture or other association must meet requirement | Must meet requirement | N/A | Letter of Technical Offer and Letter of Financial Offer |
| **Government Owned Enterprise** | Compliance with conditions ITB 5.11 | Must meet requirement | Existing or intended Joint Venture or other association must meet requirement | Must meet requirement | N/A | BSF1.1 |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Historical Contract Non-Performance | | | | | | |
| **Sub-Factor** | **Requirement** | **Bidder** | | | | **Documentation Required** |
| **Single Entity** | **Joint Venture or Association** | | |
| **All members combined** | **Each member** | **At least one member** |
| **History of non-performing contracts** | Non-performance of a contract (including contracts terminated for cause) did not occur within the last five (5) years prior to the deadline for Bid submission, determined using all information on fully settled proceedings, litigation, arbitrations, actions, claims, investigations or disputes. A fully settled proceeding, litigation, arbitration, action, claim, investigation or dispute is one that has been resolved in accordance with the dispute resolution mechanism under the respective contract, and where all appeal instances available to the Bidder have been exhausted. | Must meet requirement by itself, including as member of past or existing Joint Venture or other association (not mandatory if in the past was as a member of a Joint Venture or other association with less than 20% role in the contract). | N/A | Must meet requirement by itself or as member of past or existing Joint Venture, or other association (not mandatory if in the past was as a member of a Joint Venture or other association with less than 20% role in the contract). | N/A | Form CON –1 |
| **Failure to Sign a Contract** | Failure to sign a contract after receiving a notice of award has not occurred in the past five years. Any deviation should be explained in the enclosed Contract Non-Performance form. | Must meet requirement | Must meet requirement | Must meet requirement | N/A | Form CON-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 Bidder’s net worth. | Must meet requirement by itself, including as member of past or existing Joint Venture or other association (not mandatory if in the past was as a member of a Joint Venture or other association with less than 20% role in the contract). | N/A | Must meet requirement by itself or as member of past or existing Joint Venture, or other association (not mandatory if in the past was as a member of a Joint Venture or other association with less than 20% role in the contract). | N/A | Form CON-1 |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Financial Situation[[2]](#footnote-2) | | | | | | |
| **Sub-Factor** | **Requirement** | **Bidder** | | | | **Documentation Required** |
|  | **Single Entity** | **Joint Venture or Association** | | |
| **All members combined** | **Each member** | **At least one member** |
| **Historical Financial Performance**[[3]](#footnote-3) | Submission of audited financial statements, including balance sheets, income statements and cash flow statements, or, if not required by the law of the Bidder’s country, other financial statements acceptable to the Purchaser, for the last three (3) years to demonstrate the current soundness of the Bidder’s financial position and its prospective long term profitability and to demonstrate:   1. Average coefficient of Current ratio (Current Assets / Current Liabilities) ≥ **0.9** 2. Average coefficient of Debt ratio (Total Debt / Total Assets) ≤ **0.8** | Must meet requirement | N/A | Must meet requirement | N/A | Form FIN-1 with attachments |
| **Annual Average Turnover** | Minimum average annual turnover of 5,000,000 EUR, calculated as total certified payments received for contracts in progress or completed, within the last three (3) years. Values to determine annual turnover are to be demonstrated in the audited financial statements (income statements) of the last three (3) years and are to be considered to be indicative. | Must meet requirement | Must meet requirement | Must meet  five percent (5%) of the requirement | Must meet  Fifty percent (50%) of the requirement | Form FIN-2 |
| **Financial Resources** | The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet:  (i) the following cash-flow requirement: 1.000.000 EUR, | Must meet requirement | Must meet requirement | Must meet  five percent (5%) of the requirement | Must meet  fifty percent (50%) of the requirement | Forms FIN-3 & Form FIN-4 |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Experience | | | | | | |
| **Sub-Factor** | **Requirement** | **Bidder** | | | | **Documentation Required** |
|  | **Single Entity** | **Joint Venture or Association** | | |
| **All members combined** | **Each member** | **At least one member** |
| **General Experience** | Experience under contracts in role of contractor, subcontractor, or management contractor for at least the last three (3) years prior to the Bid submission deadline. | Must meet requirement | N/A | Must meet requirement | N/A | Form EXP-1 |
| **Similar Experience** | Participation as contractor, management contractor, or subcontractor in at least 3 contracts within the last 10 years, at least one with a total value of at least 2 Mio EUR that have been successfully and substantially completed and that are similar to the proposed Good and Related Services.  The similarity is given for project which comprise: in-house heating installations, electronic metering (for heat, gas, electricity or water), metering/billing software implementation | Must meet requirement | Must meet requirement | N/A | Must meet requirement | Form EXP-2B |
| **Specific Experience in Key Activities** | For the above or other contracts executed during the period stipulated in Similar Experience section above, a minimum experience in the following key activities:  Installation of at least 1000 thermostatic radiator temperature control valves  Supply or installation of at least 4000 heat cost allocators  Supply or installation of at least 1000 heat meters  Implementation of at least one project with the reading and billing software.  The above criteria can be fulfilled either combined or with separate project references. | Must meet requirement | Must meet requirement | N/A | at least one member must cover the minimum requirement under sub criteria No. 4 completely. | Form EXP-3 |

|  |
| --- |
| Section IV. Technical and Financial Offer Bid Forms |
| Letter of Technical Offer  Form of Bid Security (Bank Guarantee)  Description of Goods  BSF1.1 - Government-Owned Enterprise Certification Form  BSF1 - Bidder Information Form  BSF2 - Party to Joint Venture/Association Information Form  BSF3 - Environmental, Social, Health and Safety Forms  BSF4 Manufacturer’s Authorization  FIN-1: Financial Situation  FIN-2: Average Annual Construction Turnover  FIN-3: Financial Resources  FIN-4: Current Contract Commitments / Works in Progress  Form CON–1 Historical Contract Non-Performance  BSF5 - References of MCC-Funded Contracts  Form EXP-1: General Experience  Form EXP-2 A: Similar Experience  Form EXP-2 B: Similar Experience  Form EXP-3: Specific Experience in Key Activities  BSF6 Compliance with Sanctions Certification Form  Sworn Statement 1: Installed Units  Sworn Statement 2: Gender and Social Inclusion  Sworn Statement 3: Facility for Spare Parts  Methodological Approach  Statement 4: Performance of the equipment  Letter of Financial Offer  Price Schedule for Goods  Price and Completion Schedule for Related Services |

# Letter of Technical Offer

Request for Bid No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Location, Date]**

To: Mr. or Ms.   
Procurement Director **[insert full legal name of the MCA Entity]**

Address:

Email:

Dear Sirs,

**Re: [insert title of Bid]   
Bidding Document Ref: [insert reference as shown on cover page]**

We, the undersigned, offer to provide the Technical Offer for the above-mentioned Bid as in accordance with your Bidding Document **[insert title]** dated **[insert date]**.

We are hereby submitting our Technical Offer in a separate and clearly marked inner envelope/inner parcel. Our Financial Offer is submitted in a separate and clearly marked inner envelope/inner parcel. Both the Technical Offer and the Financial Offer are submitted at the same time within an outer envelope / outer parcel.

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

We comply with the requirements of ITB 5 of the Bidding Document, as applicable.

Any subcontractors and suppliers do or will comply with the requirements of ITB 5 of the Bidding Document, as applicable.

We are not participating, as a Bidder or as a subcontractor, in more than one Bid in this bidding process.

Our Technical Offer is binding upon us.

We understand you are not bound to accept any Technical Offer 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 Bidder]** |  |
| **[Address of Bidder]** |  |

Annexes:

1. Power of Attorney demonstrating that the person signing has been duly authorized to sign the Technical Offer on behalf of the Bidder;
2. Letter(s) of Incorporation (or other documents indicating legal status); and
3. Joint Venture/Association Agreements (if applicable, but without showing any Financial Offer information).

# Form of Bid Security (Bank Guarantee)

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

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

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

**Date: [insert date]**

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

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

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

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

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

1. has withdrawn its Bid during the period of Bid validity **[insert dates of Bid validity]**, specified by the Bidder in the Bid Submission Form, except as provided in the Instructions to Bidders, Clause 22.2; or
2. If the Bidder, having been notified that it has submitted the Bid that provides the best value does not accept the correction of errors in its Bid by the Purchaser, pursuant to ITB Clause 32; or
3. If the Bidder, having been notified of the acceptance of its Bid by the Purchaser, fails within the specified time to:

furnish the Performance Security, in accordance with GCC Clause 16 and as described in ITB Clause 42, or

execute the Contract, in accordance with ITB Clause 41.

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

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

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

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

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

# Description of Goods

|  |
| --- |
| To establish the conformity of the Goods and Related Services to the Bidding Document, the Bidder shall furnish as part of its Technical Offer the documentary evidence that the Goods conform to the technical specifications, including all requirements and standards specified in Section V. Schedule of Requirements.  The documentary evidence may be in the form of literature, drawings or data, and shall consist of a **detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services**, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, including all requirements and standards, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of Requirements.  The Bidder shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods following commencement of the use of the Goods by the Purchaser. Unless specified otherwise in the BDS and Section III. Qualification and Evaluation Criteria, these prices shall not be included in the bid evaluation.  Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Schedule of Requirements, are intended to be descriptive only and not restrictive. A Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to Purchaser’s satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements. |

# BSF 1.1 - Government-Owned Enterprise Certification Form

Government-Owned Enterprises are not eligible to compete for MCC-funded contracts for goods or works. Accordingly, GOEs (i) may not be party to any MCC-funded contract for goods or works procured through an open solicitation process, limited bidding, direct contracting, or sole source selection; and (ii) may not be pre-qualified or shortlisted for any MCC-funded contract anticipated to be procured through these means.

This prohibition does not apply to Government-owned Force Account units or Government-owned educational institutions and research centers, or any statistical, mapping or other technical entities not formed primarily for a commercial or business purpose, or where a waiver is granted by MCC in accordance with Part 7 of MCC’s Program Procurement Guidelines. The full policy is available for your review on the Compact Procurement Guidelines page at the MCC Website ([www.mcc.gov/ppg](http://www.mcc.gov/ppg)). As part of the eligibility verification for this procurement, **please fill in the form below to indicate the status of your entity.** The Certification Form shall be furnished with the Bid REGARDLESS OF THE STATUS OF YOUR ENTITY.

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

⬥⬥⬥⬥⬥

**CERTIFICATION**

**Full Legal Name of Bidder**:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Yes □ No □

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

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

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

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

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

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

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

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

Yes □ No □

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

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

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

Participants are advised that:

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

I hereby certify that the information provided above is true and correct in all material respects and understand that any material misstatement, misrepresentation or failure to provide the information requested in this certification may be deemed a “fraudulent practice” for purposes of 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

# BSF 1 - Bidder Information Form

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Bid Ref: XXXXXXXXXXXXXXXXX**

|  |  |  |
| --- | --- | --- |
| **1. Constitution or Bidder’s legal status** | | |
|  | Place of registration |  |
|  | Principal place of business |  |
| **2. Legal name of each party of the joint venture/association (if applicable)** | | |
|  | *[insert legal name of each party in joint venture/association and complete Form BSF5: Party to Joint Venture/Association Information Form below for each joint venture/association party]* | |
| **3. Attached are copies of:** | | |
| * Articles of incorporation or registration of the Bidder named in 1 above; demonstrating the Bidder’s eligibility in accordance with ITB Clause 5; * Letter of intent to form joint venture/association or joint venture/association agreement, if applicable, in accordance with ITB Sub-Clause 5.3; * Proper authority of the signatory of the Bidder in accordance with ITB Sub-Clause 23.1; * Government-Owned Enterprise Certification Form [BSF 1.1]   “Tick” the boxes and attach documents to the Bid. | | |

This information shall not be incorporated into the Contract. The Bidder is to adapt and extend this form as necessary. Pertinent sections of attached documents should be translated into English.

# BSF 2 - Party to Joint Venture/Association Information Form

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Bid Ref: XXXXXXXXXXXXXXXXX**

|  |  |
| --- | --- |
| **1. Constitution or joint venture/association member’s legal status** | |
| Place of registration |  |
| Principal place of business |  |
| **2. Attached are copies of original documents of:** | |
| * Articles of incorporation or registration of the entity named in 1 above; demonstrating the entity’s eligibility in accordance with ITB Clause 5; * Letter of intent to form joint venture/association or joint venture/association agreement, if applicable, in accordance with ITB Sub-Clause 5.3; * Proper authority of the signatory of the entity named in 1 above in the same manner as contemplated for Bidders in ITB Sub-Clause 23.1; * Government-Owned Enterprise Certification Form [BSF 1.1]   “Tick” the boxes and attach documents to the Bid. | |

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

Attach the agreement among all members of the joint venture/association (and which is legally binding on all members), which shows that:

1. all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
2. one of the members shall be nominated as being in charge, authorized to incur liabilities and receive instructions for and on behalf of all members of the joint venture/association; and
3. the execution of the entire Contract, including payment, shall be done exclusively with the member in charge.

# BSF 3 - Environmental, Social, Health and Safety Forms

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Bid Ref: XXXXXXXXXXXXXXXXX**

We, the undersigned, declare that:

1. The attached health and safety (“H&S”) data sheets, licenses, permits or other documents as required by Section V. Schedule of Requirements (SR 6) are current and valid; and,
2. the attached environmental and social permits, licenses or other documents as required by Section V. Schedule of Requirements (SR 6) are current and valid.

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

# BSF 4 - Manufacturer’s Authorization

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Bid Ref: XXXXXXXXXXXXXXXXX**

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

WHEREAS

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

THEREFORE, we do hereby

1. Authorize *[insert name of Bidder]* to submit a Bid in response to the Invitation for Bids indicated above. The purpose of such Bid is to provide the following Goods: *[insert description of Goods]* manufactured by us, and to subsequently negotiate and sign the Contract for the supply of such Goods.

AND

1. Extend our full guarantee and warranty in accordance with Clause 29 of the General Conditions of Contract, with respect to the Goods offered in the Bid.

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

# FIN-1: Financial Situation

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

|  |  |  |
| --- | --- | --- |
| **Financial Data for Previous 3 Years [EUR Equivalent]** | | |
| **Year 1:** | **Year 2:** | **Year 3:** |

**Information from Balance Sheet**

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

**Information from Income Statement**

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

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

**Financial Ratios**

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

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

# FIN-2: Average Annual Turnover

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Annual Turnover Data for the Last 3 Years** | | | |
| **Year** | **Amount**  **Currency** | **Exchange**  **Rate** | **EUR €**  **Equivalent** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| **Average Annual Construction Turnover** | | |  |

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

# FIN-3: Financial Resources

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

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

# FIN-4: Current Contract Commitments

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

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

# Form CON–1 Historical Contract Non-Performance

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

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

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

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

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Non-Performing Contracts in accordance with Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements** | | | |
| ◻ Contract non-performance did not occur during the five years prior to the deadline for Bid submission in accordance with **Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements)**, Sub-Factor 2.2.1.  **OR**  ◻ Contract(s) not performed during the five years prior to the deadline for Bid submission in accordance with **Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements)**, Sub-Factor 2.2.1. | | | |
| **Year** | **Non performed portion of contract** | **Contract Identification** | **Total Contract Amount (current value, EUR € equivalent)** |
| **[insert year]** | **[insert amount and percentage]** | Contract identification: **[indicate complete contract name, number, and any other identification]**  Name of institution: **[insert full name]**  Address of institution: **[insert street/city/country]**  Reason(s) for non-performance: **[indicate main reason(s)]** | **[insert amount]** |

|  |
| --- |
| **Failure to Sign a Contract, in accordance with Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements** |
| No failure to sign a contract in accordance with Sub-Factor 2.2.2 of **Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements**  OR   * Failure to sign a contract in accordance with Sub-Factor 2.2.2 of **Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements** |
| Failure to Sign Contract  In the event of failure to sign a contract, clarify/explain your situation according to Sub-Factor 2.2.2 of Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements |

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

|  |  |  |
| --- | --- | --- |
| **Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes in accordance with Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements**  (each member of a JV/association making up a Bidder must complete this table) | | |
| **Provide information on current or past proceedings, litigation, arbitration, actions, claims, investigations or disputes over the last five (5) years as shown in the form below in accordance with Sub-Factor 2.2.3 of Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements.**  The Bidder, or a related company or entity, is currently, or within the past five (5) years has been, involved in any proceeding, litigation, arbitration, action, claim, investigation or dispute the process or outcome of which the Employer could reasonably interpret may impact or have the potential to impact the financial condition of the Bidder in a manner that may adversely affect the Bidder’s ability to satisfy any of its obligations under the Contract: | | |
| ◻ No  **OR** ◻ Yes  **If Yes, Describe:** | | |
| **Year:** | **Matter in Dispute:** | **Value of Award (Actual or Potential) Against Consultant in EUR € Equivalent:** |

# BSF 5 - References of MCC-Funded Contracts

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Contracts with MCC** | | | |
| **Contract Name and Number** | **Role in Contract** | **Total Contract Amount** | **Purchaser Name and Address** |
|  |  |  |  |
|  |  |  |  |
| **Contracts with MCA-Entities** | | | |
| **Contract Name and Number** | **Role in Contract** | **Total Contract Amount** | **Purchaser Name and Address** |
|  |  |  |  |
|  |  |  |  |

# Form EXP-1: General Experience

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

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **General Construction Experience** | | | | |
| **Starting**  **Month**  **Year** | **Ending**  **Month**  **Year** | **Years** | **Contract Identification and Name**  **Name and Address of Employer**  **Brief Description of the Works Executed by the Bidder/Member of a JV/Association making up the Bidder** | **Role of Bidder/Member of a JV/Association making up the Bidder** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

# Form EXP-2 A: Similar Experience

Fill in one (1) form per contract.

|  |  |  |  |
| --- | --- | --- | --- |
| **Contract of Similar Size and Nature** | | | |
| **Contract No . . . . . . of . . . . . .** | **Contract Identification** |  | |
| **Award Date** |  | **Completion Date** |  |
| **Role in Contract** | * **Contractor** | * **Management Contractor** | * **Subcontractor** |
| **Total Contract Amount** | **EUR €** | | |
| **If member of a JV or other association, or a subcontractor, specify participation of total contract amount** | **Percent of Total** | **Amount** | |
| **Employer’s Name**  **Address**  **Telephone/Fax Number**  **E-mail** |  | | |
| **Description of the similarity with the Works requirements** | | | |
|  |  | | |

# Form EXP-2 B: Similar Experience

Fill in one (1) form per contract.

|  |  |  |  |
| --- | --- | --- | --- |
| **Contract of Similar Size and Nature** | | | |
| **Contract No . . . . . . of . . . . . .** | **Contract Identification** |  | |
| **Award Date** |  | **Completion Date** |  |
| **Role in Contract** | * **Contractor** | * **Management Contractor** | * **Subcontractor** |
| **Total Contract Amount** | **EUR €** | | |
| **If member of a JV or other association, or a subcontractor, specify participation of total contract amount** | **Percent of Total** | **Amount** | |
| **Employer’s Name**  **Address**  **Telephone/Fax Number**  **E-mail** |  | | |
| **Description of the similarity with the Works requirements** | | | |
|  |  | | |

# Form EXP-3: Specific Experience in Key Activities

Fill in one (1) form per contract.

|  |  |  |  |
| --- | --- | --- | --- |
| **Contract with Specific Key Activities** | | | |
| **Contract No . . . . . . of . . . . . .** | **Contract Identification** |  | |
| **Award Date** |  | **Completion Date** |  |
| **Role in Contract** | * **Contractor** | * **Management Contractor** | * **Subcontractor** |
| **Total Contract Amount** | **EUR €** | | |
| **If member of a JV or other association, or a subcontractor, specify participation of total contract amount** | **Percent of Total** | **Amount** | |
| **Employer’s Name**  **Address**  **Telephone Number**  **Fax Number**  **E-mail** |  | | |
| **Description of the key activities in accordance with the Specific Experience** | | | |
|  |  | | |

# BSF 6 - Compliance with Sanctions Certification Form

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

# Sworn Statement 1: Installed Units

Request for Bid No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Location, Date]**

To: Mr. or Ms.   
Procurement Director **[insert full legal name of the MCA Entity]**

Address:

Email:

Dear Madam/ Sir,

We, [Name of the Bidder] declare that the information provided below is real and if requested by the Purchaser, the necessary evidence will be provided.

|  |  |  |  |
| --- | --- | --- | --- |
|  | Heat meters | Heat cost allocators | Thermostatic radiator control valves |
| Installed unit |  |  |  |

Sincerely,

Name of the Bidder

Name of the signatory person

[Signature]

# Sworn Statement 2: Gender and Social Inclusion

Request for Bid No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Location, Date]**

To: Mr. or Ms.   
Procurement Director **[insert full legal name of the MCA Entity]**

Address:

Email:

Dear Madam/ Sir,

We, [Name of the Bidder] declare that the information provided below is real and if requested by the Purchaser, the necessary evidence will be provided.

|  |  |  |  |
| --- | --- | --- | --- |
|  | Total number of Employees | Number Women Employees | Percentage [Total number of Employees/ Number of Women Employees] |
| [Date] |  |  |  |

Sincerely,

Name of the Bidder

Name of the signatory person

[Signature]

# Sworn Statement 3: Facility Spare Parts

Request for Bid No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Location, Date]**

To: Mr. or Ms.   
Procurement Director **[insert full legal name of the MCA Entity]**

Address:

Email:

Dear Madam/ Sir,

We, [Name of the Bidder] declare that [have/ intendeds to set up/ does not intend to set up] a spare part and after sales service facility in Kosovo.

Sincerely,

Name of the Bidder

Name of the signatory person

[Signature]

# Methodological Approach

The Bidder shall provide a Methodological Approach for:

*a) Technological solutions for the metering systems required under technical specifications of the Supply Requirements document (chapter 7) related to data communication, software, SCADA Integration.*

*b) Reading/billing platform (user friendliness, transparency, alarm reporting, signal to Termokos for improper usage, building and flat consumption analysis for end users, daily data reading.*

*c) System Compatibility with wider smart city solutions and/or other public utilities.*

*Documentation required: Methodological Approach*

# Statement 4: Performance of the equipment

[This Statement will become integral part of the Contract]

Request for Bid No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Location, Date]**

To: Mr. or Ms.   
Procurement Director **[insert full legal name of the MCA Entity]**

Address:

Email:

Dear Madam/ Sir,

We, [Name of the Bidder] declare that we will provide the following equipment during the implementation of the project:

[Maximum two to tick]

*🞎 Thermostat with liquid filling*

*🞎 Thermostat with gas filling*

*🞎 Thermostat with normal sensor*

*🞎 Electronic thermostat with Bluetooth/WLAN*

Add information for other criteria….

Sincerely,

Name of the Bidder

Name of the signatory person

[Signature]

# Letter of Financial Offer

Invitation for Bid No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Lot #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

To: The Purchaser/Procurement Agent

Address:

Ladies and Gentlemen:

We, the undersigned, declare and certify that:

1. We have examined and we have no reservations to the Bidding Document, including addenda thereto issued in accordance with the Instructions to Bidders.
2. In accordance with the Conditions of Contract, Purchaser’s Requirements and Price Schedules for the provisions of the above-named Goods and Related Services, we offer to deliver such Goods and Related Services and remedy any defects therein in conformity with the Conditions of Contract, Purchaser’s Requirement’s and Price Schedules for the sum of **[insert amount in numbers and words].**
3. In case we are awarded another lot in addition to this lot, we will provide a discount of **[insert amount of discount in numbers and words]** to be applied as follows:**[describe the methodology for applying the discount.]**
4. We acknowledge notice of the MCC Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC AFC Policy”). We have taken steps to ensure that no person acting for us or on our behalf has engaged in any corrupt or fraudulent practices described in ITB 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—
5. Those prices;
6. The intention to submit an offer; or
7. The methods or factors used to calculate the prices offered.
   1. The prices in this offer have not been and will not be knowingly disclosed by us, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
   2. No attempt has been made or will be made by us to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.
8. We undertake, if our Bid is accepted, to obtain a Performance Security in accordance with GCC Clause 16 and as described in ITB Clause 42 for the due performance of the Contract.
9. Our Bid shall be valid for a period of **[insert number]** days from the date fixed for the bid submission deadline in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
10. Unless and until a formal Contract is prepared and executed, this Bid, together with your written acceptance thereof in the form of a signed Letter of Acceptance delivered by you to us, shall constitute a binding contract between us.
11. We understand that you are not bound to accept the lowest or any Bid you may receive.
12. We comply with the requirements of ITB 5 of the Bidding Document, as applicable.
13. Any subcontractors and suppliers do or will comply with the requirements of ITB 5 of the Bidding Document, as applicable.
14. Weare not participating, as a Bidder or as a subcontractor, in more than one Bid in this bidding process.
15. We have taken steps to ensure that no person acting for us or on our behalf has engaged in any corrupt or fraudulent practices described in ITB 3.
16. Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to Contract execution if we are awarded the Contract, are listed below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name and address of agent |  | Amount and currency |  | Purpose of commission or gratuity |
|  |  |  |  |  |
|  |  |  |  |  |
| (if none, state “none”) | | | | |

1. We have taken steps to ensure that no person acting for us or on our behalf will engage in bribery.
2. We are not engaged in, facilitating, or allowing any of the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines (Combatting Trafficking in Persons) and will not engage in, facilitate, or allow any such prohibited activities for the duration of the Contract. Further, we hereby provide our assurance that the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines will not be tolerated on the part of our employees, or any subcontractor or supplier, or their respective employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.
3. We understand and accept without condition that, in accordance with ITB 40 any challenge or protest to the process or results of this procurement may be brought only through the Purchaser’s Bid Challenge System (“BCS”).

Dated this day of 20

Signature In the capacity of

Duly authorized to sign Bids for and on behalf of

**[In block letters or typed]**

Address:

Witness:

Address:

Occupation:

**Price Schedule for Goods and Related Services**

The Bidder shall submit **in electronic format only** (readable MS Excel) completed Price Schedule for Goods and Related Services – see Annex 1 to Bidding Documents.



**PART 2:**

**SUPPLY REQUIREMENTS**

|  |
| --- |
| Section V. Schedule of Requirements |
| **SR 1 - List of Goods and Delivery Schedule**  **SR 2 - List of Related Services and Completion Schedule**  **SR 3 - Technical Specifications**  **SR 4 - Drawings**  **SR 5 - Inspections and Tests**  **SR 6 - Environmental, Health and Safety Procedures** |

# SR 1 - List of Goods and Delivery Schedule

The Bidder shall submit **in electronic format only** (readable MS Excel) completed SR1 List of Goods and Delivery Schedule – see Annex 3 to Bidding Documents.

# 

# SR 2 - List of Related Services and Completion Schedule

The Bidder shall submit **in electronic format only** (readable MS Excel) completed SR2 List of Related Services and Completion Schedule – see Annex 3 to Bidding Documents.

# SR 3 - Technical Specifications

*Please see Annex 2 attached to Bidding Documents.*

**

# SR 4 - Drawings

*Please see Annex 3 attached to Bidding Documents (see extract below):*

**

# SR 5 - Inspections and Tests

*Please see Annex 2 attached to Bidding Documents.*

# SR 6 - Environmental, Health and Safety Procedures

*Please see Annex 2 and Annex H attached to Bidding Documents.*



**PART 3:**

**CONDITIONS OF CONTRACT AND CONTRACT FORMS**

|  |
| --- |
| Section VI. Contract Notices and Agreement |

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

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

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

**[date]**

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

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

**WITH THIS NOTICE.**

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

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Bid Ref: XXXXXXXXXXXXXXXXX**

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

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

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

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

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

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

**[date]**

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

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Bid Ref: XXXXXXXXXXXXXXXXX**

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

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

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

Attachment: Contract

|  |
| --- |
| Contract Agreement |
| This CONTRACT AGREEMENT (this “Contract”) is made as of the **[day]** of **[month]**, **[year]**, between **[full legal name of the MCA Entity]** (the “Purchaser”), on the one part, and **[full legal name of Supplier]** (the “Supplier”), on the other part.  ***[Note: If the Supplier consists of more than one entity, the following should be used]***  This CONTRACT AGREEMENT (this “Contract”) made as of the **[day]** of **[month]**, **[year]**, between **[full legal name of the MCA Entity]** (the “Purchaser”), on the one part, and **[full legal name of lead Supplier]** (the “Supplier”) in **[joint venture / association]** with **[list names of each joint venture/association entity]**, on the other part, each of which will be jointly and severally liable to thePurchaser for all of the Supplier’s obligations under this Contract and is deemed to be included in any reference to the term “Supplier.”  **RECITALS**  WHEREAS,   1. The Millennium Challenge Corporation (“MCC”) and the Government of **[Country]** (the “Government”) have entered into a Millennium Challenge Threshold for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in **[Country]** on **[insert date]** (the “Threshold”) in the amount of approximately [**insert amount**] (“MCC Funding”). The Government, acting through the Purchaser, intends to apply a portion of the proceeds of MCC Funding to eligible payments under this Contract. Payments made under this Contract will be subject, in all respects, to the terms and conditions of the Threshold and related documents, including restrictions on the use, and conditions to disbursement, of MCC Funding. No party other than the Government and the Purchasershall derive any rights from the Threshold or have any claim to the proceeds of MCC Funding; and 2. The Purchaser invited bids for the provision of certain goods and related services identified in this Contract and has accepted a bid by the Supplier for the supply of those goods and related services on the terms and conditions set forth in this Contract.   NOW THEREFORE, the parties hereto agree as follows:   1. In consideration of the payments to be made by the Purchaser to the Supplier as set forth in this Contract, the Supplier hereby covenants with the Purchaser to provide the Goods and Related Services and to remedy defects therein in conformity in all respects with the provisions of this Contract. 2. Subject to the terms of this Contract, the Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Related Services and the remedying of defects therein, the Contract Price (as defined below) or such other sum as may become payable under the provisions of this Contract at the times and in the manner prescribed by this Contract.   IN WITNESS whereof the parties hereto have caused this Contract to be executed in accordance with the laws of **[country]** on the day, month and year first indicated above.   |  |  | | --- | --- | | For **[full legal name of the Purchaser]**: | For **[full legal name of the Supplier]**: | | Signature | Signature | | Name | Name | | Witnessed By | Witnessed By |   ***[Note: If the Supplier consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]***  For and on behalf of each of the Members of the Supplier  **[Name of Member]**    **[Authorized Representative]**  **[Name of Member]**    **[Authorized Representative]** |

|  |  |
| --- | --- |
| Section VII. General Conditions of Contract | |
| Definitions | * + - 1. Capitalized terms used in this Contract and not otherwise defined have the meanings given such terms in the Threshold or related document. Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:          1. “Acceptance” means the acceptance by the Purchaser of the Goods and Related Services (or any portion of the Goods where the Contract provides for acceptance of the Goods in parts), in accordance with GCC Clause 46.          2. “Applicable Law” has the meaning given the term **in the SCC**.          3. “Associate” means any entity that is a member of the Association that forms the Supplier. A Subcontractor is not an Associate.          4. “Association” or “association” or “Joint Venture” or “joint venture” means an association of entities that forms the Supplier, with or without a legal status distinct from that of its members.          5. “Bid” means the bid for the provision of the Goods and the Related Services submitted by the Supplier and accepted by the Purchaser and that forms an integral part of this Contract.          6. “Bidding Document” has the meaning given the term **in the SCC**.          7. “Threshold” has the meaning given the term in the recital clauses to the Contract Agreement.          8. “Completion” means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in this Contract.          9. “Contract” means this agreement entered into between the Purchaser and the Supplier, to provide the Goods and Related Services and consists of the documents listed in GCC Sub-Clause 2.7, as the same may be amended, modified, or supplemented from time to time in accordance with the terms of this agreement.          10. “Contract Price” means the price to be paid for the provision of the Goods and Related Services, in accordance with GCC Sub-Clause 13.1.          11. “day” means a calendar day.          12. “Delivery” means the transfer of ownership of the Goods from the Supplier to the Purchaser in accordance with the terms and conditions set forth in this Contract.          13. “EHS” has the meaning given the term in GCC Sub-Clause 20.1          14. “Eligible Countries” has the meaning given such term in GCC Sub-Clause 7.1.          15. “Final Destination” has the meaning given the term **in the SCC**.          16. "Force Majeure" has the meaning given the term in GCC Clause 33.1.          17. “GCC” means these General Conditions of Contract.          18. “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under this Contract.          19. “Government” has the meaning given the term in the recital clauses to the Contract Agreement.          20. “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability.          21. “MCA Country” has the meaning given the term **in the SCC**.          22. “MCC” has the meaning given the term in the recital clauses to this Contract.          23. “MCC Funding” has the meaning given the term in the recital clauses to this Contract.          24. “MCC Program Procurement Guidelines” means the Millennium Challenge Corporation Program Procurement Guidelines posted on the MCC Website, as may be amended from time to time.          25. “Notification of Award” means the notice sent from the Purchaser to the Supplier notifying the Supplier that it was the successful bidder and that its Bid had been accepted and that forms an integral part of this Contract.          26. “Party” means the Purchaser or the Supplier, as the case may be, and “Parties” means both of them.          27. ‘Primary Suppliers’ means any person or legal entity who provides goods or materials essential for the contract          28. “Purchaser” has the meaning given the term in the **in the SCC**.          29. “Related Services” means the services incidental to the supply of the Goods, such as insurance, installation, training and initial maintenance and other similar obligations of the Supplier under this Contract.          30. “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented.          31. “Schedule of Requirements” means the Schedule of Requirements (including the technical requirements) set forth in Section V of the Bidding Document.          32. “Subcontractor” means any person or entity to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier in accordance with the terms of this Contract.          33. “Supplier” has the meaning given the term in the initial paragraph to this Contract.          34. “Tax” and “Taxes” have the meanings given the terms in the Threshold or related agreement.          35. “Trafficking in Persons” has the meaning given in GCC Clause 35. |
| Interpretation and General Matters | * + - 1. Unless otherwise indicated, throughout this Contract:          1. “confirmation” means confirmation in writing;          2. “in writing” means communicated in written form (e.g., by mail, e-mail, or facsimile) delivered with proof of receipt;          3. except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular;          4. the feminine means the masculine and vice versa; and          5. the headings are for reference only and shall not limit, alter or affect the meaning of this Contract |
| **Incoterms** | * + - 1. Unless inconsistent with any provision of this Contract, the meaning of any trade term and the rights and obligations of the Parties thereunder shall be as prescribed by the current edition of Incoterms as **specified in the SCC**. Incoterms are the international rules for interpreting trade terms published by the International Chamber of Commerce, 38 Cours Albert 1er, 75008 Paris, France. |
| **Entire Agreement** | * + - 1. This Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the Parties made prior to the date of this Contract. No agent or representative of either Party has the authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth in this Contract. |
| **Amendment** | * + - 1. The following shall apply with respect to any amendment or other variation of this Contract.          1. No amendment or other variation of this Contract shall be valid unless it is in writing, is dated, expressly refers to this Contract, and is signed by a duly authorized representative of each Party to this Contract.          2. The prior written consent of MCC is required in the case of any amendment or other variation of this Contract that (i) increases the original contract value of the Contract by more than ten percent (10%), or by three percent (3%) thereafter, or (ii) extends the original Contract duration by twenty-five percent (25%) or more. |
| **Waivers, Forbearance, Etc.** | * + - 1. The following shall apply with respect to any waivers, forbearance, or similar action taken under this Contract.          1. Any waiver of a Party’s or MCC’s rights, powers, or remedies under this Contract must be in writing, dated, and signed by an authorized representative of the Party (or MCC) granting such waiver, and must specify the terms under which the waiver is being granted.          2. No relaxation, forbearance, delay, or indulgence by either Party or MCC, as the case may be, in enforcing any of the terms and conditions of this Contract or the granting of time by either Party or MCC to the other shall prejudice, affect, or restrict the rights of that Party or MCC under this Contract, neither shall any waiver by either Party or MCC of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract. |
| **Severability** | * + - 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:          1. the Agreement consisting of the initial paragraphs, recitals and other clauses set forth immediately prior to the GCC and including the signatures of the Purchaser and the Supplier;          2. the SCC and Annex A to this Contract;          3. the GCC;          4. the Notification of Award;          5. the Supplier’s Bid;          6. the Specifications;          7. the Drawings;          8. the Schedule of Requirements; and          9. any other document **listed in the SCC** as forming part of this Contract. |
| Fraud and Corruption Requirements | * + - 1. MCC requires that the Purchaser and any other beneficiaries of MCC Funding, including Bidders, Suppliers, contractors and Subcontractors under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts.   MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC’s AFC Policy”) is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC’s AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC’s AFC Policy and certify to the MCA Entity that they have acceptable commitments and procedures in place to address the potential for fraudulent and corrupt practices.  Any entity receiving an award (including, but not limited to, both contracts and grants) of MCC Funding of over $500,000 will be required to certify to the MCA Entity that they will adopt and implement a code of business ethics and conduct within 90 days of contract award. Such entity will also include the substance of this clause in subcontracts that have a value in excess of EUR €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:   “***coercion***” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to improperly influence the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including such actions taken in connection with a procurement process or the execution of a contract.  “***collusion***” means a tacit or explicit agreement between two or more parties to engage in coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice, including any such agreement designed to fix, stabilize, or manipulate prices or to otherwise deprive the MCA Entity of the benefits of free and open competition.  “***corruption***” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to 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.  “***fraud***” means any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including any act or omission designed to influence (or attempt to influence) a selection process or the execution of a contract, or to avoid (or attempt to avoid) an obligation.  “***obstruction of investigation into allegations of fraud or corruption***” means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC Funding: (a) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice; or (b) that threatens, harasses, or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; or (c) that is intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or the Office of the Inspector General (OIG) responsible for MCC provided under a Threshold, Threshold Program agreement, or related agreements. “  “prohibited practice” means any action that violates Section E (Compliance with Anti-Corruption Legislation), Section F (Compliance with Anti-Money Laundering Legislation), and Section G (Compliance with Terrorist Financing Legislation and Other Restrictions) of the Annex A (Additional Provisions) attached to this the Contract.   * + - * 1. MCC may cancel any portion or all of the MCC Funding allocated to this Contract if it determines at any time that representatives of the Purchaser, the Supplier or any other beneficiary of the MCC Funding were engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practice during the selection process or the performance of this Contract, or another MCC-funded contract, without the Purchaser, the Supplier or such other beneficiary having taken timely and appropriate action satisfactory to MCC to remedy the situation.         2. MCC and the Purchaser may pursue sanction of the Supplier, including declaring the Supplier ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract if at any time either MCC or the Purchaser determines that the Supplier has, directly or through an agent, engaged in any coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in performance of, this Contract or another MCC-funded contract.         3. If the Purchaser or MCC determines that the Supplier, any subcontractor, any of the Supplier’s personnelor any agent or affiliate of any of them has, directly or indirectly,engagedincoercion,collusion, corruption,fraud,obstruction of investigation into allegations of fraud or corruption, or prohibited practicesincompetingfor,or in the performance of, thisContract or another MCC-funded contract, then the Purchaser or MCC may, by notice, immediately terminate the Supplier’s employment under the Contract and the provisions of GCC 36shall apply. |
| Commissions and Fees | * + - 1. The Supplier shall disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution and performance of this Contract. The information disclosed must include at the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee. |
| Law and Language Governing the Contract | * + - 1. This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.       2. This Contract has been executed in the language(s) **specified in the SCC**. If the Contract is executed in both the English and anotherlanguage, the English language version shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. |
| Association | * + - 1. Where the Supplier is a joint venture or other association of more than one person or entity, all of the members of such joint venture or association shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of this Contract and designate the member **identified in the SCC** to act on their behalf in exercising all the Supplier’s rights and obligations toward the Purchaser under this Contract, including without limitation the receiving of instructions and payments from the Purchaser. The composition or the constitution of the joint venture or other association shall not be altered without the prior consent of the Purchaser in writing. |
| Eligibility | * + - 1. The Supplier and its Subcontractors shall at all times during the term of this Contract have the nationality of a country or territory eligible, in accordance with the Threshold, the MCC Program Procurement Guidelines and Annex A to this Contract (“Eligible Countries”). The Supplier or a Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.       2. All Goods and Related Services to be supplied under this Contract and financed from the Threshold shall have their origin in Eligible Countries.       3. For the purpose of this GCC Clause 7, “origin” means the place where the Goods have been mined, grown, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics, purposes or utility from its underlying components. With respect to the Related Services, the term “origin” means the place from which the Related Services are supplied. |
| Notices | * + - 1. Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address **specified in the SCC**, or sent by facsimile or electronic e-mail with confirmation, if sent during normal business hours of the recipient Party, unless the giving of notice is otherwise governed by Applicable Law.       2. A Party may change its address for receiving notice under this Contract by giving the other Party notice in writing of such change to the address **specified in the SCC**. |
| Settlement of Disputes | * + - 1. The Purchaser and the Supplier shall use their best efforts to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with this Contract.       2. If the Parties fail to resolve any disagreement or dispute in accordance with GCC Sub-Clause 9.1 within thirty (30) days after the receipt by one Party of the other Party’s request for such resolution, either Party may submit the disagreement or dispute in accordance with the provisions **specified in the SCC**. |
| Scope of Supply | * + - 1. The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.       2. Unless otherwise stipulated in this Contract, the Goods shall include all such items not specifically mentioned in this Contract but that can be reasonably inferred from this Contract as being required for attaining Delivery and Completion of the Goods and Related Services as if such items were expressly mentioned in this Contract. |
| Delivery and Documents | * + - 1. The Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are **specified in the SCC**. |
| Supplier’s Responsibilities | * + - 1. The Supplier shall supply all the Goods and Related Services included in the scope of supply in accordance with GCC Clause 10, and the Delivery and Completion Schedule, as per GCC Clause 11. |
| Contract Price | * + - 1. The contract price shall be as **specified in the SCC** (the “Contract Price”) subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to this Contract.       2. Prices charged by the Supplier for the Goods delivered and the Related Services performed under this Contract shall not vary from the prices quoted by the Supplier in its Bid, with the exception of any price adjustments **authorized in the SCC**. |
| Terms of Payment | * + - 1. This Contract Price, including any advance payments, if applicable, shall be paid as **specified in the SCC**.       2. The Supplier’s request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 11 and upon fulfillment of all other relevant obligations stipulated in this Contract.       3. Payments shall be made promptly by, or on behalf of, the Purchaser, no later than thirty (30) days after receipt by the Purchaser of an invoice or request for payment from the Supplier in form and substance satisfactory to the Purchaser.       4. The currency in which payments shall be made to the Supplier under this Contract shall be those in which the Bid price is expressed.       5. In the event that the Purchaser fails to pay the Supplier any payment by its respective due date or within the period **set forth in the SCC**, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the SCC, for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award. |
| Taxes and Duties | 1. Except as may be exempted pursuant to the Threshold or another agreement related to the Threshold, available in English at **https://millenniumkosovo.org/wp-content/uploads/2018/12/Kosovo-Threshold-Program-1.pdf**, the Supplier, its Subcontractors and their respective personnel may be subject to certain Taxes on amounts payable by the Purchaser under this Contract in accordance with Applicable Law (now or hereinafter in effect). The Supplier, each Subcontractor and their respective personnel shall pay all Taxes levied under Applicable Law. In no event shall the Purchaser be responsible for the payment or reimbursement of any Taxes. In the event that any Taxes are imposed on the Supplier, any Subcontractor or their respective personnel, the Contract Price shall not be adjusted to account for such Taxes. 2. The Supplier, any Subcontractor and their respective personnel, and their eligible dependents, shall follow the usual customs procedures of the MCA Country in importing property into the MCA Country. 3. If the Supplier, any Subcontractor or any of their respective personnel, or their eligible dependents, do not withdraw but dispose of any property in the MCA Country upon which customs duties or other Taxes have been exempted, the Supplier, the Subcontractor or such personnel, as the case may be, (i) shall bear such customs duties and other Taxes in conformity with Applicable Law, or (ii) shall reimburse such customs duties and Taxes tothe Purchaser if such customs duties and Taxes were paid bythe Purchaser at the time the property in question was brought into the MCA Country. 4. Without prejudice to the rights of the Supplier under this clause, the Supplier, the Subcontractors and their respective personnel will take reasonable steps as requested by the Purchaser or the Government with respect to the determination of the Tax status described in this GCC Clause 15. 5. If the Supplier is required to pay Taxes that are exempt under the Threshold or a related agreement, the Supplier shall promptly notify the Purchaser (or such agent or representative designated by the Purchaser) of any Taxes paid, and the Supplier shall cooperate with, and take such actions as may be requested by the Purchaser, MCC, or either of their agents or representatives, in seeking the prompt and proper reimbursement of such Taxes. 6. The Purchasershall use reasonable efforts to ensure that the Government provides the Supplier, the Subcontractors, and their respective personnel the exemptions from taxation applicable to such persons or entities, in accordance with the terms of the Threshold or related agreements. If the Purchaser fails to comply with its obligations under this paragraph, the Supplier shall have the right to terminate this Contract in accordance with GCC Sub-Clause 36.1(d). |
| Performance Security | * + - 1. The Supplier shall, within fourteen (28) days of the notification of contract award, provide a performance security for the due performance of this Contract in the amount **specified in the SCC**.       2. The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier’s failure to complete its obligations in accordance with the terms of this Contract.       3. The performance security shall be denominated in the currency of this Contract, and shall be in the form of an unconditional bank guarantee issued by a reputable bank located in Purchaser’s country or in an Eligible Country and in form and substance satisfactory to the Purchaser, substantially in the appropriate form included in Section VIII. Contract Forms, or another type of security **specified in the SCC**.       4. The performance security shall be discharged by the Purchaser and returned to the Supplier not later than twenty-eight (28) days following the date of completion of the Supplier’s performance obligations under this Contract, including any warranty obligations. |
| Copyright | * + - 1. The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party. |
| Confidential Information | * + - 1. The Purchaser and the Supplier shall keep confidential and shall not, without the prior written consent of the other Party, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other Party in connection with this Contract, whether such information has been furnished prior to, during or following completion or termination of this Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under this Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under this GCC Clause 18.       2. The Purchaser shall not use documents, data, and other information received from the Supplier for any purposes unrelated to this Contract. Similarly, the Supplier shall not use documents, data, and other information received from the Purchaser for any purpose other than the design, procurement, or other work and services required for the performance of this Contract.       3. The obligation of a Party under GCC Sub-Clauses 18.1 and 18.2 above, however, shall not apply to information that:          1. the Purchaser or the Supplier needs to share with MCC or other entities participating in the financing of this Contract or otherwise in accordance with the requirements of the Threshold or related documents;          2. now or hereafter enters the public domain through no fault of that Party;          3. can be proven to have been possessed by that Party at the time of disclosure and which information was not previously obtained, directly or indirectly, from the other Party;          4. otherwise lawfully becomes available to that Party from a third party that has no obligation of confidentiality; or          5. is required to be shared to comply with applicable law       4. The provisions of GCC Clause 18 shall survive completion or termination, for whatever reason, of this Contract. |
| Engagement of Staff and Labor | * + - 1. The Supplier shall adopt and implement human resources policies and procedures appropriate to its size and workforce that set out its approach to managing the Supplier’s Personnel. At a minimum, the Supplier shall provide all Supplier’s personnel with documented information that is clear and understandable 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 Supplier shall adopt recruitment, hiring and retention practices that support the employment of women and staff from diverse backgrounds.       3. The Supplier shall ensure that the employment terms and conditions of migrant workers are not influenced by their migrant status.       4. The Supplier shall provide a grievance mechanism for Supplier’s personnel, including Subcontractor staff, if a separate Subcontractor grievance mechanism does not exist, to raise workplace concerns. The Supplier shall inform its personnel of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve review by an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution to personnel for initiating or participating in a compliant under such a mechanism. The mechanism should also allow for anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under the Applicable Law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.       5. Where accommodation or welfare facilities are provided to Supplier’s personnel, the Supplier shall put in place and implement policies on the quality and management of such accommodation and the provision of such welfare facilities (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 Supplier’s personnel ). The accommodation and welfare facilities shall be provided in a manner consistent with the principles of non-discrimination and equal opportunity. Accommodation arrangements shall not restrict freedom of movement or of association, save that separate facilities should be provided for men and women. Sanitary and washing facilities should be provided in a manner that allow individuals’ privacy and safety. Additional summary guidance may be found here: <https://www.mcc.gov/resources/doc/guidance-accommodation-welfare-staff-and-labor> |
| Prohibition of Sexual Harassment | * + - 1. The Supplier including all Subcontractors and any Personnel, shall prohibit, and refrain from, sexual harassment behaviors directed at Threshold 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 Supplier 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 Supplier shall be responsible for ensuring that all Sub-Contractors and Personnel understand and operate in accordance the requirements of this Clause in order to assure a safe, respectful, and harassment free work environment. The MCA Entity may investigate (either directly or through a third party) allegations of sexual harassment as it determines appropriate. The Supplier shall fully cooperate with any investigation conducted by the MCA Entity regarding breach of this provision. The Supplier will ensure that any incident of sexual harassment investigated by the MCA Entity has been resolved to the MCA Entity and MCC’s satisfaction. |
| 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 Supplier shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. Personal characteristics include sex, race, nationality, ethnic, social and indigenous origin, religion or belief, disability, age, sexual orientation, and gender identity. The MCA Entity expects that the Supplier 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. |
| Subcontracting | * + - 1. The Supplier shall obtain prior approval in writing of the Purchaser before entering into a subcontract for the performance of any of its obligations under this Contract. The Supplier shall notify the Purchaser in writing of all subcontracts awarded under this Contract if not already specified in the Bid. Subcontracting shall in no event relieve the Supplier from any of its obligations, duties, responsibilities, or liabilities under this Contract.       2. Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.       3. The Supplier shall be responsible for monitoring compliance of Subcontractors and Primary Suppliers to the labor and working conditions outlined in the IFC Performance Standards in force from time to time.       4. The Supplier shall monitor its Primary Suppliers on an ongoing basis and, where there is a high risk of significant life-threatening situations related to the Primary Suppliers’ workers, the Supplier will introduce procedures and mitigation measures to ensure that Primary Suppliers are taking steps to prevent or to correct such life-threatening situations. Where a remedy is not possible, the Supplier shall shift its Primary Suppliers from which it obtains supplies for this contract. Additional summary guidance may be found here: <https://www.mcc.gov/resources/doc/guidance-on-supply-chains> |
| Specifications and Standards | * + - 1. The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards, including environmental, health and safety (“EHS”) requirements, specified in the Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods’ and Related Services’ country(ies) of origin.       2. The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.       3. Wherever references are made in this Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 32. |
| Packing and Documents | * + - 1. The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their Final Destination. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods’ Final Destination and the absence of heavy handling facilities at all points in transit.       2. The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in this Contract, including additional requirements, if any, **specified in the SCC**, and in any other instructions ordered by the Purchaser. |
| Insurance | * + - 1. Unless otherwise **specified in the SCC**, the Goods supplied under this Contract shall be fully insured, in a freely convertible currency from an Eligible Country, against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms. |
| Transportation | * + - 1. Unless otherwise **specified in the SCC**, responsibility for arranging transportation of the Goods shall be in accordance with the Incoterms and as specified in the Schedule of Requirements. |
| Inspections and Tests | * + - 1. The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in the Schedule of Requirements.       2. The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods’ Final Destination, or in another place in Purchaser’s country as **specified in the SCC**. Subject to GCC Sub-Clause 27.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.       3. The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 27.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.       4. Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.       5. The Purchaser may require the Supplier to carry out any test and/or inspection not required by this Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under this Contract, provided that the Supplier’s reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to this Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier’s performance of its other obligations under this Contract, due allowance will be made in respect of the delivery dates and completion dates and the other obligations so affected.       6. The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.       7. The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications, including EHS requirements. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-Clause 27.4.       8. The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Sub-Clause 27.6, shall release the Supplier from any warranties or other obligations under this Contract. |
| Liquidated Damages | * + - 1. Except as provided under GCC Clause 30, if the Supplier fails to deliver any or all of the Goods or perform the Related Services within the period specified in this Contract, the Purchaser may without prejudice to any and all of its other remedies under this Contract, or applicable law, deduct from this Contract Price, as liquidated damages, a sum equivalent to the percentage **specified in the SCC** of this Contract Price for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in the SCC. Once the maximum is reached, the Purchaser may terminate this Contract pursuant to GCC Clause 36. |
| Warranty | * + - 1. The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in this Contract.       2. Subject to GCC Sub-Clause 23.2, the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, or workmanship that may develop under normal use in the conditions prevailing in the Purchaser’s country.       3. Unless otherwise **specified in the SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the Final Destination, or for eighteen (18) months after the date of shipment from or loading in the country of origin, whichever period concludes earlier. The warranty period for Goods that were repaired or replaced during the warranty period shall be twelve (12) months from the date on which such Goods were repaired or replaced.       4. The Purchaser shall give notice to the Supplier stating the nature of any defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.       5. Upon receipt of such notice, the Supplier shall, within the period **specified in the SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.       6. If having been notified, the Supplier fails to remedy the defect within the period specified in SCC 29.5; the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier’s risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under this Contract or applicable law. |
| Patent Indemnity | * + - 1. The Supplier shall, subject to the Purchaser’s compliance with GCC Sub-Clause 30.2, indemnify and hold harmless the Purchaser and its employees, officers and directors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney’s fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or existing by reason of:          1. the installation of the Goods by the Supplier or the use of the Goods in the Purchaser’s country; and          2. the sale in any country of the products produced by the Goods.   Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from this Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to this Contract.   * + - 1. If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause 30.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser’s name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.       2. If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.       3. The Purchaser shall, at the Supplier’s request, afford all reasonably available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.       4. The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney’s fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of this Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser. |
| Limitation of Liability | * + - 1. Except in cases of criminal negligence or willful misconduct,          1. the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and          2. the aggregate liability of the Supplier to the Purchaser, whether under this Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the Purchaser in accordance with GCC Clause 30. |
| Change in Laws and Regulations | * + - 1. Unless otherwise specified in this Contract, if after the date of the Bidding Document, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated, or changed in the particular area of the Purchaser’s country where the Final Destination is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the delivery date and/or this Contract Price, then such delivery date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under this Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 13.       2. Notwithstanding the provisions of GCC Sub-Clause 32.1, if, after the date of this Contract, there is any change in the Applicable Law with respect to Taxes that increases or decreases the cost incurred by the Supplier in performing its obligations under this Contract, payments to the Supplier shall not be adjusted. However, the provisions of GCC Sub-Clause 15 (f) shall be applicable in such a situation. |
| Force Majeure | * + - 1. For the purposes of this Contract, “Force Majeure” means an event or condition that (a) is not reasonably foreseeable and is beyond the reasonable control of a Party, and is not the result of any acts, omissions or delays of the Party relying on such event of Force Majeure, (or of any third party over whom such Party has control, including any Subcontractor), (b) is not an act, event or condition the risks or consequence of which such Party has expressly agreed to assume under this Contract, (c) could not have been prevented, remedied or cured by such Party’s reasonable diligence, and (d) makes such Party’s performance of its obligations under this Contract impossible or so impractical as to be considered impossible under the circumstances.       2. The failure of a Party to fulfill any of its obligations under this Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as practicable (and in no event later than five (5) days after the occurrence) about the occurrence of an event giving rise to a claim of Force Majeure.       3. A Party affected by an event of Force Majeure shall continue to perform its obligations under this Contract as far as is reasonably practical, and shall take all reasonable measures to minimize and otherwise mitigate the consequences of any event of Force Majeure.       4. A Party affected by an event of Force Majeure shall provide evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.       5. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.       6. The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default (other than in accordance with GCC Sub-Clause 36.1(d) if and to the extent that its delay in performance or other failure to perform its obligations under this Contract is the result of an event of Force Majeure.       7. In the case of disagreement between the Parties as to the existence or extent of an event of Force Majeure, the matter shall be settled in accordance with GCC Clause 9. |
| Change Orders and Contract Amendments | * + - 1. The Purchaser may at any time order the Supplier through notice in accordance GCC Clause 8, to make changes within the general scope of this Contract in any one or more of the following:          1. drawings, designs, or specifications, where Goods to be furnished under this Contract are to be specifically manufactured for the Purchaser;          2. the method of shipment or packing;          3. the place of delivery; and          4. the Related Services to be provided by the Supplier.       2. If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier’s performance of any provisions under this Contract, an equitable adjustment shall be made in this Contract Price or in the delivery/completion schedule, or both, and this Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier’s receipt of the Purchaser’s change order. All claims for adjustment submitted by the Supplier pursuant to this clause shall include a reasonably detailed explanation of the increased costs and/or time, including reasons for such increases.       3. Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in this Contract shall be agreed upon in advance by the Parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services |
| Extensions of Time | * + - 1. If at any time during performance of this Contract, the Supplier or its Subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 11, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier’s notice, the Purchaser shall evaluate the situation and may at its sole discretion extend the Supplier’s time for performance (with or without liquidated damages as determined by the Purchaser in its sole discretion), in which case the extension shall be ratified by the Parties by amendment of this Contract.       2. Except in case of Force Majeure, as provided under GCC Clause 33, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 28, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 35.1. |
| Termination by Purchaser | * + - 1. Termination for Default:   Without prejudice to any other remedies that may be available to it for breach of this Contract, the Purchaser, upon written notice to the Supplier, may terminate this Contract, in whole or in part, in case of the occurrence of any of the events specified in sub-paragraphs (a) through (f) of this GCC Sub-Clause 36.1.   * + - * 1. If the Supplier, in the judgment of the Purchaser or MCC, fails to perform its obligations relating to the use of funds set out in Annex A. Termination under this provision shall (i) become effective immediately upon delivery of the notice of termination and (ii) require that the Supplier repay any and all funds so misused within a maximum of thirty (30) days after termination.         2. If the Supplier fails to deliver or perform any or all of the Goods or Related Services within the period specified in this Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Sub-Clause 35.1. Termination under this provision shall become effective immediately upon the expiration of thirty (30) days after delivery of the notice of termination or such later date as may be specified by the Purchaser. In the event the Purchaser terminates this Contract in whole or in part, pursuant to this sub-paragraph, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of this Contract to the extent not terminated.         3. If the Supplier does not remedy a failure to perform any of its other obligation under this Contract (other than a failure contemplated by sub-paragraphs (a) or (b) immediately preceding this sub-paragraph) within thirty (30) days after delivery of the notice of termination or within any further period of time approved in writing by the Purchaser. Termination under this provision shall become effective immediately upon the expiration of the thirty (30) days or such later date as may be specified by the Purchaser.         4. If, as the result of an event of Force Majeure, the Supplier is unable to perform a material portion of its obligations for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination or on such later date as may be specified by the Purchaser.         5. If the Supplier fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 9. Termination under this provision shall become effective upon the expiration of thirty (30) days after deliver of the notice of termination or on such later date as may be specified by the Purchaser.         6. If the Supplier (or any Subcontractor or any of their respective personnel), in the judgment of the Purchaser, has, directly or through an agent, engaged in coercive, collusive, corrupt, fraudulent, obstructive, or prohibited practices in competing for or in the performance of this Contract. Termination under this provision shall become effective immediately upon delivery of the notice of termination.       1. Termination for Insolvency   The Purchaser may at any time terminate this Contract by giving notice to the Supplier if the Supplier becomes insolvent or bankrupt, and/or fails to exist or is dissolved. Termination under this provision shall become effective immediately upon delivery of the notice of termination or on such other date as may be specified by the Purchaserin such notice of termination. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Purchaser.   * + - 1. Termination for Convenience          1. The Purchaser, by notice sent to the Supplier, may terminate this Contract, in whole or in part, at any time in its sole discretion for its convenience. The notice of termination shall specify that termination is for the Purchaser’s convenience, the extent to which performance of the Supplier under this Contract is terminated, and the date upon which such termination becomes effective.          2. In the case of any termination in accordance with this GCC Sub-Clause 36.3, the Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier’s receipt of notice of termination shall be accepted by the Purchaser at this Contract terms and prices. For the remaining Goods, the Purchaser may elect:   to have any portion completed and delivered at the terms and prices set forth in this Contract; and/or  to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.   * + - 1. Suspension or Termination Related to the Threshold or Applicable Law          1. The Purchaser, by notice sent to the Supplier, may suspend or terminate this Contract, in whole or in part, if the Threshold expires, is suspended or terminates in whole or in part in accordance with the terms of the Threshold. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-Clause 36.4(a), the Supplier has an obligation to mitigate all expenses, damages and losses to the Purchaserduring the period of the suspension.          2. The Purchaser, by notice sent to the Supplier, may suspend or terminate this Contract, in whole or in part, if suspension or termination is permitted under Applicable Law. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-Clause 36.4(b) the Supplier has an obligation to mitigate all expenses, damages and losses tothe Purchaser during the period of the suspension. |
| Termination by the Supplier | * + - 1. The Supplier may terminate this Contract, by not less than thirty (30) days’ written notice to the Purchaser, in case of the occurrence of any of the events specified in paragraphs (a) through (e) of this GCC Sub-Clause 37.1.          1. If the Purchaser fails to pay any money due to the Supplier pursuant to this Contract that is not otherwise subject to dispute pursuant to GCC Clause 9 within forty-five (45) days after receiving written notice from the Supplier that such payment is overdue. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the payment that is the subject of such notice of termination is made by the Purchaserto the Supplier within such thirty (30) days.          2. If, as the result of an event of Force Majeure, the Supplier is unable to perform a material portion of this Contract for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.          3. If the Purchaser fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 9. Termination under this provision shall become effective upon the expiration of thirty (30) days after deliver of the notice of termination.          4. If the Supplier does not receive a reimbursement of any Taxes that are exempt under the Threshold within one hundred and twenty (120) days after the Supplier gives notice to the Purchaser that such reimbursement is due and owing to the Supplier. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the reimbursement that is the subject of such notice of termination is made to the Supplier within such thirty (30) days.          5. If this Contract is suspended in accordance with GCC Sub-Clauses 36.4(a) or 36.4(b) for a period of time exceeding three (3) consecutive months; provided that the Supplier has complied with its obligation to mitigate in accordance with GCC Sub-Clauses 36.4(a) or 36.4(b) during the period of the suspension. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination. |
| Combating Trafficking in Persons | * + - 1. MCC, along with other United States Government entities, has adopted a zero-tolerance policy with regard to trafficking in persons (“TIP”). In pursuance of this policy:  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    * + - 1. “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.**  The Supplier, any subcontractor, and any of their respective Personnel shall not engage in any form of Trafficking in Persons during the period of performance of any contract funded, in whole or in part, with MCC funding and must also comply with those prohibitions described in U.S. laws and 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. **Supplier Requirements.**  1. Each Supplier, 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. 2. Each Supplier shall: 3. 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; 4. 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 5. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract. 6. A bidder, supplier, contractor, subcontractor, Consultant or Sub-Consultant shall inform the MCA Entity within 24 hours of: 7. 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; 8. 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:   1. the MCA Entity requiring the Supplier to remove the involved Personnel, Sub-Contractor or Sub-Consultant or any of its involved Personnel, or any involved agent or affiliate; 2. the MCA Entity requiring the termination of a subcontract or sub-award; 3. suspension of Contract payments until the breach is remedied to the satisfaction of the MCA Entity; 4. 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; 5. the MCA Entity pursuing sanctions against the Supplier, including declaring the Supplier ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; 6. termination of the Contract by the MCA Entity for default or cause in accordance with the termination clause of the Contract; and 7. the MCA Entity directing the Supplier to provide reasonable financial support or restitution to the victim(s) of any such incident, in each case in accordance with the Supplier’s applicable TIP risk management plan, and/or based on a final judicial or administrative determination issued pursuant to Applicable Law or the findings of an investigation conducted (directly or through a third party) by the MCA Entity. |
| Prohibition of Harmful Child Labor | * + - 1. The Supplier 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 Supplier will identify the presence of all persons under the age of eighteen (18). Where Applicable Law does not specify a minimum age, the Supplier shall ensure that children aged below 15 are not employed to perform work under 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. |
| Reimbursable Amounts | * + - 1. If this Contract permits re-imbursement of any costs, the re-imbursement amounts shall be limited by and made only in accordance with applicable MCC Cost Principles, which are posted at [www.mcc.gov](http://www.mcc.gov). |
| Accounting, Inspection and Auditing | * + - 1. The Supplier shall keep accurate and systematic accounts and records in respect of the provision of the Goods and Related Services under this Contract, in accordance with the provisions of Annex A and internationally accepted accounting principles. |
| Use of Funds; Compliance with Environmental Guidelines | * + - 1. The Supplier shall ensure that its activities do not violate provisions relating to use of funds and environmental guidelines, as set out in Annex A. |
| MCC Conditionalities | * + - 1. For the avoidance of doubt, the Parties agree and understand that the provisions set forth in Annex A reflect certain requirements of the Government and the Purchaser under the terms of the Threshold and related documents that are required to be transferred onto any supplier, Subcontractor or other associate who partakes in procurement or subsequent contracts in which MCC Funding is involved and that, as with the other clauses of this Contract, the provisions of Annex A are binding obligations under this Contract. |
| Flow through Provisions | * + - 1. In any sub-contract or sub-award entered into by the Supplier, as permitted by the terms of this Contract, the Supplier shall ensure the inclusion of all the provisions contained in Annex A in any agreement related to such sub-contract or sub-award. |
| 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 Purchaser may assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, to another person or entity of the Government (or another entity designated by the Government) without the consent of the Supplier. The Purchaser shall use commercially reasonable efforts to notify the Supplier as soon as reasonably practicable of any such assignment. Any attempted assignment that does not comply with the terms of this GCC Sub-Clause 45.1 shall be null and void.       2. In the event of any assignment of the Contract by the Purchaser in accordance with GCC Sub-Clause 45.1:          1. the Supplier shall obtain a replacement Performance Security according to the terms of GCC Sub-Clause 6.3 in an amount equal to that of the then currently issued Performance Security naming the Purchaser’s assignee as beneficiary, and shall deliver this replacement Performance Security to the Purchaser on or before the date the assignment becomes effective at which time the Purchaser shall concurrently return the original Performance Security to the Supplier;          2. in the event any advance payment guarantee is outstanding at the time of assignment, the Supplier shall obtain a replacement advance payment guarantee according to the terms of GCC Sub-Clause 4.1 in an amount equal to that of the then currently issued advance payment guarantee naming the Purchaser’s assignee as beneficiary, and shall deliver this replacement advance payment guarantee to the Purchaser on or before the date the assignment becomes effective at which time the Purchaser shall concurrently return the original advance payment guarantee to the Supplier. |
| Acceptance | * + - 1. Acceptance shall occur in respect of the Goods and Related Services, when          1. the Inspections and Tests, as specified in SR5 of Section V. Schedule of Requirements, and/or PCC have been successfully completed; or          2. the Inspections and Tests as specified in SR5 of Section V. have not been successfully completed or have not been carried out for reasons that are attributable to the Purchaser within the period from the date of Final Completion or any other agreed-upon period as specified in Section V. Schedule of Requirements; or          3. the Purchaser has put the Goods into use for sixty (60) consecutive days. If the Goods are put into use in this manner, the Supplier shall notify the Purchaser and document such use.       2. At any time after any of the events set out in GCC Sub-Clause 46.1 have occurred, the Supplier may give a notice to the Purchaser requesting the issue of an Acceptance Certificate, as provided in Section VIII. Contract Forms.       3. After consultation with the Purchaser, and within fourteen (14) days after receipt of the Supplier’s notice, the Purchaser shall:          1. issue an Acceptance Certificate; or          2. notify the Supplier in writing of any defect or deficiencies or other reason for the failure of the Inspections and Tests; or          3. issue the Acceptance Certificate, if the situation covered by GCC Sub-Clause 46.1 (b) arises.       4. The Supplier shall use all reasonable endeavors to promptly remedy any defect and/or deficiencies and/or other reasons for the failure of the Inspections and Tests that the Purchaser has notified the Supplier of. Once such remedies have been made by the Supplier, the Supplier shall notify the Purchaser, and the Purchaser, with the full cooperation of the Supplier, shall use all reasonable endeavors to promptly carry out retesting of the Goods. Upon the successful conclusion of the Inspections and Tests, the Supplier shall notify the Purchaser of its request for Acceptance Certification, in accordance with GCC Sub-Clause 46.3. The Purchaser shall then issue to the Supplier the Acceptance Certification in accordance with GCC Sub-Clause 46.3(a), or shall notify the Supplier of further defects, deficiencies, or other reasons for the failure of the Inspections and Tests. The procedure set out in this GCC Sub-Clause 46.4 shall be repeated, as necessary, until an Acceptance Certificate is issued.       5. If the Goods fail to pass the Inspections and Tests in accordance with SR5 of Section V. Schedule of Requirements, then either:          1. the Purchaser may terminate the Contract, pursuant to GCC Sub-Clause 35.1(b); or          2. if the failure to achieve Acceptance within the specified time period is a result of the failure of the Purchaser to fulfill its obligations under the Contract, then the Supplier shall be deemed to have fulfilled its obligations with respect to the relevant technical and functional aspects of the Contract.       6. If within fourteen (14) days after receipt of the Supplier’s notice the Purchaser fails to issue the Acceptance Certificate or fails to inform the Supplier in writing of the justifiable reasons why the Purchaser has not issued the Acceptance Certificate, the Supplier shall send a notification to the Purchaser informing that the fourteen (14) day period has expired. If the Purchaser fails to take action as set forth above in this GCC Sub-Clause 46.6 within three (3) days from the receipt of such notice, the Goods shall be deemed to have been accepted as of the date of the Supplier’s said notice. |
| Contractor Past Performance Reporting System | * + - 1. The Supplier acknowledges that during the performance of the Contract the Employer shall maintain a performance record of the Supplier in accordance with MCC’s Contractor Past Performance Reporting System, as described on MCC’s website. The Supplier shall provide timely information or input to, and otherwise respond to requests for input or information |

|  |  |
| --- | --- |
| Section VIII. Special Conditions of Contract | |
| The following Special Conditions of Contract (“SCC”) shall supplement and/or amend the General Conditions of Contract (“GCC”). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC. | |
| GCC 1.1 | (b) “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.  (d) “Bidding Document” means the bidding documents for the procurement of the Goods and Related Services; Bid Ref: 2021/003; issued on March 11, 2021.  (m) “Final Destination” is: Prishtina, Kosovo.  (r) “MCA Country” means the country of Kosovo.  (y) “Purchaser” means “Millennium Foundation Kosovo (MFK)”, as well as any successor entity as appointed by the Government. |
| GCC 2.2 | The Incoterms edition is “Incoterms 2020” |
| GCC 2.7(i) | Other documents forming an integral part of this Contract are:  Not applicable |
| GCC 5.2 | This Contract shall be executed in the English language. |
| GCC 6.1 | The member in charge is the leader of joint venture or association |
| GCC 8.1 | For notices that are served on the Purchaser the address shall be:  Millennium Foundation Kosovo  Att.: TBD  Millennium Foundation Kosovo Address: The Governmental Building, Migjeni str 21, floor 9, 10000 Prishtina, Kosovo  E-mail: TBD  For notices that are served on the Supplier the address shall be:  [insert relevant address] |
| GCC 8.2 | For changes of address that are served on the Purchaser the address shall be:  Millennium Foundation Kosovo  Att.: TBD- Millennium Foundation Kosovo  Address: The Governmental Building, Migjeni str 21, floor 9, 10000 Prishtina, Kosovo E-mail: TBD  For changes of address that are served on the Supplier the address shall be:  [insert relevant address] |
| GCC 9.2 | Disputes arising under this Contract that are not resolved by the Parties in accordance with GCC Sub-Clause 9.1, shall be settled by arbitration in accordance with the following provisions:   * The dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce * The dispute shall be settled by three arbitrators appointed one by each party and the third one from the two appointed arbitrators * The arbitration shall be conducted in the language defined in GCC 5.2   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 13.1 | The Contract Price is **[insert amount]** Euros. |
| GCC 13.2 | The prices charged for the Goods delivered and Related Services performed shall not be adjustable. |
| GCC 14.1 | The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:   * + - 1. Advance Payment: Fifteen (15) percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract, and upon submission of claim and a bank guarantee for equivalent amount valid until the Goods and Related Services are delivered and, in the form, provided in the bidding documents or another form acceptable to the Purchaser.   The Advance Payment shall be repaid in total by the Contractor before the Purchaser issues the Completion Certificate.   * + - 1. Interim Payments: During Implementation Period, which starts with the commencement date and ends with issuance of the Completion Certificate by the Purchaser.   Interim payments will be made within thirty (30) days after certification of the invoice by the Purchaser. Certification of the Interim Payment request will be made within thirty (30) days after the submission of such request.  From each Interim Payment the following sums will be deducted:   1. Repayment amortization of Advance Payment: 25% of Advance Payment amount 2. Percentage of Retention Money: 10% of the certified amount of the respective Interim Payment request   Minimum amount for Interim certificates is 1 Mio. EUR.  Interim Payment requests must fulfill the following conditions:   * **Payment on building level: only fully completed buildings are applicable**. **This means that all required goods and related services within the building are completed.**   A completed building means that the following requirements from the Schedule of Requirements - SR3 are met:   1. Issued Completion Certificate as proof of a successful executed test program incl. hydrostatic pressure test, commissioning and trail operation test    * + 1. As built documentation handed over and accepted by the Purchaser/ Implementation Consultant Acceptance certificate payment:   50% of the Retention money deducted from previous Interim payments.  Payment will be made within thirty (30) days after certification of the invoice by the Purchaser. Certification of the Payment request will be made within thirty (30) days after the submission of such request.   * + - 1. During Extended Software Support the following payments shall apply: * 1st Payment shall be paid after 6 months * 2nd Payment shall be paid at the end of Extended software period   The sum of approved working hours until the issuance of payment request shall be invoiced.   * + - 1. Final Payment:   The remaining 50% of the Retention money will be paid after a successfully completed trial operation of the metering and billing system with at least 3 billing periods without any problems of the building system passed. Payment request shall be done at the end of the project, after the Warranty period expires and the Contractor has corrected all defects and/ or deficiencies occurred during the Warranty period. Payment will be made within thirty (30) days after certification of the invoice by the Purchaser. Certification of the Payment request will be made within thirty (30) days after the submission of such request.  Purchaser may, based on the requirements of its duration of the threshold program, bilateral agreements between Kosovo and the USA, business reorganization or other needs, transfer or entrust its rights and obligations hereunder to a third party without Contractor’s consent. |
| GCC 14.5 | The payment-delay period after which the Purchaser shall pay interest to the Supplier shall be 26 days.  The interest rate to be applied in the case of late payments is the Federal Funds Rate as stated on the website  <http://www.federalreserve.gov/releases/h15/current/default.htm> |
| GCC 15. a | **Replace with:**  Except as may be exempted pursuant to the Threshold Program Grant or another agreement related to the Threshold Program Grant, available in English at **https://millenniumkosovo.org/wp-content/uploads/2018/12/Kosovo-Threshold-Program-1.pdf**, the Supplier, its Subcontractors and their respective personnel may be subject to certain Taxes on amounts payable by the Purchaser under this Contract in accordance with Applicable Law (now or hereinafter in effect). The Supplier, each Subcontractor and their respective personnel shall pay all Taxes levied under Applicable Law. In no event shall the Purchaser be responsible for the payment or reimbursement of any Taxes. In the event that any Taxes are imposed on the Supplier, any Subcontractor or their respective personnel, the Contract Price shall not be adjusted to account for such Taxes. |
| GCC 16.1 | The amount of performance security, as a percentage of the Contract Price, shall be in the amount of **10 percent** and shall be denominated in **the currencies of payment of this Contract, in accordance with their portions of the Contract Price**. |
| GCC 16.3 | The Performance Security shall be in the form of **“unconditional bank guarantee”** |
| GCC 23.1 | Responsibility for transportation of the Goods shall be as specified in the Incoterms. |
| GCC 24.2 | The packing, marking, and documentation within and outside the packages shall be: as specified in Schedule of Requirements - SR3 Technical Specifications |
| GCC 25.1 | The insurance coverage shall be as specified in the Incoterms. |
| GCC 26.1 | Responsibility for transportation of the Goods shall be as specified in the Incoterms. |
| GCC 27.2 | The inspections and tests shall be:  As specified in Schedule of Requirements – SR3 Technical Specifications |
| GCC 28.1 | The liquidated damage shall be 0.3 percent per week of the Contract Price.  The maximum amount of liquidated damages shall be 10 percent of the Contract Price. |
| GCC 29.3 | Replace the paragraph GCC 29.3 with:  The warranty shall remain valid for twelve (12) months after the Goods and Related Services has been delivered and accepted. The warranty period for Goods that were required or replaced during the warranty period shall be twelve (12) months from the date on which such Goods were repaired or replaced.  After delivery and acceptance of the Goods, the performance security shall be reduced to 5 percent of the Contract Price to cover the Supplier’s warranty obligations in accordance with Clause GCC 25.3. |
| GCC 29.5 | The Supplier shall repair or replace the defective Goods or parts thereof within 5 days.  In the event of a software problem of the metering and billing software during the warranty period, the response time for a programmer to deal with the problem may not exceed 2 hours on working days (08:00-16:00). The reaction time is the time from sending the fault message until the programmer arrives at Termokos premises or until the corresponding remote diagnosis is carried out (if the fault allows remote diagnosis). |
| GCC 34.2 | The estimated quantities specified are only indicative quantities and do not compel the MFK to buy any of them. The MFK may at its own discretion purchase fewer or more quantities than those estimated quantities per item. |
| GCC 46 | Replace the paragraph GCC 46 with:  46 (A) Completion Certificate   1. As soon as the Goods and Related Services, in the opinion of the Contractor have been completed and put in a tight and clean condition as specified in the Schedule of Requirement and Tests as specified in the Schedule or Requirement, excluding minor items not materially affecting the operation, the Contractor shall notify the Purchaser in writing. 2. The Purchaser shall, within fourteen (14) days of receipt of the Contractor’s notice under GCC 46 (A) 1 above, either issue a Completion Certificate in the form specified in Section IX Annexes stating that the Goods and Related Services have reached Completion as at the date of the Contractor’s notice under GCC 46 (A) 1 above, or notify the Contractor in writing of any defects and/or deficiencies.   If the Purchaser notifies the Contractor of any defects and/or deficiencies, the Contractor shall then correct such defects and/or deficiencies and shall repeat the procedure described in GCC 46 (A) 1 above.  If the Purchaser is satisfied that the Goods and Related Services or that part thereof have reached Completion, the Purchaser shall, within seven (7) days of receipt of the Contractor’s repeated notice, issue a Completion Certificate stating that the Goods and Related Services have reached Completion as at the date of the Contractor’s repeated notice.  If the Purchaser is not so satisfied, then it shall notify the Contractor in writing of any defects and/or deficiencies within seven (7) days of receipt of the Contractor’s repeated notice, and the above procedure shall be repeated.  46 (B) Acceptance Certificate  1 Acceptance shall occur in respect of the Goods and Related Services, when   * + - * 1. the Trial Operations, as specified in SR3 and SR5 of Section V. Schedule of Requirements, have been successfully completed; or         2. the Trial Operations as specified in SR 3 and SR5 of Section V Schedule of Requirement have not been successfully completed or have not been carried out for reasons that are attributable to the Purchaser within the period from the date of Completion Certificate or any other agreed-upon period as specified in Section V. Schedule of Requirements; or   2 At any time after any of the events set out in GCC Sub-Clause 46 (B) 1 have occurred, the Supplier may give a notice to the Purchaser requesting the issue of an Acceptance Certificate, as provided in Section IX Annexes.  3 After consultation with the Purchaser, and within fourteen (14) days after receipt of the Supplier’s notice, the Purchaser shall:   1. issue an Acceptance Certificate; or 2. notify the Supplier in writing of any defect or deficiencies or other reason for the failure during Trial Operation period; or 3. issue the Acceptance Certificate, if the situation covered by GCC Sub-Clause 46 1 (B) 1 (b) arises.   4 The Supplier shall use all reasonable endeavours to promptly remedy any defect and/or deficiencies and/or other reasons for the failure during Trial Operation period that the Purchaser has notified the Supplier of. Once such remedies have been made by the Supplier, the Supplier shall notify the Purchaser, and the Purchaser, with the full cooperation of the Supplier, shall use all reasonable endeavours to promptly carry out retesting of the Goods. Upon the successful conclusion of the Trial Operation period, the Supplier shall notify the Purchaser of its request for Acceptance Certification, in accordance with GCC Sub-Clause 46 (B) 3.  The Purchaser shall then issue to the Supplier the Acceptance Certification in accordance with GCC Sub-Clause 46 (B) 3 (a), or shall notify the Supplier of further defects, deficiencies, or other reasons for the failure during Trial Operation period. The procedure set out in this GCC Sub-Clause 46 (B) 4 shall be repeated, as necessary, until an Acceptance Certificate is issued.  5 If the Goods and Services fail to pass Tests and Inspections during the Trial Operation period in accordance with SR3 and SR5 of Section V. Schedule of Requirements, then either:   1. the Purchaser may terminate the Contract, pursuant to GCC Sub-Clause 36.1(b); or 2. if the failure to achieve Acceptance within the specified time period is a result of the failure of the Purchaser to fulfill its obligations under the Contract, then the Supplier shall be deemed to have fulfilled its obligations with respect to the relevant technical and functional aspects of the Contract.   6 If within fourteen (14) days after receipt of the Supplier’s notice the Purchaser fails to issue the Acceptance Certificate or fails to inform the Supplier in writing of the justifiable reasons why the Purchaser has not issued the Acceptance Certificate, the Supplier shall send a notification to the Purchaser informing that the fourteen (14) day period has expired. If the Purchaser fails to take action as set forth above in this GCC Sub-Clause 46 (B) 6 within three (3) days from the receipt of such notice, the Goods shall be deemed to have been accepted as of the date of the Supplier’s said notice. |
| GCC 48. | Addition to General Conditions of Contract:  48. Safety Procedures  48. 1 Within two months after the date of Contract signing, the Supplier shall submit a detailed, site-specific Health and Safety Management Plan (or “HSMP”) based on all relevant health and safety provisions found in the Technical Specifications and Schedules and Applicable Laws to the Supplier. The HSMP must be approved by the Construction Supervision Consultant (CSC) prior to commencement of the execution of the Works.  48.2 Unless the CSC, within 14 days after receiving the Health and Safety Management Plan, gives notice to the Supplier stating the extent to which it does not comply with the Contract, the Supplier shall proceed in accordance with the HSMP.  48.3 The Supplier shall also implement the health and safety requirements of the approved HSMP and comply with instructions issued as a result of periodic inspections to be undertaken as part of the supervisory role required of the CSC.  48.4 The Supplier shall be responsible for ensuring that all Subcontractor’s and Supplier’s Personnel understand and operate in accordance with the principles and requirements of the HSMP.  48.5 If, at any time, the CSC gives notice to the Supplier that all or any portion of the HSMP fails (to the extent stated) to comply with the Contract, the Supplier shall submit a revised HSMP Plan to the CSC in accordance with this Sub-Clause.  48.6 The Supplier shall notify the CSC, the Purchaser within 24 hours or as soon as reasonably possible after the occurrence of any accident which has resulted in damage or loss of property, disability or loss of human life, or which has or which could reasonably be foreseen to have a material impact on the environment and shall submit to the CSC, the Purchaser no later than 7 days after the occurrence of such an event, a summary report thereof.  48.7 The Supplier shall monitor its Primary Suppliers on an ongoing basis and, where there is a high risk of significant life-threatening situations related to the Primary Suppliers’ workers, the Supplier will introduce procedures and mitigation measures to ensure that Primary Suppliers are taking steps to prevent or to correct such life-threatening situations. Where a remedy is not possible, the Supplier shall shift its Primary Suppliers from which it obtains supplies for the Contract. |
| GCC 49 | Addition to General Conditions of Contract:  49. Protection of the Environment and Social Sustainability  49.1 Within two months after the date of Contract signing, the Supplier shall submit a detailed, site-specific Supplier’s Environmental & Social Management Plan (or “C-ESMP”) in respect of safety, security, and management of environmental and social impacts in respect of safety, security, and protection of the environment based on all relevant provisions found in the Technical Specifications and Schedules and Applicable Laws to the CSC. The C-ESMP must be approved by the CSC prior to commencement of the execution of the Works.  49.2 Unless the CSC, within 14 days after receiving the CESMP, gives notice to the Supplier stating the extent to which it does not comply with the Contract, the Supplier shall proceed in accordance with the C-ESMP.  49.3 If, at any time, the CSC gives notice to the Supplier that all or any portion of the CESMP fails (to the extent stated) to comply with the Contract, the Supplier shall submit a revised C-ESMP to the CSC in accordance with this Sub-Clause.  49.4 The Supplier shall ensure that its activities under the Contract comply with MCC’s Environmental Guidelines (as such term is defined in the Threshold 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.  49.5 The Supplier shall implement environmental and social requirements of the approved C-ESMP and instructions issued as a result of periodic inspections to be undertaken as part of the supervisory role required of the CSC, to ensure compliance with the requirements of the C-ESMP.  49.6 The Supplier shall comply with the IFC Performance Standards and the Supplier shall be responsible for ensuring that all subcontractor’s and Supplier’s Personnel understand and operate in accordance with the principles and requirements of the environmental, social, health and safety impacts provisions of this Sub-Clause and that similar standards apply to the subcontractor’s environmental, social, health and safety impacts management systems and environmental and social impacts performance.  49.7 The Supplier’s program submitted, maintained and implemented shall demonstrate clearly the procedures and methods of working that the Supplier and its Subcontractors shall utilize to comply with the environmental and social impacts requirements of this Clause.  49.8 The Supplier shall ensure the adequate disposal of construction and demolition wastes in accordance with MCC’s Environmental Guidelines and Applicable Kosovo Laws. This includes identifying the presence of hazardous materials and developing plans, approved by the CSC, for proper handling and disposal of such materials. |
| GCC 50. | Addition to General Conditions of Contract:  50. Gender and Social Inclusion  50. 1 The Supplier shall ensure that its activities under the Contract comply with the MCC Gender Policy [1] and the MFK’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  50.2 The Supplier shall be responsible for ensuring that all subcontractor’s and Supplier’s Personnel understand and operate in accordance with the principles and requirements of the plan. The Employer understands that the Supplier is not responsible for the social and gender impacts of the Works, to the extent that such impacts result directly from completion of the Works as designed by the Employer.  [1] Available at: https://assets.mcc.gov/guidance/mcc-policy-gender.pdf |
| GCC 51. | Addition to General Conditions of Contract:  51. Prohibition of Forced or Compulsory Labor  51. 1 The Supplier shall not employ "forced or compulsory labor" in any form. “Forced or compulsory labor" consists of all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty.  52.2 The Supplier shall monitor its Primary Suppliers on an ongoing basis in order to identify any significant changes in these suppliers. If new risks or incidents of forced or compulsory labor are identified, the Supplier shall take appropriate steps to remedy them. |
| GCC 52. | Addition to General Conditions of Contract:  52. Prohibition of Harmful Child Labor  52.1 The Supplier 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 CSC will identify the presence of all persons under the age of eighteen (18). Where Applicable Law does not specify a minimum age, the CSC 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.  52.2 The Supplier shall monitor its Primary Suppliers on an ongoing basis in order to identify any significant changes in these suppliers. If new risks or incidents of child labor are identified, the Supplier shall take appropriate steps to remedy them. Additional summary guidance may be found here:. https://www.mcc.gov/resources/doc/guidance-on-supply-chains |
| GCC 53. | Addition to General Conditions of Contract:  53. Prohibition of Sexual Harassment  53.1 The Supplier including all Sub-Contractors and any Personnel, shall prohibit, and refrain from, sexual harassment behaviors directed at Threshold beneficiaries, partners, stakeholders, MFK employees, MFK 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 Supplier shall put in place an incident referral and reporting plan with respect to the provision of the Works to support a safe and respectful work environment, in form and substance satisfactory to the MFK 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 MFK may investigate (either directly or through a third party) allegations of sexual harassment as it determines appropriate. The Supplier shall fully cooperate with any investigation conducted by the MFK regarding breach of this provision. The Supplier will ensure that any incident of sexual harassment investigated by the MFK has been resolved to the MFK and MCC’s satisfaction. |
| GCC 54. | Addition to General Conditions of Contract:  54. Non-Discrimination and Equal Opportunity  54.1 The Supplier shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. Personal characteristics include sex, race, nationality, ethnic, social and indigenous origin, religion or belief, disability, age, sexual orientation, and gender identity. The Supplier shall base the employment relationship 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. In countries where the relevant labor laws provide further requirements regarding non-discrimination in employment, the Supplier shall comply with such laws in addition to the foregoing. When the relevant labor laws are silent on non-discrimination in employment, the Supplier shall ensure compliance with this Sub-Clause’s requirements by implementing a policy in form and substance satisfactory to the Employer and MCC. 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.  54.2 The Supplier shall adopt recruitment, hiring and retention practices that support the employment of women and staff from diverse backgrounds. |
| GCC 55. | Addition to General Conditions of Contract:  55. Grievance Mechanism for Supplier and Subcontractor Personnel  55.1 The Supplier shall provide a grievance mechanism for Supplier Personnel, including Subcontractor staff, if a separate Subcontractor grievance mechanism does not exist, to raise workplace concerns. The Supplier shall inform its Personnel of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution to Personnel for initiating or participating in a complaint under such mechanism. The mechanism should also allow for anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under applicable law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements. |

|  |
| --- |
| **Section IX. Contract Annexes** |

|  |
| --- |
| Annex A: Annex of Additional Provisions |
| The additional provisions of Contract can be found on the MCC website:<https://www.mcc.gov/resources/doc/annex-of-general-provisions> and MUST be printed out and attached to the Contract prior to signature. |

|  |
| --- |
| Annex B: Compliance with Sanctions Certification Form |

In satisfaction of clause G of the Additional Provisions at Annex A of the Contract, this form is to be completed by the Bidder upon submission of the Bid and, if selected, by the Supplier initially, within 28 days of receipt of Letter of Acceptance and Contract Agreement, and subsequently thereafter on the last business day prior to the last day of each quarter (March 31, June 30, September 30, December 31) after the signature of an MCC-Funded Contract[[4]](#footnote-4), for the duration of the Contract.

The form is to be submitted to the MCA Entity Procurement Agent at the time of Bid submission, and to the MCA Entity Fiscal Agent thereafter procurement@millenniumkosovo.org *and* [*info@bakertillyks.com*](mailto:info@bakertillyks.com)with a copy to MCC at [sanctionscompliance@mcc.gov](mailto:sanctionscompliance@mcc.gov).

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

Instructions for completing this form are provided below.

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

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

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

|  |
| --- |
| * All eligibility verifications have been completed in accordance with **Annex A “Additional Provisions,” Paragraph G “Compliance with Terrorist Financing Legislation and Other Restrictions”,** including (without limiting the scope of paragraph G):   + The Bidder or Supplier, to the best of its current knowledge, has not provided, at any time within the previous ten years or currently, any material support or resources (including without limitation, any MCC Funding[[5]](#footnote-5)), directly or indirectly to, or knowingly permitted any funding (including without limitation any MCC Funding) to be transferred to, any individual, corporation or other entity that the Bidder or Supplier knew, or had reason to know, commits, attempts to commit, advocates, facilitates, or participates in any terrorist activity, or has committed, attempted to commit, advocated, facilitated or participated in any terrorist activity, including, but not limited to, the individuals and entities on the enumerated lists described below (including the Bidder or Supplier itself).   **OR**   * All eligibility verifications have been completed in accordance with  **Annex A “Additional Provisions,” Paragraph G “Compliance with Terrorist Financing Legislation and Other Restrictions,”** and the following results were obtained (information to be provided for each result): * Name of individual, corporation or other entity: * Eligibility verification source(s) where listed ineligible: * Position (if individual), or goods or services provided (if corporation or other entity): * Estimated value of work performed as of certification date: |

I hereby certify that the information provided above is true and correct in all material respects and understand that any material misstatement, misrepresentation or failure to provide the information requested in this certification may be deemed to be “fraud” for purposes of the ITB or Contract, the MCC Program Procurement Guidelines, and other applicable MCC policy or guidance, including MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations.

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

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

**INSTRUCTIONS FOR COMPLETING FORM:**

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

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

1. System for Award Management (SAM) - <https://www.sam.gov/portal/SAM/#1>
2. World Bank Debarred List -  <https://www.worldbank.org/en/projects-operations/procurement/debarred-firms>
3. US Government Consolidated Screening List - <https://2016.export.gov/ecr/eg_main_023148.asp>
4. US State Sponsors of Terrorism List - <https://www.state.gov/j/ct/list/c14151.htm>

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

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

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

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

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

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

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

In addition, in accordance with MCC Program Procurement Guidelines P1.A.1.9(d), the Bidder/Supplier must ensure that MCC Funding is not used for goods or services from a country, or from a firm that is organized in or has its principal place of business or a significant portion of its operations in a country, that is subject to sanction or restriction by law or policy of the United States, including U.S. designated State Sponsors of Terrorism (<https://www.state.gov/j/ct/list/c14151.htm>).

All of these documents must be retained by the Bidder/Supplier as part of the overall record of the Contract for the duration of the Contract, and for the further period after the contract expiration that is required for document retention under the Contract (typically five years after the expiration date of the Threshold Program or Threshold Program). Access to these documents must be provided to the MCA Entity, MCC, or their designees in accordance with the access provisions of the Contract.

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

1. The Contract Party, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources (as defined below) directly or indirectly to, or knowingly permit any funding (including without limitation MCC Funding) to be transferred to, any individual, corporation or other entity that such Party knows, or has reason to know, commits, attempts to commit, advocates, facilitates, or participates in any terrorist activity, or has committed, attempted to commit, advocated, facilitated or participated in any terrorist activity, including, but not limited to, the individuals and entities (i) on the master list of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury’s Office of Foreign Assets Control, which list is available at [www.treas.gov/offices/enforcement/ofac](http://www.treas.gov/offices/enforcement/ofac), (ii) on the consolidated list of individuals and entities maintained by the “1267 Committee” of the United Nations Security Council, (iii) on the list maintained on [www.sam.gov](http://www.sam.gov), or (iv) on such other list as the MCA Entity may request from time to time.

For purposes of this provision:

1. “material support and resources” includes currency, monetary instruments or other financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.
2. “Training" means instruction or teaching designed to impart a specific skill, as opposed to general knowledge.
3. “Expert advice or assistance" means advice or assistance derived from scientific, technical, or other specialized knowledge.
4. The Contract Party shall ensure that its activities under this Agreement comply with all applicable U.S. laws, regulations and executive orders regarding money laundering, terrorist financing, U.S. sanctions laws, restrictive trade practices, boycotts, and all other economic sanctions promulgated from time to time by means of statute, executive order, regulation or as administered by the Office of Foreign Assets Control of the United States Treasury Department or any successor governmental authority, including, 18 U.S.C. Section 1956, 18 U.S.C. Section 1957, 18 U.S.C. Section 2339A, 18 U.S.C. Section 2339B, 18 U.S.C. Section 2339C, 18 U.S.C. Section 981, 18 U.S.C. Section 982, Executive Order 13224, 15 C.F.R. Part 760, and those economic sanctions programs enumerated at 31 C.F.R. Parts 500 through 598 and shall ensure that its activities under the Contract comply with any policies and procedures for monitoring operations to ensure compliance, as may be established from time to time by MCC, the MCA Entity, the Fiscal Agent, or the Bank, as may be applicable. The Contract Party shall verify, or cause to be verified, appropriately any individual, corporation or other entity with access to or recipient of funds, which verification shall be conducted in accordance with the procedures set out in Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC’s website at www.mcc.gov. The Contract Party shall (A) conduct the monitoring referred to in this paragraph on at least a quarterly basis, or such other reasonable period as the MCA Entity or MCC may request from time to time and (B) deliver a report of such periodic monitoring to the MCA Entity with a copy to MCC.
5. Other restrictions on the Contract Party shall apply as set forth in Section 5.4(b) of the Threshold 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 or any Supplemental Agreement or that materially and adversely affects the Program Assets or any Permitted Account.

|  |
| --- |
| Annex C: Self-Certification Form |

The below self-certification form should be signed by the Supplier as part of the Contract. This self-certification declares that the Supplier will only procure goods and materials essential for the Contract, from suppliers that are free of forced and child labor and provide their direct workers with a safe and hygienic workplace.

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

As stipulated in the Contract in Sections 19.3 and 22.3, the Supplier must comply with the International Finance Corporation’s *Performance Standards on Environmental and Social Sustainability* regarding labor standards and protections. In turn, the Supplier must ensure that their Primary Suppliers, i.e., any person or legal entity who provides goods or materials essential for the Contract, do not use forced and child labor in the production of such goods and materials, and provide the Supplier’s direct workers with a safe and hygienic workplace.

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

* + I understand the requirements in the contract with the MCA**-[Name of Country].**
  + **[Name of Supplier]** will ensure that all operations undertaken are done in accordance with the IFC Performance Standards, as described in Sections 19.3 and 22.3 of the Contract.
  + **[Name of Supplier]** does not and will not use forced or child labor, and provides workers with a safe and hygienic workplace.
  + **[Name of Supplier]** does not and will not procure material or goods from suppliers that employ forced or child labor.
  + **[Name of Supplier]** will only procure material or goods from suppliers that provide a safe and hygienic working place for all laborers.
  + **[Name of Supplier]** has a system in place to monitor our suppliers, identify any new and emerging risks. This system also allows **[Name of Supplier]** to effectively remedy any risks.
  + Where remedy is not possible for any new risks or incidents, **[Name of Supplier]** commits to severing ties with these suppliers.

Record any exceptions to the above here:

|  |
| --- |
|  |

*I HEREBY CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND CORRECT IN ALL MATERIAL RESPECTS AND UNDERSTAND THAT ANY MATERIAL MISSTATEMENT, MISREPRESENTATION OR FAILURE TO PROVIDE THE INFORMATION REQUESTED IN THIS CERTIFICATION MAY BE DEEMED A “FRAUD” FOR PURPOSES OF THE CONTRACT. I CONFIRM THAT I DULY REPRESENT* ***[NAME OF SUPPLIER]*** *AND HAVE THE LEGAL AUTHORITY TO SIGN.*

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

Printed Name of Signatory:

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

|  |
| --- |
| Annex D: Code of Business Ethics and Conduct Certification Form |

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

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

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

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

**Code of Business Ethics and Conduct Certification Form**

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

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

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

As stipulated in GCC 3.1 of the Contract, the Supplier 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 Supplier must also include the substance of this clause in subcontracts that have a value in excess of €500,000.

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

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

**OR**

* + **[Name of Supplier]** will adopt and implement a code of business ethics and conduct within ninety (90) days after the date of Contract signature. **[Name of Supplier]** will resubmit this certification, together with a copy of the Consultant’s code of business ethics and conduct, when such code has been adopted and implemented.
  + **[Name of Supplier]** will include the substance of this requirement in all subcontracts having a value in excess of $500,000 and will forward all resulting certifications to **[Name of 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 Supplier 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

|  |
| --- |
| Annex E: Securities |

|  |
| --- |
| Annex E1: Bank Guarantee for Performance Security |
| ***[The bank, as requested by the Supplier, shall fill in the form in accordance***  ***with the instructions indicated]***  Bank’s Branch or Office: **[insert complete name and address of Guarantor]**  Beneficiary: **[insert complete name and address of the Purchaser]**  Date: **[insert date of issue]**  PERFORMANCE GUARANTEE No.: **[insert Performance Guarantee number]**  We have been informed that **[insert complete name of Supplier]** (hereinafter called the “Supplier”) has entered into Contract No. **[insert number]** dated **[insert day and month]**, **[insert year]** with **[name of MCA Entity]** (hereinafter called “the Beneficiary”), for the supply of **[description of Goods and Related Services provided]** (hereinafter called the “Contract”).  Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.  At the request of the Supplier, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum(s) not exceeding in total an amount of **[insert amount(s) in words and figures]** upon receipt by us of the Beneficiary’s first demand in writing declaring the Supplier to be in default under the Contract, without cavil or argument, or need to prove or to show grounds or reasons for the Beneficiary’s demand of the sum specified therein.  This Guarantee shall expire no later than the **[insert number]** day of **[insert month] [insert year] *[note- expiration date to be calculated based on the provisions of GCC Sub-Clause 15.4]***, and any demand for payment under it must be received by us at this office on or before that date.  **[*Issuing Bank to delete whichever is not applicable*]** We confirm that [we are a financial institution legally authorized to provide this guarantee in the Beneficiary’s country] **[OR]** [we are a financial institution located outside the Beneficiary’s country but have a correspondent financial institution located in the Beneficiary’s country that will ensure the enforceability of this guarantee. The name of our correspondent bank and contact information is as follows: **[provide name, address, phone number, and email address]**].   |  |  | | --- | --- | | For the Bank | For the Supplier | | Signature | Signature | | In the capacity of: | In the capacity of: | | Date: | Date: | |

|  |
| --- |
| Annex E2: Bank Guarantee for Advance Payment Security |

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

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

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

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

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

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

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

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

* + - * 1. that the Supplier has failed to repay the advance payment, in full or in part, in accordance with the terms of the Contract, and
        2. the amount of the advance payment the Supplier has failed to repay.

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

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

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

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

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

|  |
| --- |
| Annex F: Acceptance Certificate |

Date: ***[insert date]***

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

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

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

Dear Sir or Madam:

Pursuant to GCC Clause 42. B (Acceptance) of the Contract entered into between yourselves and the ***[insert name of Purchaser]*** (hereinafter the “Purchaser”) dated ***[insert date of Contract],*** relating to the ***[insert brief description of the Goods and Related Services],*** we hereby notify you the Goods and Related Services (identified below) successfully completed the trial operation. In accordance with the terms of the Contract, the Purchaser hereby takes over the Goods (identified below), together with the responsibility for care and custody and the risk of loss thereof on the date mentioned below.

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

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

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

For and on behalf of the Purchaser

Signed:

Date:

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

|  |
| --- |
| Annex G: Completion Certificate |

Date: ***[insert date]***

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

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

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

Dear Sir or Madam:

Pursuant to GCC Clause 42. A (Completion) of the Contract entered into between yourselves and the ***[insert name of Purchaser]*** (hereinafter the “Purchaser”) dated ***[insert date of Contract],*** relating to the ***[insert brief description of the Goods and Related Services],*** we hereby notify you the Goods and Related Services (identified below) successfully completed the implementation period. In accordance with the terms of the Contract, the Purchaser hereby takes over the Goods (identified below), together with the responsibility for care and custody and the risk of loss thereof on the date mentioned below.

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

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

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

For and on behalf of the Purchaser

Signed:

Date:

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

|  |
| --- |
| Annex H: Environmental and Social Management Plan |

Please see Annex H - ESMP attached to Bidding Documents

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-1)
2. The financial information provided by a Bidder shall be reviewed in its entirety to allow a truly informed judgment about the capacity of the Bidder to undertake the contract and will not be limited strictly to substantiate the financial ratios indicated here. [↑](#footnote-ref-2)
3. Unless exempted by MCC, this requirement is met by the submission of **one of the following:** 1) audited financial statements for the last three (3) years, supported by audit letters, 2) certified financial statements for the last three (3) years, supported by tax returns or 3) a copy of the Contractor’s Dun & Bradstreet Business Information Report (“BIR”).The Dun & Bradstreet report must either be notarized, or accompanied by the following statement by the Bidder: “I certify that the attached BIR has been issued by Dun & Bradstreet within thirty (30) days of the date of this certification, that report has not been altered in any way since its issuance, and that it is true and correct to the best of my knowledge.” The statement must be signed by an authorized representative of the Bidder. If the Bid is submitted by a joint venture or other association, all parties in the joint venture/association are required to submit their financial statements or Dun & Bradstreet BIR. The reports should be submitted in order of the partner’s significance in the partnership, greatest to least. Failure to submit one of the three documents as evidence of financial capacity may result in the rejection of the Bid. [↑](#footnote-ref-3)
4. “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-4)
5. “MCC Funding” is defined as funding provided by MCC, through a Compact Program, a Threshold Program, or 609(g) funding [↑](#footnote-ref-5)