

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. 2 (Questions 10-16)
August 23, 2021**

Questions and Answers 1-9 issued to all registered Bidders on August 16, 2021	
Question 10:	With regard to local permission for international contractors - do they need to have it?
Answer 10:	<p>Clauses 45.2 and 45.3 of the Law of Mongolia on Construction provide two options for Foreign individuals and legal entities (Foreign Contractors) to consider:</p> <p>i. Clause 45.2 states “A foreign legal entity in order to carry out construction activities shall obtain a license as set forth in the clauses 19 and 20 of this law.”</p> <p>ii. Clause 45.3 states: “Unless otherwise specified in the legislation of Mongolia, the foreign entities to perform the construction activities to be funded from the state or local state budget or funded by the foreign aid or loan shall perform the activities in cooperation with the authorized Mongolian legal entity through entering into a contract as provided in this law</p>
Question 11:	Can you please show us where to download the design report?
Answer 11:	The Design Report will be provided with the Conformed Set of Documents to the winning Bidder.
Question 12:	Is it possible for MCA-Mongolia to the documents and drawings as dwg?
Answer 12:	No document or drawing will be submitted as “.dwg” format at this stage.
Question 13:	With regard to the pipe jacking and HD section - is it a requirement to have a special license ?
Answer 13:	Any works or activities must fulfill the requirements of relevant laws and regulations including construction norms and standards.
Question 14:	If possible, may we have PPT file for Pre-Bid conference?
Answer 14:	In accordance with IFB Section II - Bid Data Sheet – ITB 8.6 - Minutes of the Pre-Bid Conference is issued to all registered Bidders and posted on the MCA-Mongolia website. Annexed to the minutes are: (i) Contact List of Participants; (ii) PowerPoint Presentations; (iii) Questions and Answers.
Question 15:	We are a Government-Owned Enterprise (name of Enterprise and Country removed for confidentiality reasons). We have rich experience in water supply and conveyance projects all over the world and we are very interested in the Construction of Groundwater Wells and Conveyance Project in Mongolia. We are writing to confirm whether our company is qualified to participate in the bidding of the Project.
Answer 15:	ITB 5.4 applies to Government-Owned Enterprises of all countries. MCC does not allow government-owned enterprises of any country to compete for contracts for goods or works. MCC may also consider any firm incorporated and organized

	<p>in a country with a non-market economy to be a government-owned enterprise, which makes the firm ineligible to compete. Furthermore, as set forth in ITB 5.3:</p> <p><i>“A Bidder, all parties constituting the Bidder, and any subcontractors and suppliers for any part of the Contract, including related services, may have the nationality of any country, subject to the nationality restrictions specified in this Section 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.”</i></p> <p>Furthermore, Section IV of the IFB - Bid submission Forms – contains Form ELI-4: Beneficial Ownership Disclosure Form (BODF). This Form is to be completed by each Bidder. In case of joint venture, the Bidder must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission. For the purposes of this Form, a Beneficial Owner of a Bidder or of a joint venture member is any natural person who ultimately owns or controls the Bidder or joint venture member by meeting one or more of the following conditions:</p> <ul style="list-style-type: none"> • directly or indirectly holding 10% or more of the shares • directly or indirectly holding 10% or more of the voting rights • directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Bidder or joint venture member <p>Therefore, MCA-Mongolia cannot advise a potential Bidder if it is deemed to be to a Government-Owned Enterprise or not. Bidders must submit every Bid Form required in the Invitation for Bids, including but not limited to Form ELI-3: Government-Owned Enterprise Certification Form and Form ELI-4: Beneficial Ownership Disclosure Form.</p>
Question 16:	<p>In a relation with ITB 5.5I <i>"GOVERNMENT-OWNED ENTERPRISES"</i> - we would like to confirm that our company is qualified for bidding of your project. Our company is recognized one of best public enterprise in (names of Enterprise and Country removed for confidentiality reasons) but we have established based on commercial law as an Incorporated company (Co Ltd). It means we have operated company without any financial support from government but we are evaluated and audited by (name Country Government removed) every end of year. Also, our company is a subsidiary of (name of Enterprise removed) issued all of our company stocks; and (name of Enterprise removed) has supplied natural gas nationwide since (date removed) and (name of Enterprise removed) has been invested by (name of Country removed) Government. In this case, can you enable us to qualify as bidder?</p>
Answer 16:	Please refer to the response to Question 15.