

**CB No: MCA-M/CF/DWA/W/03****Bidding Document for  
Construction of Groundwater Wells and Conveyance (CCP-1)****ANSWERS TO CLARIFICATION QUESTIONS – ISSUE No. 3 (Questions 17-19)  
September 15, 2021**

<b>Questions and Answers 1-9 issued to all registered Bidders on August 16, 2021</b>	
<b>Questions and Answers 10-16 issued to all registered Bidders on August 23, 2021</b>	
<b>Question 17:</b>	Within the Bidding Document on Page 39: ITBs 5.2, 5.3. to ITB 8.1 appear to be missing. Please clarify.
<b>Answer 17:</b>	<p>There are no missing items. Section I of the Bidding Document is titled “Instructions to Bidders (ITB)”. Section I provides information to help Bidders prepare their Bids and describes the procedures for the submission, opening and evaluation of Bids, and the award of Contracts. Section II is titled “Bid Data Sheet”, and sets out the particular requirements for the procurement and supplements the information included in Section I.</p> <p>An ITB in Section I only has a corresponding ITB in Section II when there is a need to add a particular requirement for the procurement. The ITBs referenced in the question do not have a need to add particular requirements in the Bid Data Sheet.</p>
<b>Question 18:</b>	<p>With regard to our eligibility to participate in CB MCA-M/CF/DWA/W/03 Construction of Groundwater Wells and Conveyance, as a subcontractor to potential bidder(s). In 2019, our company (<i>name withheld for confidentiality reasons</i>) worked as a subcontractor to Detailed Design Engineer (DDE) for the Bulk Supply Expansion Project.</p> <p>Our services were limited to (<i>field of work withheld for confidentiality reasons</i>) and (<i>name withheld for confidentiality reasons</i>) then performed analysis and conducted resource calculation. We did not perform any design services under this contract.</p> <p>In order to clarify our eligibility as a subcontractor, we have examined Instruction to Bidders in the aspect of Conflict of Interest. On clause 5.7.e of the ITB, it says that: <i>[entities will be deemed to have conflict of interest, if they:] 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 design, specifications, or other documents to be used for the procurement and provision of the Works under the Contract”</i></p> <p>Given the fact that our services to the DDE were limited to field operations and didn’t include any design services, as well as the limitations placed by the above ITB clause 5.7.e on entities provided consulting service on design specifications, can we (<i>name withheld for confidentiality reasons</i>) be considered eligible to perform as a subcontractor of bidder(s)?</p>
<b>Answer 18:</b>	The principles, rules, and procedures set out in the MCC Program Procurement Guidelines (PPG) govern the conduct and administration by MCA-Mongolia of the procurement of goods, works, consulting, and non-consulting services that need to be

	<p>acquired in order to implement the Projects funded by MCC.</p> <p>P1.A.1.9 (b) states (MCA-Mongolia has bolded the relevant portion): “<i>As stated in A.1.6.(b), a firm or individual that has been engaged to provide consulting services for the preparation or implementation of a Project (including the firm’s personnel, subcontractors, and affiliates), shall be disqualified from subsequently providing goods, works, or non-consulting services resulting from or directly related to the firm’s consulting services for such preparation or implementation. This provision does not apply to the various firms (consultants, contractors, or suppliers), which together, are performing the contractor’s obligations under a turnkey or design and build contract. See paragraph P1.A.2.5 for discussion of the use of turnkey or design and build contracts.</i>”</p> <p>Furthermore, Section I of the Bidding Document “Instructions to Bidders” states in ITB 5.8 “Conflict of interest” that (MCA-Mongolia has bolded the relevant portion):</p> <p><i>“A Bidder or a Contractor that has been engaged by the MCA Entity 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.”</i></p> <p>Ultimately, the determination of whether or not an entity has a conflict of interest shall be made by MCA-Mongolia, relying on information provided by the Bidder in its bid and additional research done by the MCA-Mongolia, its consultants and MCC.</p>
<b>Question 19:</b>	<p>Our company (<i>name withheld confidentiality reasons</i>) has been preparing our documents necessary to form a joint venture and to submit a bid, however, our partner (<i>name not provided, but country withheld confidentiality reasons</i>) is in debt, which prevents us from qualifying to implement the project.</p> <p>Therefore, would it be possible for our (<i>name not provided, but country withheld confidentiality reasons</i>) to use its parent company's document just to qualify and fulfill the financial requirement and then to implement the actual project activities in Mongolia along with our domestic construction company?</p>
<b>Answer 19:</b>	<p>No. Please note that the “Bidder” means any eligible entity or person, including any associate of such eligible entity or person that <b>submits a Bid</b>.</p> <p>The requirement must be met by the <b>bidder</b> and members of the Joint Venture. The Joint Venture must meet MCA-Mongolia’s definitions and requirements.</p> <p>MCA-Mongolia cannot provide direct recommendations for specific Joint Venture Partners and/or Subcontractors, other than the statement that the requirements of Section III of the IFB are Mandatory, it is therefore critical for Bidders to understand the requirements of Section III of the IFB and adhere to them.</p> <p>As presented at the Pre-Bid Conference of August 17, 2021 there is:</p>

	<p>(a) Minimum average annual construction turnover of <b>US \$130,000,000</b> calculated as total certified payments received for contracts in progress or completed, within the last <b>five (5) years</b>.</p> <p>Each member must meet twenty-five percent (25%) and at least one member must meet fifty-five percent (55%) of the requirement So, unless one potential member meets the US \$71.5m requirement and all potential members meet the US \$32.5m requirement, this should not be a JV.</p> <p>(b) Participation as contractor, management contractor, or subcontractor, in at least three (3) contracts within the last ten (10) years, each with a value of at least <b>fifty million US Dollars (\$50,000,000)</b> that have been successfully and substantially completed and that are similar to the proposed Works.</p> <p>As each member must meet this requirement, a firm that does not meet it should be a subcontractor; and not a JV member or an Associate.</p> <p>(c) Specific Experience in Key Activities</p> <p>MCA-Mongolia has recognized that these Key Activities are specialized and therefore has allowed for any of them to be undertaken by a specialized Subcontractor. Bidders should not include these firms as a JV member or Associate if they do not meet the financial requirements or Similar Construction Experience requirements of JV members or Associates.</p>