



MILLENNIUM CHALLENGE ACCOUNT-MONGOLIA

**Procurement of Consultant Services for
Consulting Services for Water Operators' Partnership Facilitation**

Ref: RFP# MCA-M/CF/WSSA/CS/04

ADDENDUM No 1

September 16, 2022

Name of the Procurement: *Consulting Services for Water Operators' Partnership Facilitation*

Procurement Reference Number: *MCA-M/CF/WSSA/CS/04*

Request for Proposals Date: *September 2, 2022*

Addendum No 1 represents an integral part of the RFP# MCA-M/CF/WSSA/CS/04 and shall be considered during the preparation of the Technical and Financial Proposals.

Sections I, III, and IV are amended (changes are marked in red) as follows:

- 1) **Section I. Instructions to Consultants ("ITC")** Clause 5 (*Clause 5 is deleted in its entirety and replaced with the AMENDED Clause 5*).
- 2) **Section III. Qualification and Evaluation Criteria**, 3.7.1 Eligibility (*The Column "Requirements" of sub-clauses (i) 3.7.1.1 Qualification and Eligibility; (ii) 3.7.1.2 Conflict of Interest; and (iii) 3.7.1.3 Ineligibility and Debarment are amended*).
- 3) **Section IV A. Technical Proposal Forms (TPF)** Form TECH-1. Technical Proposal Submission Form sub-clause (d) (*The sub-clause (d) of TECH-1 is amended*)

RFP SECTION	<p>Section I. Instructions to Consultants (“ITC”) Clause 5 of the RFP is deleted in its entirety and replaced with the following AMENDED Clause 5.</p> <p>THE AMENDED CLAUSE 5 OF THE RFP SHOULD BE READ AS FOLLOWS</p>	
<p>Section I. Instructions to Consultants (“ITC”) Clause 5 (including all sub-clauses)</p>	<p>5. Eligible Consultants</p>	<p>5.1 The eligibility criteria set forth in this section will apply to the Consultant, including all parties constituting the Consultant, for any part of the Contract, including related services.</p>
		<p>5.2 A Consultant may be a private entity, certain government-owned entities (in accordance with <i>MCC Program Procurement Guidelines</i> as described in ITC Sub-clause 5.6), or any combination of such entities supported by a letter of intent to enter into an agreement or under an existing agreement of association in the form of a joint venture or other association.</p>
		<p>5.3 A Consultant, all parties constituting the Consultant, and any Sub-consultants for any part of the Contract, including related services, may have the nationality of any country, subject to the nationality restrictions specified in this ITC Clause 5. An entity will be deemed to have the nationality of a country if such entity is constituted, incorporated, or registered in, and operates in conformity with, the provisions of the laws of that country.</p>
		<p>5.4 Consultants must also satisfy the eligibility criteria contained in the MCC PPG governing MCC-funded procurements under the Compact. In the case where a Consultant intends to join with an associate or sub-contract part of the Contract, then such associate shall also be subject to the eligibility criteria set forth in this RFP and the MCC PPG.</p>
		<p>5.5 No full-time key professional personnel of a Consultant currently contracted by any MCA Entity shall be proposed to work as, or on behalf of, any Consultant. In the case where a Consultant seeks to engage such full-time key professional personnel, it should seek the written approval from the MCA Entity for the inclusion of such a person, prior to the Consultant’s submission of its Proposal.</p>

	Government-Owned Enterprises	5.6 Government-Owned Enterprises (“GOEs”) are not eligible to compete for MCC-funded contracts for goods (which includes contracts for the supply and installation of information systems) or works. GOEs (a) 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 (b) may not be prequalified or shortlisted for any MCC-funded contract for goods or works anticipated to be procured through these means. This prohibition does not apply to Government-owned Force Account units owned by the Government of the MCA Entity’s country, 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 Part 7 of MCC Program Procurement Guidelines.
	Joint Ventures or Associations	5.7 In the case where a Consultant is, or proposes to be, a joint venture or other Association (a) all members of the joint venture or Association must satisfy the legal, financial, litigation, eligibility and other requirements set out in this RFP; (b) all members of the joint venture or Association will be jointly and severally liable for the execution of the Contract; and (c) the joint venture or Association will nominate a representative who will have the authority to conduct all business for and on behalf of any and all the members of the joint venture or the Association if awarded the Contract, during Contract performance.
	Conflict of Interest	5.8 A Consultant shall not have a conflict of interest. All Consultants found to have a conflict of interest shall be disqualified unless the conflict of interest has been mitigated and the mitigation is approved by MCC. The MCA Entity requires that Consultants hold the MCA Entity’s interests paramount at all times, strictly avoid conflicts of interest, including conflicts with other assignments or their own corporate interests, and act without any consideration for future work. Without limitation on the generality of the foregoing, a Consultant, including all parties constituting the Consultant and any Sub-Consultants and suppliers for any part of the Contract, including related services, and their respective Personnel and affiliates, may be considered to have a conflict of interest and disqualified or terminated if they:

		<p>(a) have at least one controlling partner in common with one or more other parties in the process contemplated by this RFP; or</p> <p>(a) have the same legal representative as another Consultant for purposes of this Proposal; or</p> <p>(b) have a relationship, directly or through common third parties, that puts them in a position to have access to information about or influence over the Proposal of another Consultant, or influence the decisions of the MCA Entity regarding the selection process for this procurement; or</p> <p>(c) participate in more than one Proposal in this process; participation by a Consultant in more than one Proposal will result in the disqualification of all Proposals in which the party is involved; however, this provision does not limit the inclusion of the same Sub-Consultant in more than one Proposal; or</p> <p>(d) 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 RFP, (B) the selection process for this procurement, or (C) supervision of the Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to MCC; or</p> <p>(e) 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.</p>
		<p>5.9 A Consultant that has been engaged by the MCA Entity to provide goods, works or services other than consulting services for a project, and any of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a Consultant hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods, works or services other than consulting services resulting from or directly related to such consulting services for such preparation or implementation. For example, a Consultant hired to prepare terms of reference for an assignment should not be hired for the assignment in question. For the purpose of this paragraph, services other than consulting services are defined as those leading to a measurable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.</p>

		5.10 Consultants have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the MCA Entity, or that may be reasonably perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of the Contract.
		5.11 The following restrictions shall apply (in each case subject to the limited exception set forth in ITC Sub-Clause 5.11 (f) below):
		(a) No member of the MCA Entity's board of directors or current employees of the MCA Entity or key professional personnel of a consulting firm currently contracted by any MCA Entity (whether part time, or full time, paid or unpaid, in leave status, etc.) shall be proposed or work as, or on behalf of, any Consultant
		(b) Except as provided in ITC Sub-clause 5.11 (d), no current employees of the Government shall work as Consultants or as Personnel under their own ministries, departments or agencies
		(c) Recruiting former MCA Entity or Government employees to perform services for their former ministries, departments or agencies is acceptable provided no conflict of interest exists
		(d) If a Consultant proposes any Government employee as Personnel in their Technical Proposal, such Personnel must have written certification from the Government confirming that: (i) they will be on leave without pay from the time of their official Proposal submission and will remain on leave without pay until the end of their assignment with the Consultant and they are allowed to work full-time outside of their previous official position; or (ii) they will resign or retire from Government employment on or prior to the Contract award date. Under no circumstances shall any individuals described in (i) and (ii) be responsible for approving the implementation of this Contract. Such certification shall be provided to the MCA Entity by the Consultant as part of its Technical Proposal
		(e) No employee of MCC-funded accountable entity in any other country that is responsible for managing or administering any contract, grant, or other agreement between the Consultant and such other MCC-funded accountable entity shall be proposed or work as, or on behalf of, the Consultant. Similarly, if a Consultant proposes a team member who is currently working as a Key Personnel (at the time of proposal submission) with any Consultant at any MCC-funded accountable entity in any other country, the Proposal shall include a permission letter from the MCA Entity of that country to include this team member into the Proposal

		<p>(f) In the case where a Consultant seeks to engage the services of any person falling under ITC Sub-clauses 5.11(a) – 5.11(e), who may have left the MCA Entity (or such other MCC-funded accountable entity, as the case may be) within a period of less than twelve (12) months of the date of this RFP, it must obtain a “no-objection” from the MCA Entity for the inclusion of such a person, prior to the Consultant’s submission of its Proposal. The MCA Entity must also obtain a “no-objection” from MCC before replying to the Consultant on any related correspondence</p>
Ineligibility and Debarment	5.12	<p>A Consultant, all parties constituting the Consultant, and any Sub-Consultants and suppliers for any part of the Contract, including related services, and their respective Personnel and affiliates, will not be any person or entity under (a) a declaration of ineligibility for engaging in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption or prohibited practices as contemplated by ITC Sub-clause 3.1 above, or (b) that has been declared ineligible for participation in a procurement in accordance with the procedures set out in Part 10 of MCC Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC’s website at www.mcc.gov/ppg. This would also remove from eligibility for participation in this procurement any entity that is organized in, or has its principal place of business or a significant portion of its operations in, any country that is subject to sanctions or restrictions by law or policy of the United States</p>
	5.13	<p>A Consultant, all parties constituting the Consultant, and any Sub-Consultants and suppliers for any part of the Contract, including related services, and their respective Personnel and affiliates not otherwise made ineligible for a reason described in this ITC Clause 5 will nonetheless be excluded if:</p> <ul style="list-style-type: none"> (a) as a matter of law or official regulation, the Government prohibits commercial relations with the country of the Consultant (including any Associates, Sub-Consultants, and suppliers and any respective affiliates); or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government prohibits any import of goods from the country of the Consultant (including any Associates, Sub-Consultants, and suppliers and any respective affiliates) or any payments to entities in such country; or (c) such Consultant, any parties constituting the Consultant, any Sub-Consultant or supplier or their respective Personnel or affiliates are otherwise deemed ineligible by MCC pursuant to any policy or guidance that may, from time to time, be in effect as posted on MCC’s website

	Evidence of Continued Eligibility	5.14 Consultants shall provide such evidence of their continued eligibility in a manner satisfactory to the MCA Entity, as the MCA Entity shall reasonably request
	Unfair Advantage	5.15 If a Consultant could derive an unfair competitive advantage from having provided consulting services related to the assignment in question, the MCA Entity shall make available to all Consultants, together with this RFP, all information that would in that respect give such Consultant any unfair competitive advantage over competing Consultants
	Commissions and Gratuities	5.16 Consultants will furnish information on commissions and gratuities, if any, paid or to be paid relating to this procurement or its Proposal and during performance of the Contract if the Consultant is awarded the Contract, as requested in this RFP

RFP SECTION		Original	Amended
Section III. Qualification and Evaluation Criteria, 3.7.1 Eligibility	3.7.1.1 Qualification and Eligibility	In accordance with ITC 5.1 to 5.4, and 5.9	In accordance with ITC 5.1 to 5.4, and 5.10
	3.7.1.2 Conflict of Interest	No conflicts of interest as described in ITC 5.5 to ITC 5.8 unless the conflict of interest has been mitigated and the mitigation is approved by MCC.	No conflicts of interest as described in ITC 5.6 to ITC 5.9 unless the conflict of interest has been mitigated and the mitigation is approved by MCC.
	3.7.1.3 Ineligibility and Debarment	Not having been declared ineligible based on any of the criteria set forth in ITC 5.9 or 5.10	Not having been declared ineligible based on any of the criteria set forth in ITC 5.10 or 5.11
Section IV A. Technical Proposal Forms (TPF)	Form TECH-1. Technical Proposal Submission Form sub- clause (d)	(d) We have no conflict of interest in accordance with ITC Clause 5.7 <i>[insert, if needed: “, other than listed below.”]</i> <i>[If listing one or more conflicts of interest, insert: “We propose the following mitigations for our conflicts of interest: [Insert description of the conflict of interest, and proposed mitigations.”]</i> .	(d) We have no conflict of interest in accordance with ITC Clause 5.8 <i>[insert, if needed: “, other than listed below.”]</i> <i>[If listing one or more conflicts of interest, insert: “We propose the following mitigations for our conflicts of interest: [Insert description of the conflict of interest, and proposed mitigations.”]</i> .