



REQUEST FOR PROPOSALS

Issued on 25 November 2020

**Millennium Challenge Account Nepal (MCA-Nepal)
on behalf of
The Government of Nepal
Millennium Challenge Account Nepal Program**

**Funded by
The United States of America
through
The Millennium Challenge Corporation
for
Procurement of Independent Audit Service**

AUDIT SERVICE

**RFP/Quality and Cost-Based Selection (QCBS)
Method /MCA-N/PM/QCBS/005**

Letter of Invitation Requesting Proposals

Kathmandu, Nepal
25 November 2020

Re: Procurement of Independent Audit Service

MCA-N/PM/QCBS/005

Dear Madam/Sir:

The United States of America, acting through the Millennium Challenge Corporation (“MCC”) and the Government of **Nepal** (the “Government” or “GoN”) have entered into a Millennium Challenge Compact for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in **Nepal** (the “Compact”) in the amount of approximately US\$500 million (“MCC Funding”) and an additional US\$130 million from the Government (“GoN Contribution”), for a total of approximately US\$ 630 million. The Government, acting through **Millennium Challenge Account Nepal** (the “MCA Entity” or “Client”), intends to apply a portion of the MCC Funding to eligible payments under a contract for which this Request for Proposals 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) and on the website of the MCA Entity.

The Compact program includes two projects: (i) construction of about 300 kilometers of 400kV electricity transmission lines, three substations, and technical assistance for the power sector (Electricity Transmission Project–ETP); and (ii) technical assistance to improve the road maintenance regime and road maintenance works on about 300 kilometers of the strategic road network (Road Maintenance Project–RMP). The program would include the procurement of contractors and consultants for design, construction and supervision of electricity lines and substations, road maintenance works, including a variety of technical services, equipment and construction works in different geographic locations within Nepal. These contracts will be competed through open international procurement procedures..

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

This Request for Proposals (“RFP”) has been addressed to the following shortlisted entities (“Consultants”):

1. Joshi & Bhandary
2. N.B.S.M. & Associates
3. PP Pradham & Co.
4. Shankar Associates
5. Suvod Associates

Unless specifically permitted in the RFP, shortlisted Consultants may not associate with other shortlisted consultants. Subject to restrictions noted in the RFP, shortlisted consultants may associate with other non-shortlisted consultants to enhance their capacity to successfully carry out the assignment.

The consultant services, and the contract expected to be awarded, are divided into the following Phases:

Base/Option Period	Audit Period Covered	
	From	To
Base Period	May 24, 2015	March 31, 2021
Option Period 1	April 01, 2021	September 30, 2021
Option Period 2	October 01, 2021	March 31, 2022
Option Period 3	April 01, 2022	September 30, 2022
Option Period 4	October 01, 2022	March 31, 2023
Option Period 5	April 01, 2023	September 30, 2023

A Consultant will be selected under the **Quality and Cost-Based Selection (QCBS) Method**, the evaluation procedure for which is described in sections of the RFP in accordance with “MCC Program Procurement Guidelines” which are provided on the MCC website (www.mcc.gov). The selection process, as described, will include a review of qualifications and past performance, including a reference check, and shall be subject to verification prior to the contract award.

The RFP includes the following Sections:

PART 1 – PROPOSAL AND SELECTION PROCEDURES

Section I Instructions to Consultants (ITC)

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

Section II Proposal Data Sheet (PDS)

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

Section III Qualification and Evaluation Criteria

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

Section IV A Technical Proposal Forms

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

Section IV B Financial Proposal Forms

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

Section V Terms of Reference

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

PART 2 – CONDITIONS OF CONTRACT AND CONTRACT FORMS

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

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

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

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

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

Proposals must be delivered in the manner specified in the **Instructions to Consultants (ITC) 17**, no later than **28 December 2020 at 15:00 hours (local time of Nepal (GMT+5:45))**.

Please note that only electronic Proposals **shall** be accepted. Proposals must be uploaded to the file request link (FRL) provided as per provisions and instructions stated under **Annex 1** to Section II of the Proposal Data Sheet. Proposals submitted by email or hard copy (or any other means) shall not be accepted. The provided file request link will expire on the deadline for submission; thus, the proposal cannot be uploaded after the deadline of submission.

Upon receipt of this letter, please inform us in writing, or by electronic mail, at the address shown below:

- (a) that you received the Request for Proposals; and
- (b) whether you will submit a Proposal.

Yours Sincerely,

Khadga Bahadur Bisht
Executive Director
MCA-Nepal

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PART 1:
PROPOSAL AND SELECTION
PROCEDURES

Section I. Instructions to Consultants

A. General

In Part 1 (Proposal and Selection Procedures) of this Request for Proposals, the following words and expressions shall have the meanings stated. These definitions shall not apply to any words or expressions in the sections that make up Part 2 (Conditions of Contract and Contract Forms) of this RFP, in which such words and expressions shall have the meanings stated in GCC Sub-Clauses 1.1 and 2.1 unless otherwise specified.

- (a) “Addendum” or “Addenda” means a modification to this RFP issued by the MCA Entity.
- (b) “Associate” means any entity that is a member of the Association that forms the Consultant. A Sub-Consultant is not an Associate.
- (c) “Association” or “association” or “Joint Venture” or “joint venture” means an association of entities that forms the Consultant, with or without a legal status distinct from that of its members.
- (d) “Compact” means the Millennium Challenge Compact **identified in the PDS.**
- (e) “confirmation” means confirmation in writing.
- (f) “Consultant” means any legal entity that may provide or provides the Services to the MCA Entity under the Contract.
- (g) “Contract” means the contract proposed to be entered into between the MCA Entity and the Consultant, including all attachments, annexes, and all documents incorporated by reference therein, a form of which is included in Part 2 of this RFP.
- (h) “days” refers to calendar days.
- (i) “FBS” means Fixed Budget Selection method as defined in the MCC PPG.
- (j) “Financial Proposal” has the meaning given the term in ITC Sub-Clause 12.5.
- (k) “Fiscal Agent” means any entity that provides services to the MCA Entity under the terms of the Fiscal Agent Agreement.
- (l) “GCC” means the General Conditions of Contract.
- (m) “Government” means the Government **identified in the PDS.**

- (n) “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability.
- (o) “Instructions to Consultants” or “ITC” means Section I of this RFP, including any amendments, which provides Consultants with all information needed to prepare their Proposals.
- (p) "Key Professional Personnel" means the Key Professional Personnel identified pursuant to ITC Sub-Clause 12.3(d).
- (q) “LCS” means Least Cost Selection method as defined in the MCC PPG.
- (r) “Millennium Challenge Corporation” or “MCC” means a United States Government corporation, acting on behalf of the United States Government.
- (s) “MCA Entity” or “Client” means the accountable entity **identified in the PDS**.
- (t) “MCC Funding” means the funding MCC has made available to the Government pursuant to the terms of the Compact.
- (u) “MCC’s AFC Policy” has the meaning provided in ITC Clause 3.
- (v) “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.
- (w) “PDS” means the Proposal Data Sheet, in Section II of this RFP, used to reflect specific requirements and/or assignment conditions.
- (x) “Personnel” means Key Professional Personnel and additional staff provided by the Consultant, or by any Sub-Consultants, or Associates that are assigned to perform the Services or any part thereof.
- (y) "Pre-Proposal Conference" means the pre-proposal conference **specified in PDS ITC 1.4**, if any.
- (z) “Proposal” means the Technical Proposal and the Financial Proposal for the provision of the Services submitted by a Consultant in response to this RFP.
- (aa) “QBS” means Quality-Based Selection method as defined in the MCC PPG.
- (bb) “QCBS” means Quality and Cost-Based Selection method as defined in the MCC PPG.

- (cc) “RFP” means this Request for Proposals, including any amendments that may be made, prepared by the MCA Entity for the selection of the Consultant.
- (dd) “SCC” means the Special Conditions of Contract.
- (ee) “Services” means the tasks to be performed by the Consultant pursuant to the Contract.
- (ff) “Sub-Consultant” means any person or legal entity with whom the Consultant subcontracts any part of the Services.
- (gg) “Taxes” has the meaning given the term in the Compact.
- (hh) “TEP” means the Technical Evaluation Panel, selected for the purpose of evaluating the Proposals received, that submits a report with recommendation for award of the Contract for which this RFP is being issued.
- (ii) "Technical Proposal" has the meaning given the term in ITC Sub-Clause 12.3.
- (jj) “Terms of Reference” or “TOR” means the document included in this RFP as Section V, which explains the objectives; scope of work; activities; tasks to be performed, respective responsibilities of the MCA Entity and the Consultant; and expected results and deliverables of the assignment.
- (kk) “Trafficking in Persons” or “TIP” has the meaning given to the term in the MCC Program Procurement Guidelines.

1. Scope of RFP

- 1.1 The MCA Entity will select a Consultant in accordance with the selection method **specified in the PDS**.
- 1.2 Throughout this RFP except where the context requires otherwise, words indicating the singular also include the plural, words indicating the plural also include the singular, and the feminine means the masculine and vice versa.
- 1.3 Consultants are invited to submit a Technical Proposal and a Financial Proposal for consulting services required for this assignment as **named in the PDS**. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultant.
- 1.4 Consultants should familiarize themselves with local conditions and take them into account in preparing their

Proposals. To obtain first-hand information on the assignment and local conditions, Consultants are encouraged to attend a Pre-Proposal Conference if one is **specified in the PDS**. Attending any Pre-Proposal Conference is strongly advised, but not mandatory. Attending any Pre-Proposal Conference and/or a site visit shall not be taken into account for the purpose of evaluation of Proposals.

- 1.5 The MCA Entity will timely provide, at no cost to the Consultant, the inputs and facilities **specified in the PDS**, assist the firm in obtaining licenses and permits needed to carry out the Services, and make available relevant project data and reports. No other inputs will be provided. Therefore, a Consultant shall plan to cover all incurred expenses that may be foreseen to initiate and sustain the Services in a timely manner, including but not limited to office space, communication, insurance, office equipment, travel, etc. not otherwise **specified in the PDS**.
- 1.6 The MCA Entity is not bound to accept any Proposal, and reserves the right to cancel the procurement at any time prior to Contract award, without thereby incurring any liability to any Consultant.

2. Source of Funds

- 2.1 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 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 any proceeds of MCC Funding. The Compact and its related documents can be found on the MCC website (www.mcc.gov) or on the website of the MCA Entity.

3. Corruption and Fraud

MCC requires that all beneficiaries of MCC Funding, including the MCA Entity and any applicants, Bidders, Suppliers, contractors, Subcontractors, consultants, and sub-consultants under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts. MCC's

Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC’s AFC Policy”) is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC’s AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC’s AFC Policy and certify to the MCA Entity that they have acceptable commitments and procedures in place to address the potential for fraud and corruption.

(a) For the purposes of these provisions, the terms set forth below are defined as follows:

- (i) “**coercion**” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to influence improperly the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including such actions taken in connection with a procurement process or the execution of a contract;
- (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) 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 the 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.

- (b) The MCA Entity will reject a Proposal (and MCC will deny approval of a proposed Contract award) if it determines that the Consultant recommended for award has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for the Contract.
- (c) MCC and the MCA Entity have the right to sanction a Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract if at any time either MCC or the MCA Entity determines that the Consultant has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in executing, such a contract.
- (d) MCC and the MCA Entity have the right to require that a provision be included in the Contract requiring the selected Consultant to permit the MCA Entity, MCC, or any designee of MCC, to inspect the Consultant's, or any of the Consultant's suppliers or Sub-Consultants on the Contract, accounts, records and other documents relating to the submission of its Proposal or performance of the Contract and to have such accounts, records and other documents audited by auditors appointed by MCC or by the MCA Entity with the approval of MCC.
- (e) 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.

4. Environmental and Social Requirements

Trafficking in Persons

- 4.1 MCC has a zero tolerance policy with regard to Trafficking in Persons (“TIP”). TIP is the crime of using force, fraud, and/or coercion to exploit another person. TIP can take the form of domestic servitude, peonage, forced labor, sexual servitude, bonded labor, and the use of child soldiers. This practice deprives people of their human rights and freedoms, increases global health risks, fuels growing networks of organized crime, and can sustain levels of poverty and impede development. MCC is committed to working with partner countries to ensure appropriate steps are taken to prevent, mitigate, and monitor TIP risks in the countries it partners with and projects it funds.
- 4.2 The Description of Services (Annex A of the Contract) sets out certain prohibitions, Consultant requirements, remedies and other provisions that will be made a binding part of any Contract that may be entered into.
- 4.3 Additional information on MCC’s requirements aimed at combating TIP can be found in MCC’s Counter-Trafficking in Persons (“C-TIP”) Policy that can be found on MCC’s website (<https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy>). All contracts funded by MCC are required to comply with MCC’s C-TIP requirements, as described in the C-TIP Policy. Contracts for projects categorized by MCC as high-risk for TIP are required to implement a TIP Risk Management Plan (which is to be developed by the MCA Entity and implemented by the Consultant).

MCC Environmental Guidelines and IFC Performance Standards

- 4.4 The Consultant shall ensure that its activities, including any activities carried out by Sub-consultants, under the Contract comply with MCC’s Environmental Guidelines (as such term is defined in the 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 Consultant is also required to comply with IFC Performance Standards for the purposes of this contract. Additional information on the IFC Performance Standards can be found here:

http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards.

- | | |
|--|--|
| 5. Qualification and Eligibility of Consultants | 5.1 The qualification and eligibility criteria set out in this section will apply to the Consultant, including all parties constituting the Consultant, for any part of the Contract, including related services. |
| Qualification of Consultants | 5.2 Consultants must satisfy the legal, financial and litigation criteria requirements stated in Paragraphs 3.1 to 3.3 of Section III of this RFP and shall provide such evidence of their continued qualification to perform the Services (including any changes in their litigation history) in a manner satisfactory to the MCA Entity, as the MCA Entity shall reasonably request at any time prior to the award of contract. |
| Eligibility of Consultants | 5.3 Consultants must also satisfy the eligibility criteria set forth in this RFP and as contained in the MCC Program Procurement Guidelines governing MCC-funded procurements under the Compact. |
| Qualification and Eligibility of Joint Ventures or Associations | 5.4 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 | 5.5 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:

- (a) have at least one controlling partner in common with one or more other parties in the process contemplated by this RFP; or
 - (b) have the same legal representative as another Consultant for purposes of this Proposal; or
 - (c) 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
 - (d) 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
 - (e) 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
 - (f) 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.
- 5.6 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.

- 5.7 Consultants have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the MCA Entity, or that may be reasonably perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of the Contract.

Government Employees 5.8

- (a) No member of the MCA Entity's board of directors or current employees of the MCA Entity (whether part time, or full time, paid or unpaid, in leave status, etc.) shall be proposed or work as, or on behalf of, any Consultant.
- (b) Except as provided in Sub-Clause 5.8(d), no current employees of the Government shall work as Consultants or as Personnel under their own ministries, departments or agencies.
- (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) In the case where a Consultant seeks to engage the services of any person falling under ITC Sub-Clauses 5.8(a) – 5.8(d), who may have left the MCA Entity within a period of less than twelve (12) months of the date of this RFP, it must obtain a “no-objection” from the MCA Entity for the inclusion of such a person, prior to the Consultant’s submission of its Proposal.

Ineligibility and Debarment

- 5.9 A Consultant, all parties constituting the Consultant, and any Sub-Consultants and suppliers for any part of the Contract, including related services, and their respective Personnel and affiliates, will not be any person or entity under (a) a declaration of ineligibility for engaging in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption or prohibited practices as contemplated by ITC Sub-Clause 3.1 above, or (b) that has been declared ineligible for participation in a procurement in accordance with the procedures set out in Part 10 of MCC’s Program 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.
- 5.10 A Consultant, all parties constituting the Consultant, and any Sub-Consultants and suppliers for any part of the Contract, including related services, and their respective Personnel and affiliates not otherwise made ineligible for a reason described in this ITC 5 will nonetheless be excluded if:
 - (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

5.11 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

5.12 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

5.13 A Consultant will furnish information on commissions and gratuities, if any, paid or to be paid relating to this procurement or its Proposal and during performance of the Contract if the Consultant is awarded the Contract, as requested in the Financial Proposal Form FIN-1 of Section IV B.

6. Origin of Goods and Consulting Services

6.1 Goods supplied and consulting services provided under the Contract may originate from any country, subject to the same restrictions specified for Consultants (including their Associates, if any), their Personnel and Sub-Consultants set forth in ITC Sub-Clause 5.9.

B. Contents of RFP

7. Sections of RFP

7.1 This RFP consists of Parts 1 and 2, which include all the sections indicated below and should be read in conjunction with any Addenda issued in accordance with

ITC Clause 9.

Part 1 Proposal and Selection Procedures

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

Part 2 Conditions of Contract and Contract Forms

- Section VI. Contract Notices, Agreement and General Conditions of Contract (GCC)
- Section VII. Special Conditions of Contract (SCC) and Annexes to Contract

- 7.2 The Letter of Invitation Requesting Proposals issued by the MCA Entity is not part of the RFP.
- 7.3 The MCA Entity is not responsible for the completeness of this RFP and its Addenda if they were not obtained directly from the source stated by the MCA Entity in the Request for Proposals Letter.
- 7.4 The Consultant is expected to examine all instructions, forms, terms, and Terms of Reference in this RFP. Failure to furnish all information or documentation required by this RFP may result in the rejection of the Proposal.

8. Clarification of RFP

- 8.1 A prospective Consultant requiring any clarification of this RFP shall contact the MCA Entity in writing, or by email or fax at the MCA Entity's address **indicated in the PDS**. The MCA Entity will respond to any request for clarification, provided that such a request is received no later than the number of days **indicated in the PDS** prior to the deadline for submission of Proposals. The MCA Entity shall send written copies of the responses, including a description of the inquiry but without identifying its source, to all shortlisted Consultants or Consultants who have registered or obtained the RFP directly from the MCA Entity, as the case may be, by the date **specified in the PDS**. The MCA Entity will also post a copy of the responses and inquiry descriptions to

the MCA Entity's website **indicated in the PDS**. Should the clarification result in changes to the essential elements of this RFP, the MCA Entity shall amend this RFP following the procedure under ITC Clause 9.

- 8.2 The Consultant's designated representative is invited to attend a Pre-Proposal Conference, if **provided for in PDS ITC 1.4**. The purpose of the conference will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 8.3 Minutes of the Pre-Proposal Conference, including the text of the questions and answers pertaining to the Conference, without identifying the source, will be posted on the MCA Entity's website as **indicated in PDS ITC 8.1**, and shall be transmitted in writing to all shortlisted Consultants or Consultants who have registered or obtained the RFP directly from the MCA Entity, as the case may be. Any modification to this RFP that may become necessary as a result of the Pre-Proposal Conference shall be made by the MCA Entity exclusively through the issue of an Addendum and not through the minutes of the Pre-Proposal Conference.

9. Amendment of the RFP

- 9.1 At any time prior to the deadline for submission of Proposals, the MCA Entity may amend this RFP by issuing Addenda.
- 9.2 All Addenda issued shall be part of this RFP, posted on the MCA Entity's website, and shall be communicated in writing to all shortlisted Consultants or Consultants who have registered or obtained the RFP directly from the MCA Entity, as the case may be.
- 9.3 To give prospective Consultants reasonable time in which to take an Addendum into account in preparing their Proposals, the MCA Entity may extend the deadline for the submission of Proposals at its sole discretion.

C. Preparation of Proposals

10. Cost of Proposal

- 10.1 Except as otherwise **provided in the PDS**, the Consultant shall bear all costs associated with the preparation and submission of its Proposal, and the MCA Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Proposal process.

11. Language of Proposal

11.1 If Proposals are to be submitted in both English and/or any other language, **as stated in the PDS**, the English version shall govern. Supporting documents and printed literature that are part of the Proposal may be in another language provided they are accompanied by an accurate translation of the relevant passages into English, in which case, for purposes of interpretation of the Proposal, such translation shall govern.

12. Preparation of Proposal

12.1 In preparing their Proposal, Consultants are expected to examine in detail the documents comprising the RFP. Failure to provide the information requested may result in rejection of a Proposal.

12.2 While preparing the Technical Proposal, Consultants must give particular attention to the following:

- (a) In the case where there has been no shortlisting of Consultants, if a Consultant considers that it may enhance its expertise for the assignment, it may associate with another Consultant. In the case where a Consultant is, or proposes to be, a joint venture or other association (i) all members of the joint venture or Association must satisfy the legal, financial, litigation and other requirements set out in this RFP; (ii) all members of the joint venture or Association will be jointly and severally liable for the execution of the Contract; and (iii) the joint venture or Association will indicate the authorized representative who will have the authority to conduct all business for and on behalf of any and all the members of the joint venture or the Association during the bidding process and, in the event the joint venture or Association is awarded the Contract, during Contract performance.
- (b) In the case where there has been shortlisting of Consultants, if a shortlisted Consultant considers that it may enhance its expertise for the assignment by associating with other Consultants in a joint venture or Sub-Consultancy, it may associate with either (a) non-shortlisted Consultant(s), or (b) shortlisted Consultant(s) if so **indicated in the PDS**. A shortlisted Consultant must first obtain the approval of the MCA Entity if it wishes to enter into a joint venture with non-shortlisted or shortlisted Consultant(s). In case of association with non-shortlisted Consultant(s), the shortlisted Consultant

shall act as the authorized representative of the association. In case of a joint venture, all partners shall be jointly and severally liable and shall indicate who will act as the leader of the joint venture.

- (c) The RFP may provide either, but never both, the estimated budget or the estimated level of effort of key staff. The estimated budget or the estimated number of person-months for Key Professional Personnel envisaged to execute the assignment may be **provided in the PDS**. However, the evaluation of the Proposal shall be based on the price and number of person-months estimated by each Consultant in its respective Proposal.
- (d) For FBS-based assignments, the available budget is **provided in PDS ITC 12.2(c)**, and the Financial Proposal shall not exceed this budget, while the estimated number of Professional staff-months shall not be disclosed.
- (e) Alternative Key Professional Personnel shall not be proposed, and only one curriculum vitae (“CV”) may be submitted for each position indicated in the TOR.

**Technical and Financial
Proposal Format and
Content**

12.3 Consultants are required to submit a Technical Proposal, which shall provide the information indicated in the following paragraphs (a) through (g) using the standard forms provided in Section IV A (the “Technical Proposal”). A page is considered to be one printed side of A4 or US letter-size paper.

- (a) Information on the Consultant’s financial capacity is required (Form TECH-2A of Section IV A) **unless otherwise stated in the PDS**. Information on current or past proceedings, litigation, arbitration, action claims, investigations or disputes is required (Form TECH-2B of Section IV A). A brief description of the Consultants’ organization and an outline of recent experience of the Consultant and of each Associate, if any, on assignments of a similar nature is required (Form TECH-3 and TECH-4 of Section IV A). For each assignment, the outline should indicate the names of Associates or Key Professional Personnel who participated, duration of the assignment, contract amount, and Consultant’s involvement. Information should be provided only for those assignments for which the Consultant was legally contracted as a corporation or as one of the major firms within a joint venture. Assignments

completed by individual professional staff working privately or through other consultants cannot be claimed as the experience of the Consultant, or that of an Associate, but can be claimed by the professional staff themselves in their CVs. Consultants should be prepared to substantiate the claimed experience if so requested by the MCA Entity. References of the Consultant are required (Forms TECH-5 and B of Section IV A).

- (b) Comments and suggestions on the Terms of Reference including workable suggestions that could improve the quality/ effectiveness of the assignment; and on requirements for counterpart staff and facilities including: administrative support, office space, local transportation, equipment, data, etc. to be provided by the MCA Entity (Form TECH-7 of Section IV A).
- (c) A description of the approach, methodology and work plan for performing the assignment covering the following subjects: technical approach and methodology, work plan, and organization and staffing schedule. Guidance on the content of this section of the Technical Proposal is provided (Form TECH-6 of Section IV A). The work plan should be consistent with the Work and Deliverables Schedule (Form TECH-10 of Section IV A) which will show in the form of a bar chart the timing proposed for each activity.
- (d) The list of the proposed Key Professional Personnel by area of expertise, the position that would be assigned to each person, and their tasks (Form TECH-8 of Section IV A).
- (e) Estimates of the staff input (person-months of foreign and local professionals) needed to carry out the assignment (Form TECH-9 of Section IV A). The person-months input should be indicated separately for home office and field activities, and for foreign and local professional staff.
- (f) CVs of the Key Professional Personnel signed by the staff themselves and/or by the authorized representative (Form TECH-11 of Section IV A).
- (g) A detailed description of the proposed methodology and staffing for training, if training is **identified in the PDS** as a specific component of the assignment (Form TECH-6 of Section IV A).

(h) Completed and certified Certification of Compliance with Sanctions Form (Form TECH-12 of Section IV A).

12.4 The Technical Proposal shall not include any financial information other than the required information in Form TECH-2A. A Technical Proposal containing financial information will constitute grounds for declaring the Proposal non-responsive.

Financial Proposals

12.5 The Consultant's Financial Proposal shall be prepared using the forms provided in Section IV B (the "Financial Proposal"). It shall list all prices associated with the assignment, including remuneration for Personnel (foreign and local, in the field and at the Consultants' home office) and travel expenses, if **indicated in the PDS**. All activities and items described in the Technical Proposal shall be assumed to be included in the price offered in the Financial Proposal.

13. Taxes

13.1 GCC 18 sets forth the Tax provisions of the Contract. Consultants should review this clause carefully in preparing their Proposal.

14. Only One Proposal

14.1 Consultants may only submit one Proposal. If a Consultant submits or participates in more than one Proposal, all such Proposals shall be disqualified. However, this does not preclude the participation of the same Sub-Consultants, including individual experts, in more than one Proposal.

15. Currencies of Proposal

15.1 Consultants must submit their Financial Proposals in the currency or currencies **specified in the PDS**. Consultants will be paid in the currency specified in the **PDS**.

16. Period of Proposal Validity

16.1 Proposals shall remain valid for the period **specified in the PDS** after the Proposal submission deadline date prescribed by the MCA Entity. A Proposal valid for a shorter period may be rejected by the MCA Entity as non-responsive.

16.2 During the period of proposal validity, Consultants shall maintain the availability of Key Professional Personnel identified in the Proposal. The MCA Entity will make its best effort to complete negotiations within this period. Should the need arise, however, the MCA Entity may request Consultants to extend the validity period of their Proposals. Consultants who agree to such extension shall

confirm that they maintain the availability of the Key Professional Personnel nominated in the Proposal, or in their confirmation of extension of validity of the Proposal, Consultants could submit new Key Professional Personnel in replacement, which would be considered in the final evaluation for Contract award. Consultants who do not agree have the right to refuse to extend the validity of their Proposals.

D. Submission and Opening of Proposals

17. Sealing and Marking of Proposals

- 17.1 The following applies to the **“ORIGINAL”** of the Technical Proposal, and of the Financial Proposal. The **“ORIGINAL”** shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants themselves. The person signing the Proposal must initial such corrections, as well as initial each page of the relevant **“ORIGINAL”**. The submission letters for the Technical Proposal and for the Financial Proposal should respectively be in the format shown in (Form TECH-1) and (Form FIN-1).
- 17.2 If **required in the PDS**, the authorized representative of the Consultant signing the **“ORIGINAL”** of the Technical and the Financial Proposals shall provide within the Technical Proposal an authorization in the form of a written power of attorney demonstrating that the person signing has been duly authorized to sign the **“ORIGINAL”** on behalf of the Consultant, and its Associates. The signed Technical Proposals and the signed Financial Proposals shall be clearly marked **“ORIGINAL”**.
- 17.3 Copies of the Technical Proposal and the Financial Proposal shall be made, in the number **stated in the PDS**, and each shall be clearly marked **“COPY”**. If discrepancies are found between the original and any of the copies of the relevant documents, then the **“ORIGINAL”** shall govern. If Consultants have the option of submitting proposals electronically, this shall be **stated in the PDS**.
- 17.4 The **“ORIGINAL”** and each **“COPY”** of the Technical Proposal shall be placed in a sealed envelope/parcel clearly marked **“TECHNICAL PROPOSAL”**. Similarly, the **“ORIGINAL”** and each **“COPY”** of the Financial Proposal shall be placed in a separate sealed envelope/parcel clearly marked **“FINANCIAL PROPOSAL”**.

- 17.5 Each envelope/parcel shall bear the name and address of the MCA Entity as **stated in the PDS**, the name and address of the Consultant (in case they have to be returned unopened), and the Name of the Assignment as **stated in PDS ITC 1.3**.
- 17.6 In addition, the envelope/parcel containing the original and copies of the Financial Proposal shall be marked with a warning **“DO NOT OPEN WITH THE TECHNICAL PROPOSAL”**. If the Financial Proposal is not submitted in a separate sealed envelope/parcel duly marked as indicated above, this will constitute grounds for declaring the Proposal non-responsive.
- 17.7 The two envelopes/parcels containing the Technical Proposal and the Financial Proposal shall then be placed into one outer envelope or carton (as appropriate) and securely sealed to prevent premature opening. This outer envelope/carton shall bear the submission address, name and address of the Consultant, name of the assignment reference number, and be clearly marked with the statement **indicated in the PDS** and bear the name and address of the MCA Entity **as stated in PDS ITC 17.5**. The MCA Entity shall not be responsible for misplacement, losing or premature opening if the outer envelope/carton is not sealed and/or marked as stipulated. This circumstance may be cause for Proposal rejection.
- 18. Deadline for Submission of Proposals**
- 18.1 Proposals must be received by the MCA Entity before the submission deadline **specified in the PDS**.
- 18.2 A Consultant may withdraw, substitute, or modify its Proposal prior to the deadline for the submission of proposals by sending a written notice duly signed by an authorized representative. The corresponding substitution or modification of the Proposal must accompany the respective written notice. All notices must be:
- (a) clearly marked **“WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION”**
 - (b) received by the MCA Entity prior to the deadline prescribed for submission of Proposals.
 - (c) sent directly as electronic submissions to the File Request Link or if submitting in hard copy to the address in the PDS, and be in pdf or Word format.
- 18.3 Proposals requested to be withdrawn shall remain

unopened. No proposal may be withdrawn, substituted, or modified in the interval between the deadline for submission of proposals and the expiration of the period of proposal validity specified in this Request for Proposals.

18.4 The MCA Entity may, at its discretion, extend the deadline for the submission of Proposals by amending this RFP in accordance with ITC 9, in which case all rights and obligations of the MCA Entity and the Consultants previously subject to the original deadline shall thereafter be subject to the new deadline as extended.

18.5 Any Proposal received by the MCA Entity after the deadline for submission shall be declared late and rejected. The Consultant shall be notified of such rejection.

19. Late Proposals

19.1 The MCA Entity shall not consider any Proposal that arrives after the deadline for submission of Proposals in accordance with ITC 18. Any Proposals received by the MCA Entity after the deadline for submission of Proposals shall be declared late, rejected, and returned unopened to the Consultant at the request and cost of the Consultant.

20. Proposal Opening

20.1 The MCA Entity shall open the outer envelopes/cartons in a public meeting at the address, date and time **specified in the PDS** as soon as possible after the deadline for submission and sort the Proposals into Technical Proposals or Financial Proposals as appropriate. The MCA Entity shall ensure that the Financial Proposals remain sealed and securely stored until such time as the public opening of Financial Proposals takes place.

E. Evaluation of Proposals

21. Confidentiality

21.1 Information relating to the evaluation of Proposals and recommendations of Contract award shall not be disclosed to Consultants or any other persons not officially concerned with the process, until the publication of the award of Contract. The undue use by any Consultant of confidential information related to the process may result in the rejection of its Proposal or may invalidate the entire procurement process.

21.2 Any attempt or effort by a Consultant to influence the

MCA Entity in the examination, evaluation, and ranking of Proposals or Contract award decisions may result in the rejection of its Proposal and may subject the Consultant to the provisions of the Government's, the MCA Entity's, and MCC's AFC Policy and the application of other sanctions and remedies to the extent applicable

21.3 From the time Proposals are opened to the time the Contract is awarded, Consultants shall not contact the MCA Entity on any matter related to its Technical Proposal or Financial Proposal except in writing to the Procurement Agent.

22. Clarification of Proposals

22.1 To assist in the examination and evaluation of Proposals, the MCA Entity may, at its discretion, ask any Consultant for clarification of its Proposal. Any clarification submitted by a Consultant that is not in response to a request by the MCA Entity shall not be considered. The MCA Entity's request for clarification and the Consultant's response shall be in writing. No change in the prices or substance of the Proposal shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by the MCA Entity in the evaluation of the Proposals.

22.2 If a Consultant does not provide clarifications of its Proposal by the date and time set in the MCA Entity's request for clarification, its Proposal may be rejected.

23. Evaluation of Technical Proposals

23.1 The TEP shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub-criteria, and point system specified in Section III. Each responsive Proposal will be given a technical score (St). A Proposal may be rejected at this stage if it does not respond to the RFP or if it fails to achieve the minimum technical score **indicated in the PDS**.

23.2 In exceptional circumstances, if none of the scores awarded by the TEP reach or exceed the minimum technical score (St), the MCA Entity reserves the right to invite the Consultant receiving the highest technical score (St) to negotiate both its Technical and Financial Proposals. If the negotiations fail to result in an acceptable contract within a reasonable time, the MCA Entity reserves the right to terminate the negotiations, at its sole discretion, and to invite—again, at its sole

discretion—the Consultant receiving the next highest technical score (St) to negotiate both its Technical and Financial Proposals.

24. Evaluation of Financial Capacity

- 24.1 The Consultant’s financial capability to mobilize and sustain the Services is imperative. In its Proposal, the Consultant is required to provide information on its financial and economic status **unless otherwise stated in PDS ITC 12.3(a)**. The information required should be completed using the Form TECH-2A.
- 24.2 A Consultant that fails to demonstrate through its financial records that it has the economic and financial ability to perform the required services as described in the respective Terms of Reference may be disqualified. In the circumstance of a disqualification the Technical Proposal will not be evaluated further and the Financial Proposal shall be returned unopened at the cost and request of the Consultant.
- 24.3 The MCA Entity, at its discretion, may ask for clarifications or additional information regarding the information provided in Form TECH-2A.
- 24.4 The outcome of the Financial Capacity evaluation is a clear YES or NO. Any Consultant that receives a NO shall not be evaluated further and its Financial Proposal shall be returned unopened. The Proposals that receive a YES at this stage will be evaluated further according to the technical scoring methodology described in Section III.

Financial Proposals (only for QBS)

- 24.5 Following the ranking of Technical Proposals, and after receiving a “no objection” from MCC (if applicable), when selection is based on quality only (QBS), the first ranked Consultant will be invited to negotiate its Technical and Financial Proposals and the Contract in accordance with the instructions given under ITC Sub-Clause 27.

Financial Proposals (only for QCBS, FBS, LCS)

- 24.6 Following completion of the evaluation of Technical Proposals, and after receiving a “no objection” from MCC (if applicable), the MCA Entity shall inform those Consultants whose Technical Proposals achieved the minimum qualifying mark, advising them of the following:
 - (i) that their Technical Proposal met the minimum

qualifying mark;

- (ii) the name of each Consultant whose Technical Proposal met or exceeded the minimum qualifying mark and the total technical score assigned to each; and
- (iii) the date, time, and location for the opening of the Financial Proposals, inviting them to the opening but indicating that their attendance is not mandatory.

The MCA Entity shall also advise those Consultants whose Technical Proposals did not meet the minimum qualifying mark, advising them of the following:

- (i) that their Technical Proposal did not meet the minimum qualifying mark;
- (ii) the total technical score assigned to their own Technical Proposal;
- (iii) the name of each Consultant whose Technical Proposal met or exceeded the minimum qualifying mark and the total technical score assigned to each;
- (iv) the date, time, and location for the opening of the Financial Proposals, inviting them to the opening but indicating that their attendance is not mandatory; and
- (v) that their Financial Proposals will be returned unopened, at the cost and expense of the Consultant, after the MCA Entity has completed the selection process.

The MCA Entity shall also advise those Consultants whose Technical Proposals were not evaluated or rejected, advising them of the following:

- (i) the grounds on which their Technical Proposal was not evaluated or was rejected;
- (ii) the name of each Consultant whose Technical Proposal met or exceeded the minimum qualifying mark and the total technical score assigned to each;
- (iii) the date, time, and location for the opening of the Financial Proposals, inviting them to the opening but indicating that their attendance is not mandatory; and
- (iv) that their Financial Proposals will be returned unopened, at the cost and expense of the

Consultant, after the MCA Entity has completed the selection process.

The Financial Proposal opening shall take place at the location **indicated in the PDS**. The date and time scheduled for the Financial Proposal opening shall be specified on the MCA Entity's website **provided in the PDS**. The MCA Entity shall promptly respond in writing to any Consultant who, after receiving notification of the procurement results, makes a written request for a debriefing as provided in the MCC Program Procurement Guidelines.

- 24.7 The MCA Entity shall open the Financial Proposals in a public meeting at the address, date and time specified in the notification described in ITC Sub-Clause 24.6. All Financial Proposals will first be inspected to confirm that they have remained sealed and unopened. Only the Financial Proposals of those Consultants who met the minimum qualifying mark following the Technical Evaluation stage will be opened. The Technical Score (St) and only the Total Proposal Price, as stated in the Financial Proposal Submission Form (Form FIN-1) shall be read out aloud and recorded. A copy of the record shall be posted on the MCA Entity's website.
- 24.8 The MCA Entity will correct any computational errors, and in cases of a discrepancy between a partial amount and the total amount, or between words and figures the former will prevail. In addition to the above corrections, activities and items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items. In cases where an activity or line item is quantified differently in the Financial Proposal from the Technical Proposal, no corrections will be applied to the Financial Proposal in this respect. If Consultants are not required to submit financial proposals in a single currency, prices shall be converted to a single currency for evaluation purposes using the selling rates of exchange, source and date **indicated in the PDS**.
- 24.9 For Quality and Cost Based Selection (QCBS), the lowest evaluated Financial Proposal (Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as indicated in Section III: Qualification

and Evaluation Criteria. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; F = the weight given to the Financial Proposal; T + F = 1) **indicated in the PDS**. $S = St \times T\% + Sf \times F\%$. The Consultant achieving the highest combined technical and financial score will be invited for negotiations.

24.10 In the case of Fixed-Budget Selection (FBS), the MCA Entity will select the firm that submitted the highest ranked Technical Proposal within the budget. Proposals that exceed the indicated budget will be rejected. In the case of the Least-Cost Selection (LCS), the MCA Entity will select the lowest priced Proposal among those that passed the minimum technical score. In both cases, the evaluated Proposal price according to ITC Sub-Clause 24.9 shall be considered, and the selected firm invited for negotiations.

24.11 Prior to execution of a contract, the MCA Entity shall conduct a verification of the market-reasonableness of the prices offered. A negative determination (either unreasonably high or unreasonably low) could be a reason for rejection of the proposal at the discretion of the MCA Entity. The Consultant shall not be permitted to revise its submission after a determination that its offered price is unreasonable. In addition, the MCA Entity may also verify any information provided on the TECH Forms submitted in the Proposal. A negative determination in the post-qualification could lead to the rejection of the Proposal and the MCA Entity may, at its discretion, move to invite the next-ranked Consultant for negotiation.

25. Past Performance and Reference Check

25.1 In accordance with the MCC PPG, the Consultant's performance on earlier contracts will be considered a factor in the MCA Entity's qualification of the Consultant's evaluation. The MCA Entity reserves the right to check the performance references provided by the Consultant or to use any other source at the MCA Entity's discretion. If the Consultant (including any of its Associates or joint venture/association members) is or has been party to an MCC-funded contract (either with MCC directly or with any MCA Entity, anywhere in the world), whether as lead Consultant, affiliate, Associate, subsidiary, Sub-Consultant, or in any other role, the

Consultant must identify the contract in its list of references submitted with its Proposal using Technical Form TECH-5. Failure to include any such contracts may be used to form a negative determination by the MCA Entity on the Consultant's record of performance in prior contracts. However, the failure to list any contracts because the Consultant (including any of its Associates or joint venture/association members) has not been a party to any such contract will not be grounds for a negative determination by the MCA Entity on the Consultant's record of performance in prior contracts. That is, prior performance in connection with an MCC-funded contract is not required. The MCA Entity will check the references, including the Consultant's past performance reports filed in MCC's Contractor Past Performance Reporting System ("CPPRS"). A negative determination by the MCA Entity on the Consultant's record of performance in prior contracts may be a reason for disqualification of the Consultant, or lowered evaluation scores, at the discretion of the MCA Entity.

F. Award of Contract

26. Notice of Intent to Award

- 26.1 After the completion of the evaluation report and having obtained all the necessary approvals per the PPG, the MCA Entity shall send the Notice of Intent to Award to the successful Consultant. The Notice of Intent to Award shall include a statement that the MCA Entity shall issue a formal Notification of Award and draft Contract Agreement after expiration of the period for filing a Bid challenge and the resolution of any Bid challenges that are submitted and following the conclusion of successful negotiations. Delivery of the Notice of Intent to Award **shall not constitute the formation of a contract** between the MCA Entity and the successful Bidder and no legal or equitable rights will be created through the delivery of the Notice of Intent to Award.
- 26.2 At the same time it issues the Notice of Intent to Award, the MCA Entity shall also notify, in writing, all other bidders of the results of the bidding. The MCA Entity shall promptly respond in writing to any unsuccessful bidder who, after receiving notification of the bidding results, makes a written request for a debriefing as provided in the MCC Program Procurement Guidelines, or submits a formal Bid challenge.

27. Negotiations

27.1 Negotiations will be held on the date and at the address **indicated in the PDS**. The invited Consultant will, as a pre-requisite for attendance at the negotiations, confirm the availability of all the Key Professional Personnel listed in the Technical Proposal. Failure to confirm such Personnel may result in the MCA Entity proceeding to negotiate with the next-ranked Consultant. Representatives conducting negotiations on behalf of the Consultant must have written authority to negotiate and conclude the Contract on behalf of the Consultant.

Technical Negotiations

27.2 Negotiations will commence with a discussion of the Technical Proposal, including (a) proposed technical approach and methodology, (b) workplan, (c) organization and staffing, and (d) any suggestions made by the Consultant to improve the Terms of Reference.

27.3 The MCA Entity and the Consultant will then finalize the Terms of Reference, staffing schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract under “Description of Services.” Special attention will be paid to clearly defining the inputs and facilities required from the MCA Entity to ensure satisfactory implementation of the assignment. The MCA Entity shall prepare minutes of negotiations which will be signed by the MCA Entity and the Consultant.

Financial Negotiations

27.4 It is the responsibility of the Consultant, before starting financial negotiations, to determine the relevant local Tax amount to be paid by the Consultant under the Contract. In no event shall the MCA Entity be responsible for the payment or reimbursement of any Taxes. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates.

Availability of Professional Staff/Experts

27.5 Having selected the Consultant on the basis of, among other things, an evaluation of proposed Key Professional Personnel, the MCA Entity expects to negotiate a Contract on the basis of those Personnel named in the Technical Proposal.

27.6 During Contract negotiations, the MCA Entity will not consider substitution of any Key Professional Personnel unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity of one of the

Personnel. If this is not the case and if it is established that any Key Professional Personnel were offered in the Proposal without confirming their availability, the Consultant may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate.

Conclusion of the Negotiations

27.7 Negotiations will conclude with a review of the draft Contract and Annexes, following which the MCA Entity and the Consultant will initial the agreed Contract. If negotiations fail, the MCA Entity will invite the Consultant whose Proposal received the second highest score to negotiate a Contract. If negotiations are successful, MCA Entity will issue a Notice of Award of Contract.

28. Notice of Award of Contract

28.1 After the award of Contract, the MCA Entity shall publish on its website, at dgMarket and at UNDB online, the results identifying the procurement, the name of the winning Consultant and the price, duration, and summary scope of the Contract. The same information shall be sent to all Consultants who have submitted Proposals.

29. Bid Challenges¹

29.1 Consultants may challenge the results of a procurement only according to the rules established in the Bid Challenge System developed by the MCA Entity and approved by MCC. The rules and provisions of the Bid Challenge System are as published on the MCA Entity's website **indicated in the PDS**.

30. Return of Unopened Financial Proposals

30.1 After Contract signature, the MCA Entity shall return the unopened Financial Proposals to the unsuccessful Consultants at the cost and request of the Consultant.

31. Commencement Date

31.1 The Consultant is expected to commence the assignment on the date and at the location **specified in the PDS**.

32. Inconsistencies with MCC Program

32.1 The Procurement that is the subject of this RFP is being conducted in accordance with and is subject in all respects to the MCC Program Procurement Guidelines. In the

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.

**Procurement
Guidelines**

event of any conflict between any section or provision of this RFP (including any Addenda that may be issued to this RFP) and the MCC Program Procurement Guidelines, the terms and requirements of the MCC Program Procurement Guidelines shall prevail, unless MCC has granted a waiver of the guidelines.

**33. Applicable
Compact
Conditions**

- 33.1 Consultants are advised to examine and consider carefully the provisions that are set forth in Annex B (Additional Provisions) attached to and made part of the Special Conditions of the Contract, as these are a part of the Government's and the MCA Entity's obligations under the Compact and related agreements which, under the terms of the Compact and related documents are required to be transferred onto any Consultant or Sub-Consultant who partakes in procurement or subsequent contracts in which MCC Funding is involved.

Section II. Proposal Data Sheet

A. General	
ITC Definitions	<p>(d) “Compact” means the Millennium Challenge Compact between the United States of America, acting through the Millennium Challenge Corporation, and the Government of Nepal, entered into on 14 September 2017, as may be amended from time to time.</p> <p>(m) “Government” or “GoN” means the Government of Nepal.</p> <p>(s) “MCA Entity” means Millennium Challenge Account Nepal (MCA-Nepal), the accountable entity designated by the Government to implement the Compact.</p>
ITC 1.1	The method of selection is the Quality and Cost-Based Selection (QCBS) method.
ITC 1.3	The Name of the assignment is: Independent Audit Service
ITC 1.4	<p>A Pre-Proposal Conference will be held at 9:30AM (local time) on 04 December 2020 via web conference. However, web conference depends on availability and reliability of the internet. The Pre-Proposal Conference web link is:</p> <p>https://us02web.zoom.us/meeting/register/tZMpduqhpiljE9yhw-MKcuD5EnyG6IJzD0So</p> <p>Attendance is strongly advised for all prospective Consultants or their representatives but is not mandatory.</p> <p>Please be noted that MCA-Nepal will try to record the Pre-Proposal Conference through Zoom video conference platform. The minutes may include the video recording, if available.</p>
ITC 1.5	<p>The MCA Entity will provide the following inputs and facilities:</p> <p>See Relationships and Responsibilities in Section V. Terms of Reference.</p>
B. Contents of the RFP	
ITC 8.1	<p>Clarifications may be requested by e-mail not later than 19 days (9 December 2020) before the deadline for submission of the Proposals, so that responses can be issued to all Consultants not later than 12 days (16 December 2020) prior to the deadline for submission of Proposals.</p> <p>The address for requesting clarifications is:</p> <p>Millennium Challenge Account Nepal (MCA-Nepal) Att.: The Procurement Agent 2nd & 3rd Floor, East Wing,</p>

	Lal Durbar Convention Centre, Yak & Yeti Complex, Durbar Marg, Kathmandu, Nepal Email: MCANepalPA@cardno.com MCA Entity's Website Address: https://mcanp.org/
C. Preparation of Proposals	
ITC 10.1	If MCA Entity shall pay any costs associated with the preparation and/or submission of the Proposal, those are listed below. None
ITC 11.1	The Proposal shall be written in English language only.
ITC 12.2(b)	Shortlisted Consultants may not associate with shortlisted or non-shortlisted Consultants.
ITC 12.2(c)	The estimated price budget for the assignment is NPR 6,000,000 (Six Million Nepalese Rupees) excluding VAT
ITC 12.3 (a)	Information on the Consultant's financial capacity is required (Form TECH-2A of Section IV A).
ITC 12.3(g)	Training is not a specific component of this assignment.
ITC 12.5	Per diem and in-country travel will be included in the total price in form FIN-2.
ITC 15.1	The currency(ies) of the Proposal shall be as follows: Nepalese Rupee (NPR) . The currency(ies) of the payments shall be as follows: Nepalese Rupee (NPR) .
ITC 16.1	Proposals must remain valid for 120 days after the deadline for the submission of Proposals specified in PDS ITC 18.1.
D. Submission and Opening of Proposals	
ITC 17	The submission procedure is amended and is reflected under Annex 1 to Section II-Proposal Data Sheet, "Procedure for Electronic Submission of Proposals" .
ITC 17.2	Written Power of Attorney is required.
ITC 17.3	Consultants shall submit their Technical and Financial Proposals only

	electronically. <u>Annex 1 to this Section II (Proposal Data Sheet)</u> delineates the full procedure for electronic submission. Consultants who submit electronically (a) do not need to submit hard copies and (b) need not submit more than the single original copy of each of the Technical and Financial Proposal. Please note that submission in accordance with procedures laid down under Annex 1 shall only be accepted. Hard copy submission or submission through email (or other means) shall not be accepted.
ITC 17.5	Consultants shall submit their Technical and Financial Proposals only electronically via File Request Link (FRL) provided in <u>Annex 1 to this Section II (Proposal Data Sheet)</u>
ITC 17.7	Not Applicable
ITC 18.1	Proposals must be submitted no later than 15:00 hours (local time of Nepal (GMT+5:45) on 28 December 2020.
ITC 20.1	<p>The Proposal opening shall take place at <u>For Proposals opening purposes only</u>, the MCA Entity's address is: Millennium Challenge Account Nepal (MCA-Nepal) 2nd & 3rd Floor, East Wing, Lal Durbar Convention Centre, Yak & Yeti Complex, Durbar Marg, Kathmandu, Nepal</p> <p>As <u>Proposals</u> shall be only submitted electronically, the Proposal opening procedures shall be:</p> <p>The Technical Proposals Opening will take place at MCA-Nepal Office at Yak and Yeti Hotel or from Procurement Agent's staff home, based on COVID situation. All prospective Consultants should note that they can join the bid opening through the video conference platform Zoom, the proposal opening web link is</p> <p><u>https://us02web.zoom.us/meeting/register/tZcrc-CuqzosE9Rcy7X54uQ1HuoSlqLf_gr0</u></p> <p>Date for Proposals Opening: 28 December 2020</p> <p>Time for Proposals Opening: 15:30 hours (local time of Nepal (GMT+5:45).</p> <p>Proposals Opening shall not be stopped or postponed due to absent of Consultant's representatives.</p> <p>The Proposal Opening shall follow the procedure stated under Annex I of Section II.</p>

	In case that due to any technical or other reasons, the public opening through webinar is interrupted or not able to initiate, MCA-Nepal at its own discretion will decide on how to continue/initiate/complete the public opening of the submitted proposals. However, MCA-Nepal will proceed with the principle of fairness and following the procurement principle of hard copy submission. The Consultant will be provided with the corresponding information/outcome on this regard.
E. Evaluation of Proposals	
ITC 23.1	The minimum technical score (St) required to pass is 80 out of 100 possible points. For detailed scoring criteria, see Section III.
ITC 24.6	The Financial Proposal opening shall take place at Millennium Challenge Account Nepal (MCA-Nepal) 2nd & 3rd Floor, East Wing, Lal Durbar Convention Centre, Yak & Yeti Complex, Durbar Marg, Kathmandu, Nepal or any other place as determined by the MCA-Nepal COVID19 Risk Mitigation Plan However, if the COVID situation is not under control the opening shall be online from Procurement Agent staff's house. at the date and time specified on the MCA Entity's website https://mcanp.org/ .
ITC 24.7	ITC 24.7 is amended to read as: The MCA Entity shall open the Financial Proposals electronic files in a public meeting online, at the address, date and time specified in the notification described in ITC Sub-Clause 24.6. All electronic files Financial Proposals shall be inspected to ensure that are password protected and opened using the provided password. Only the Financial Proposals of those Consultants who met the minimum qualifying mark following the Technical Evaluation stage will be opened. The Technical Score (St) and only the Total Proposal Price, as stated in the Financial Proposal Submission Form (Form FIN-1) shall be read out aloud and recorded. A copy of the record shall be posted on the MCA Entity's website.
ITC 24.8	The source of official selling rates for evaluation purposes is: Not Applicable

ITC 24.9	<p>The weight given to the Technical Proposal, T = 80%</p> <p>The weight given to the Financial Proposal, F = 20%</p>
F. Award of Contract	
ITC 27.1	<p>Negotiations will be held at</p> <p>Millennium Challenge Account Nepal (MCA-Nepal)</p> <p>2nd & 3rd Floor, East Wing,</p> <p>Lal Durbar Convention Centre,</p> <p>Yak & Yeti Complex,</p> <p>Durbar Marg, Kathmandu,</p> <p>Nepal</p> <p>There is possibility that Negotiations take place through web conference using software Zoom and/or requesting response through email. Final date and way of negotiation will be notified to the top ranked Consultant (after technical and financial combined evaluation has been completed).</p> <p>The expected date for Contract negotiations is 31 days after the opening of the Financial Proposals.</p>
ITC 29.1	<p>The MCA Entity's Bid Challenge System is provided on the MCA Entity's website https://mcanp.org/procurement/bid-challenge-system/.</p>
ITC 31.1	<p>The expected date for commencement of the Services is Mid April 2021 and the location is Kathmandu, Nepal.</p>

Annex 1 to Section II – Proposal Data Sheet

Procedure for Electronic Submission of Proposals

- 1 Each Consultant will be provided a File Request Link (via email), which is an electronic link to upload its submission when it requests the RFP. The Consultant shall use this, and only this, link to submit its Entire Proposal, where Entire Proposal = Technical Proposal + Financial Proposal.
- 2 The Bidder shall use this, and only this link (File Request Link) <https://www.dropbox.com/request/rELXziGQxTkVJji6WB17> to submit its Entire Proposal, where Entire Proposal = Technical Proposal + Financial Proposal.
- 3 The Entire Proposal shall be submitted via the File Request Link only. Proposals submitted by email or hard copy or other means shall not be accepted. Also, the Entire Proposal shall be submitted by the proposal submission deadline. A Consultant who submits only the Technical Proposal or only the Financial Proposal shall have its Entire Proposal rejected. Similarly, a Consultant who submits only its Technical Proposal by hard copy and only the Financial Proposal electronically – or vice versa – shall have their Entire Proposal rejected.
- 4 The File Request Link shall automatically expire on the submission deadline, specified in the relevant ITC. No extension shall be provided after the expiry.
- 5 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.
- 6 The Technical Proposal and Financial Proposal shall be submitted in separate pdf(s)/Microsoft Word files/folders, and **separately password-protected** (Technical Proposal at the discretion of the Consultant; Financial Proposal mandatory, as noted below).
- 7 Consultants should use the filename framework for the Proposals as follows:
 - a. Technical Proposals filename: ***[Consultant Name] - TechnicalProposal - RFP# [insert RFP number]***
 - b. Financial Proposals filename: ***[Consultant Name] - FinancialProposal - RFP# [insert RFP number]***
- 8 Technical Proposals are not required to be password-protected, but may be protected at the Consultant's discretion. Consultants who choose to password-protect their Technical Proposals can do so to protect against inadvertent untimely opening of its proposal, but at their own responsibility for providing the correct password prior to the Technical Proposal opening via email to the address provided in the relevant clause under Section II – Proposal Data Sheet. If a Consultant fails to provide the correct password that opens the files so its relevant contents can be announced by the end of the formal Opening of Technical Proposals their Entire Proposal shall be rejected. Case-sensitive passwords should be sent as is, with the cases obvious.
- 9 Consultants who attain the minimum technical pass-mark required to pass shall be asked to provide the **password for their Financial Proposal** at a later date.

- 10 If a Consultant submits a Technical Proposal with password protection, the password for the Technical Proposal should be sent no earlier than **27 December 2020** and no later than **15 minutes earlier than the submission deadline time** local **MCA-Nepal** time on **28 December 2020** to the following email address: luis.villalta@cardno.com and cc MCANepalPA@mcanp.org
- 11 Financial Proposals are **REQUIRED TO BE password-protected** so that file(s) cannot be opened without the password. The passwords for the Financial Proposal shall **NOT** be submitted with the Entire Proposal, but will be sent only by those Consultants who are requested to do so by the MCA Entity after the conclusion of the technical evaluation.
 - a. Entire Proposal of a Consultant shall be rejected if the Financial Proposal is not password-protected;
 - b. If a Consultant does not provide a password when requested or provides an incorrect password or fails to provide the correct password by the end of the formal Opening of the Financial Proposals, their Entire Proposal shall be rejected.
- 12 The password to open the Financial Proposal shall be sent to the MCA Entity at a time and date (and to an email address) provided to a Consultant that pass the technical score at a later date, after technical proposals will have been evaluated. Consultants who send their passwords before being formally requested to do by the MCA Entity may have their Entire Proposal rejected. Case-sensitive passwords should be sent as is, with the cases obvious.
- 13 There are several software and applications available in the market which can assist consultant in password-protect the files; the instructions on how to password protect are also available online. The Consultants shall use their expertise to use the right software and instructions to properly password-protect the proposal (s).
- 14 Each uploaded document (either as part, or whole, of the Technical Proposal or Financial Proposal) shall not exceed **10GB** each.
- 15 Consultants are informed that the capability of their internet bandwidth will determine the speed in which their proposals are uploaded via the File Request Link. Consultants are therefore advised to commence the process of uploading their Proposals via the File Request Link in good time before the proposal submission deadline. As noted above, this link will expire at the proposal submission deadline, and cannot be reopened under any circumstances.
- 16 In case that due to any technical or other reasons, the public opening through webinar is interrupted or not able to initiate, MCA-Nepal at its own discretion will decide on how to continue/initiate/complete the public opening of the submitted proposals. The Consultant will be provided with the corresponding information/outcome on this regard.

Section III. Qualification and Evaluation Criteria

3.1 Legal Status

Each entity forming the Consultant shall attach to Form TECH-1 a copy of its letter of incorporation, or other such document, indicating its legal status. In the event the Consultant is an Association of entities, the Consultant shall include any other document showing that it intends to associate, or it has associated with, the other entity or entities that are jointly submitting a Proposal. Each Associate must provide the information required in Form TECH-1.

3.2 Financial Criteria

If required by PDS ITC 12.3 (a), the Consultant shall provide evidence showing that it has the sufficient financial capacity needed for this Contract, as required in Form TECH-2A. Each Associate must provide the information required in TECH-2A.

3.3 Litigation Criteria

The Consultant shall provide accurate information on any current or past litigation or arbitration resulting from contracts completed, terminated, or under execution by the Consultant over the last five (5) years, as indicated in Form TECH-2B. A consistent history of awards against the Consultant or existence of high value disputes may lead to the rejection of the Proposal. Each Associate must provide the information required in TECH-2B.

3.4 Evaluation Criteria

Proposals may be rejected, at the discretion of the MCA-Nepal, if any of the Key Personnel fails to satisfy the requirements.

Criteria, sub-criteria, and point system for the evaluation of Technical Proposals.		
	Criteria, sub-criteria	Points
1.	Qualifications and experience of the Audit Firm, including experience in auditing international donor programs, including at least three (3) performance references from clients (as identified in Form TECH-4 and TECH-5)	
1.1	Experience in auditing international donor funded projects in Nepal (preferably US-based) which shall have minimum 1 (one) experience within the last ten years in auditing international donor projects in major infrastructure works (preferably road or energy sector) of value US\$10 million or above.	10
	Total Points for This Criterion	10
2.	Approach, Methodology and Work Plan	

	Understanding of the scope of work and the proposed approach, including a detailed work proposal that describes in detail how the Auditor plans to meet the requirements of the audit. Will also consider experience in overcoming technical problems in meeting the requirements of previous audit work.	
2.1	<p>a) Proposed approach and methodology (understanding of client's business).</p> <p>Understanding of the objectives of the assignment, approach to the services, methodology for carrying out audit activities and obtaining the expected output, and the degree of detail of such output. Including the degree to which Auditor management is integrated into the work of the audit including quality control of the work required in the Terms of Reference. You should highlight the problems being addressed and their importance and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach. Also comment here on any specialized equipment and/or software of which may be necessary to perform the scope indicated in the Terms of Reference.</p>	10
2.2	<p>b) Proposed work plan and timeline for completing tasks:</p> <p>Shall include main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the MCA Entity), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work and Deliverables Schedule of Form TECH-10.</p>	10
2.3	<p>c) Organization and Proposed staffing plan:</p> <p>Shall include the structure and composition of the team including clear responsibilities among different staff positions adequately defined, communication and coordination between auditors and team leader, possibility to strengthen the team with supporting staff. The Consultant is encouraged to consider equity and diversity in the composition of its</p>	10

	proposed team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical and support staff.	
	Total Points for This Criterion	30
3.	Key Professional Personnel Qualifications for the Assignment	
	Qualifications and experience of the proposed Professional Personnel to work on the audit, including past experience in performing work related to the technical requirements described in the Terms of Reference.	
3.1	Audit Manager #1 (Team Leader)	17
	(i) Qualified accountant, holding current membership of an internationally- recognized accounting institution, such as current credentials as a Certified Public Accountant, Chartered Accountant, Chartered Certified Accountant, or equivalent.	5
	(ii) Demonstrated familiarity with the US Government Auditing Standards while auditing two assignments.	5
	(iii) Minimum of 10 (ten) years practical experience, with at least five (5) years in a senior position.	3
	(iv) Experience in leading a team of auditors in at least one international donor funded project.	2
	(v) Experience in auditing one donor funded project of at least US\$10 million.	2
3.2	Audit Manager #2	13
	(i) Qualified accountant, holding current membership of an internationally- recognized accounting institution, such as current credentials as a Certified Public Accountant, Chartered Accountant, Chartered Certified Accountant, or equivalent	4
	(ii) Demonstrated familiarity with the US Government Auditing Standards while auditing two assignments.	4
	(iii) Minimum of 10 (ten) years practical experience, with at least five (5) years in a senior position	3
	(iv) Experience in auditing one donor funded project of at least US\$10 million.	2

3.3	Auditor #1	10
	(i) Graduate of a university in the fields of finance, accounting, or auditing or Chartered Accountant or ACCA Member.	5
	(ii) Demonstrated familiarity with the US Government Auditing Standards while auditing one assignment.	3
	(iii) minimum of 5 (five) years of practical financial audit experience.	2
3.4	Auditor #2	10
	(i) Graduate of a university in the fields of finance, accounting, or auditing or Chartered Accountant or ACCA Member.	5
	(ii) Demonstrated familiarity with the US Government Auditing Standards while auditing one assignment.	3
	(iii) minimum of 5 (five) years of practical financial audit experience.	2
3.5	Auditor #3	10
	(i) Graduate of a university in the fields of finance, accounting, or auditing or Chartered Accountant or ACCA Member.	5
	(ii) Demonstrated familiarity with the US Government Auditing Standards while auditing one assignment.	3
	(iii) minimum of 5 (five) years of practical financial audit experience.	2
	Total Points for This Criterion	60
	Total Points for All Criteria	100
	The minimum technical score (St) required to pass is	80
	If none of the scores awarded by the TEP reach or exceed the minimum technical score (St), the MCA-Nepal reserves the right to invite the Consultant receiving the highest technical score (St) to negotiate both its Technical and Financial Proposals. If the negotiations fail to result in an acceptable contract within a reasonable time, the MCA-Nepal reserves the right to terminate	

	the negotiations, at its sole discretion, and to invite—again, at its sole discretion—the Consultant receiving the next highest technical score (St) to negotiate both its Technical and Financial Proposals.	
ITC 24.9	<p>The formula for determining the financial scores is the following:</p> $\text{Financial Score (Sf)} = 100 \times \text{Lowest Price (Fm)} / \text{Price of the Proposal under consideration (F)}$ <p>The weights given to the Technical and Financial Proposals are: T = 0.80 and F = 0.20</p>	

1. The Consultant must identify the names of the key persons they are proposing and attach CV for each expert.
2. Sub-Consultant experience shall not be considered for Evaluation, except as part of methodology.

The scoring system to be used is as follows:

Scoring System

0 = Not meeting the requirements

1 = Material deviation from the requirements

2 = Significant deviation from the requirements

3 = Marginal deviation from the requirements

4 = Meeting the requirements

4.3 = Marginally exceeding the requirements

4.7 = Significantly exceeding the requirements

5 = Outstandingly exceeding the requirements

3.5 Qualification Table

Documents Establishing the Qualifications of the Consultant

Factor	3.5.1 ELIGIBILITY						
	Requirement	Consultant				Sub-Consultant	Documentation Required
		Single Entity	Joint Venture or Association All members combined	Each Member	At least one member		
3.5.1.1 Qualification and Eligibility	In accordance with ITC 5.1 to 5.4, and 5.9	Must meet requirement	Existing or intended Joint Venture or other association must meet requirement	Must meet requirement	N/A	Must meet requirement	TECH-1 and attachments
3.5.1.2 Conflict of Interest	No conflicts of interests as described in ITC 5.5 to ITC 5.8 unless the conflict of interest has been mitigated and the mitigation is approved by MCC.	Must meet requirement	Existing or intended Joint Venture or other association must meet requirement	Must meet requirement	N / A	Must meet requirement	TECH-1 and attachments

3.5.1.3 Ineligibility and Debarment	Not having been declared ineligible based on any of the criteria set forth in ITC 5.9 or 5.10	Must meet requirement	Existing or intended Joint Venture or other association must meet requirement	Must meet requirement	N/A	Must meet requirement	TECH-1 and attachments
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The Consultant shall provide the information requested in the corresponding information sheets included in Section IV, Proposal Forms, to establish that the Consultant meets the requirements established below. **Sub-Consultants that form the team shall not be replaced without the MCA Entity's prior permission.**

Factor	3.5.2 HISTORICAL CONTRACT NON-PERFORMANCE						
	Requirement	Consultant					Documentation Required
		Single Entity	Joint Venture or Association			Sub-Consultant	
			All members combined	Each member	At least one member		
3.5.2.1 Pending Litigation	All pending proceedings, litigation, arbitrations, actions, claims, investigations or disputes, in total, shall not represent more than ten percent (10%) of the Consultant’s net worth.	Must meet requirement by itself, including as member of past or existing Joint Venture or other association (not mandatory if in the past was as a member of a Joint Venture or other association with less than 20% role in the contract).	N/A	Must meet requirement by itself or as member of past or existing Joint Venture, or other association (not mandatory if in the past was as a member of a Joint Venture or other association with less than 20% role in the contract).	N/A	Must meet requirement by itself or as a Sub-Consultant to a prime, or member of past or existing Joint Venture, or other association (not mandatory if in the past was as a member of a Joint Venture or other association with less than 20% role in the contract).	Form TECH-2B

Factor	3.5.3 FINANCIAL SITUATION						
Sub-Factor	Requirement	Consultant					Documentation Required
		Single Entity	Joint Venture			Sub-Consultant	
			All members combined	Each member	Lead Member/ Partner		
3.5.3.1 Historical Financial Performance	Submission of evidence of the Consultant’s financial capacity to mobilize and sustain the Services	Must meet requirement	N/A	Must meet requirement	N/A	N/A	Form TECH-2A, TECH-2B and Form TECH-4
3.5.3.2 Financial Resources	The Consultant must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means as per TECH-2A.	Must meet requirement	Must meet requirement	N/A	Must meet at least 50% of the requirement	N/A	Form TECH-2A, TECH-2B and Form TECH-4

Factor	3.5.4 EXPERIENCE						
Sub-Factor	Requirement	Consultant					Documentation Required
		Single Entity	Joint Venture			Sub-Consultant	
			All members combined	Each member	At least one member		
3.5.4.1 Organization Capability and Technical Experience	See Criteria table under 3.4 and specific areas of TOR	Must meet requirement	Must meet requirement	N/A	N/A	N/A	Form TECH-3 / Form TECH-6
3.5.4.2 General & Specific Experience	See Criteria table under 3.4 and specific areas of TOR	Must meet requirement	Must meet requirement	N/A	Must meet each discrete requirement	Must meet at least one specialized requirement stated below as note #1	Form TECH-4

Note: 1. Experience of Sub-Consultant: The Sub-Consultant must satisfy the General & Specific Experience requirements for the task for which the consultant is proposing the sub-consultant. The Consultant must submit the required experience certificate of the Sub-Consultant in support of the intended task to be sub-consulted for MCA-Nepal approval.

2. The consultant must satisfy requirements under 3.5 Qualification Table to be awarded the Contract.

Section IV. A. Technical Proposal Forms

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

TECH-1	Technical Proposal Submission Form
TECH-2A	Financial Capacity of the Consultant
TECH-2B	Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes of the Consultant
TECH-3	Organization of the Consultant
TECH-4	Experience of the Consultant
TECH-5	References of MCC-Funded Contracts
TECH-6	Description of Approach, Methodology and Work Plan for Performing the Assignment
TECH-7	Comments and Suggestions on the Terms of Reference & Assignment
TECH-8	Team Composition and Task Assignments
TECH-9	Staffing Schedule
TECH-10	Work and Deliverables Schedule
TECH-11	Curriculum Vitae (CV) of Proposed Key Professional Personnel
TECH-12	Certification of Compliance with Sanctions Form

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

Form TECH-1. Technical Proposal Submission Form

[Location, Date]

To:

Millennium Challenge Account Nepal (MCA-Nepal)

2nd & 3rd Floor, East Wing,
Lal Durbar Convention Centre,
Yak & Yeti Complex,
Durbar Marg, Kathmandu,
Nepal

Ladies and Gentlemen:

Re: Independent Audit Service

RFP Ref: MCA-N/PM/QCBS/005

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

We hereby certify that we are not engaged in, facilitating, or allowing any of the prohibited activities described in the MCC Counter-Trafficking in Persons Policy and that we will not engage in, facilitate, or allow any such prohibited activities for the duration of the Contract. Further, we hereby provide our assurance that the prohibited activities described in the MCC Counter-Trafficking in Persons Policy will not be tolerated on the part of our employees, or any Sub-Consultants, or Sub-Consultant employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.

We acknowledge notice of MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations². We have taken steps to ensure that no person acting for us or on our behalf has engaged in any corruption or fraud described in ITC Clause 3. As part of this, we certify that:

- (a) 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—
 - (i) Those prices;
 - (ii) The intention to submit an offer; or
 - (iii) The methods or factors used to calculate the prices offered.
- (b) The prices in this offer have not been and will not be knowingly disclosed by us, directly or indirectly, to any other offeror or competitor before Proposal opening or Contract award unless otherwise required by law;
- (c) No attempt has been made or will be made by us to induce any other concern to submit or not to submit an offer for the purpose of restricting competition; and

² Available at www.mcc.gov/resources/doc/policy-fraud-and-corruption

- (d) We have no conflict of interest in accordance with ITB Clause 5.5 *[insert, if needed: “, other than listed below.”]* *[If listing one or more conflicts of interest, insert: “We propose the following mitigations for our conflicts of interest: [Insert description of conflict of interest, and proposed mitigations.”]*.

We are hereby submitting our Proposal, via the File Request Link, the Financial Proposal is password protected, each in separate files and clearly named as per the provided instructions, which includes this Technical Proposal, and a Financial Proposal, each separate and clearly named files.

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

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

If negotiations are held during the initial period of validity of the Proposal (120 days after the Proposal submission deadline date), we undertake to negotiate on the basis of the nominated Key Professional Personnel.

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

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

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

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

Yours sincerely,

[Authorized Signatory]

[Name and Title of Signatory]

[Name of Consultant]

[Address of Consultant]

Annexes:

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

Form TECH-2A. Financial Capacity of the Consultant

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

The Consultants should submit with their proposal the following:

- Audited financial statements for the last three (3) years, supported by audit letters.
- Tax Clearance Certificate Fiscal Year 2075/2076
- Evidence of financing (NPR 1,000,000) dedicated for the implementation of the consulting services as attested by an authorized representative of the Consultant.

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

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

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

The Consultant, or any related company or entity or affiliate, has been involved in any proceeding, litigation, arbitration, action, claim, investigation or dispute within the past five (5) years the process or outcome of which the MCA Entity could reasonably interpret may impact or have the potential to impact the financial or operational condition of the Consultant in a manner that may adversely affect the Consultant's ability to satisfy any of its obligations under the Contract:
 No:_____ Yes:_____ (If "Yes," see below)

Current or Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations, or Disputes Within the Last Five (5) Years (per the criteria above)

Year	Matter in Dispute	Value of Award Against Consultant in US\$ Equivalent

Note: In case of Joint Venture, the information shall be provided by all partners and in case of sub-consultants, the information of sub-consultants shall also be provided.

Form TECH-3. Organization of the Consultant

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

[Maximum 10 pages]

Form TECH-4. Experience of the Consultant

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

[Maximum 20 pages]

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

mobilization's administrative, logistical and financial requirements.

Description of actual services provided by your staff within the assignment:
--

Name of Firm: _____

Note: The information provided should address requirements stated under Section III: Qualification and Evaluation Criteria.

Form TECH-5. References of MCC-Funded Contracts

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

Contracts with MCC				
Contract Number	Name and	Role in Contract	Total Contract Amount	Employer Name, Address and Email id

Contracts with an MCA Entity				
Contract Number	Name and	Role in Contract	Total Contract Amount	Employer Name, Address and Email id

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

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

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

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

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

The consultant shall ensure that the requirement stated under Section III and as per Terms of Reference shall be provided under their approach, methodology and work plan, Organization and Staffing.

[Maximum 50 pages, including charts and diagrams]

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

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

[Maximum 5 pages]

A: On the Terms of Reference

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

B: On the Staff and Facilities

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

Form TECH-8. Team Composition and Task Assignments

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

Note: Separate Tech-8 forms need to be submitted by the Consultant for the Base period and each Option period.

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

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

- For Key Professional Personnel, the input shall be indicated individually; for support staff it shall be indicated by category (e.g.: draftsmen, clerical staff, etc.).
- Months are counted from the start of the assignment. For each Personnel, indicate separately staff input for home and field work.
- Field work means work carried out at a place other than the Consultant's home office.
- Separate Tech-9 forms need to be submitted by the Consultant for the Base period and each Option period.

Full time input:

Part time input:

Form TECH-10. Work and Deliverables Schedule

	Task	Months (Total months as per ToR for Base and Option Period)											
		1	2	3	4	5	6	7	8	9	10	11	12
	Base Period												
	Task												
1	Pre-Audit Steps												
2	Fund Accountability Statement												
3	Cost-Sharing Schedule												
4	Internal Control												
5	Compliance with Agreement Terms and Applicable Laws and Regulations												
6	Follow Up on Prior Audit Findings and Recommendations												
7	Assessing MCA's Information System (IS) Controls												
8	Other Audit Responsibilities												
9	Closeout Audits												
10	Entrance Conference												
11	Exit Conference												
	Deliverables												
1	D1: Planning Documentation and Entrance Conference												
2	D2: Draft Audit Report and Exit Conference												
3	D3: a Final Audit Report and Management Letter												

	Option Period 1												
	Task												
1	Pre-Audit Steps												
2	Fund Accountability Statement												
3	Cost-Sharing Schedule												
4	Internal Control												
5	Compliance with Agreement Terms and Applicable Laws and Regulations												
6	Follow Up on Prior Audit Findings and Recommendations												
7	Assessing MCA's Information System (IS) Controls												
8	Other Audit Responsibilities												
9	Closeout Audits												
10	Entrance Conference												
11	Exit Conference												
	Deliverables												
1	D1: Planning Documentation and Entrance Conference												
2	D2: Draft Audit Report and Exit Conference												
3	D3: a Final Audit Report and Management Letter												
	Option Period 2												
	Task												
1	Pre-Audit Steps												

2	Fund Accountability Statement												
3	Cost-Sharing Schedule												
4	Internal Control												
5	Compliance with Agreement Terms and Applicable Laws and Regulations												
6	Follow Up on Prior Audit Findings and Recommendations												
7	Assessing MCA's Information System (IS) Controls												
8	Other Audit Responsibilities												
9	Closeout Audits												
10	Entrance Conference												
11	Exit Conference												
	Deliverables												
1	D1: Planning Documentation and Entrance Conference												
2	D2: Draft Audit Report and Exit Conference												
3	D3: a Final Audit Report and Management Letter												
	Option Period 3												
	Task												
1	Pre-Audit Steps												
2	Fund Accountability Statement												
3	Cost-Sharing Schedule												
4	Internal Control												

5	Compliance with Agreement Terms and Applicable Laws and Regulations												
6	Follow Up on Prior Audit Findings and Recommendations												
7	Assessing MCA's Information System (IS) Controls												
8	Other Audit Responsibilities												
9	Closeout Audits												
10	Entrance Conference												
11	Exit Conference												
	Deliverables												
1	D1: Planning Documentation and Entrance Conference												
2	D2: Draft Audit Report and Exit Conference												
3	D3: a Final Audit Report and Management Letter												
	Option Period 4												
	Task												
1	Pre-Audit Steps												
2	Fund Accountability Statement												
3	Cost-Sharing Schedule												
4	Internal Control												
5	Compliance with Agreement Terms and Applicable Laws and Regulations												

6	Follow Up on Prior Audit Findings and Recommendations												
7	Assessing MCA's Information System (IS) Controls												
8	Other Audit Responsibilities												
9	Closeout Audits												
10	Entrance Conference												
11	Exit Conference												
	Deliverables												
1	D1: Planning Documentation and Entrance Conference												
2	D2: Draft Audit Report and Exit Conference												
3	D3: a Final Audit Report and Management Letter												
	Option Period 5												
	Task												
1	Pre-Audit Steps												
2	Fund Accountability Statement												
3	Cost-Sharing Schedule												
4	Internal Control												
5	Compliance with Agreement Terms and Applicable Laws and Regulations												
6	Follow Up on Prior Audit Findings and Recommendations												
7	Assessing MCA's Information												

	System (IS) Controls												
8	Other Audit Responsibilities												
9	Closeout Audits												
10	Entrance Conference												
11	Exit Conference												
	Deliverables												
1	D1: Planning Documentation and Entrance Conference												
2	D2: Draft Audit Report and Exit Conference												
3	D3: a Final Audit Report and Management Letter												

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

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

1. Proposed Position [only one candidate shall be nominated for each position]
2. Name of Firm [Insert name of firm proposing the staff]
3. Name of Personnel [Insert full name]
4. Date of Birth [Insert birth date]
5. Nationality [Insert nationality]
6. Education [Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment]
7. Membership in Professional Associations
8. Other Training [Indicate appropriate postgraduate and other training]
9. Countries of Work Experience [List countries where staff has worked in the last ten years]
10. Languages [For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing]

	Language	Speaking	Reading	Writing
11. Employment Record [Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.]
From [year]: To [year]:
Employer:
Position(s) held:
12. Familiarity with the USA Government Auditing Standards
13. Detailed Tasks Assigned [List all tasks to be performed under this assignment]
14. Work undertaken that best illustrates capability to handle the tasks assigned: [Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11.]

Name of assignment or project:
Year:

Location:

Client:

Main project features:

Position held:

Leading Number of
Auditors:

Activities performed:

15. References:

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

16. Certification:

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

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

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

Signature of Key Professional Personnel

If this form has NOT been signed by the Key Professional Personnel, then in signing below the authorized representative of the Consultant is making the following declaration.

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

Signature of Authorized Representative of the Consultant

Form TECH-12. Compliance with Sanctions Certification Form

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

Section IV. B. Financial Proposal Forms

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

FIN-1 Financial Proposal Submission Form

FIN-2 Price Summary

FIN-3 Breakdown of Price by Activity

FIN-4 Breakdown of Price by Remuneration

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

Form FIN-1. Financial Proposal Submission Form

[The electronically-submitted Financial Forms must be password protected upon submission. If not Password-protected, the entire Proposal shall be rejected, please refer (Point 11, Annex 1 to Section II) . Delete all text in square brackets when submitting Form]

[Location, Date]

To:

Millennium Challenge Account Nepal (MCA-Nepal)

2nd & 3rd Floor, East Wing,
Lal Durbar Convention Centre,
Yak & Yeti Complex,
Durbar Marg, Kathmandu,
Nepal

Ladies and Gentlemen:

Re: Independent Audit Service

RFP Ref: MCA-N/PM/QCBS/005

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

Our attached Financial Proposal is for the fixed price of **[Insert amount(s)]³ in words and figures**.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal (120 days after the Proposal submission deadline date), as indicated in Paragraph ITC 16.1 of the PDS.

Commissions and gratuities paid or to be paid by us to agents relating to this Proposal and Contract execution, if we are awarded the Contract, are listed below:⁴

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

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

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

³ Amount must coincide with the ones indicated under total price of Form FIN-2.

⁴ If applicable, replace this paragraph with “No commissions or gratuities have been or are to be paid by us to agents relating to this Proposal and Contract execution”.

Yours sincerely,

Authorized Signatory

Name and title of Signatory

Name of Consultant

Form FIN-2. Price Summary**Re: Independent Audit Service****RFP Ref: MCA-N/PM/QCBS/005**

Description	Price ¹
	Nepalese Rupees
Base Period	
Option Period 1	
Option Period 2	
Option Period 3	
Option Period 4	
Option Period 5	
SubTotal Price of Financial Proposal excluding VAT	
VAT	
Total Price of Financial Proposal including VAT	

1. Indicate the total price to be paid by the MCA Entity in each currency. Such total price must coincide with the sum of the relevant sub-totals indicated in Form FIN-3. (Tax provisions relevant to this RFP are set out in Section VI, General Conditions of Contract.)
2. If the RFP contains options, the options will be fully priced and evaluated at 100%. For evaluation and price comparison purposes, the total costs of the financial proposal excluding VAT (Base + Options) will be considered. However, MCA-Nepal reserves it right to exercise the Option(s).

3. Provide **fully loaded prices** (including any international travel, communication, local transportation, office expenses, shipment of personal effects, all required insurance, direct and indirect rates/costs, other overhead and profits).
4. See PDS ITC 12.5 regarding travel-related expenses.
5. The evaluation of financial proposals will be done excluding VAT.

Form FIN-3. Breakdown of Price by Activity**Re: Independent Audit Service****RFP Ref: MCA-N/PM/QCBS/005**

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

Description ²		Price ³	
		Nepalese Rupees	
		In Figure	In words
	Base Period		
	Tasks		
1	Pre-Audit Steps		
2	Fund Accountability Statement		
3	Cost-Sharing Schedule		
4	Internal Control		
5	Compliance with Agreement Terms and Applicable Laws and Regulations		
6	Follow Up on Prior Audit Findings and Recommendations		
7	Assessing MCA's Information System (IS) Controls		
8	Other Audit Responsibilities		
9	Closeout Audits		
10	Entrance Conference		
11	Exit Conference		
	Option Period 1		
	Tasks		
1	Pre-Audit Steps		
2	Fund Accountability Statement		

3	Cost-Sharing Schedule		
4	Internal Control		
5	Compliance with Agreement Terms and Applicable Laws and Regulations		
6	Follow Up on Prior Audit Findings and Recommendations		
7	Assessing MCA's Information System (IS) Controls		
8	Other Audit Responsibilities		
9	Closeout Audits		
10	Entrance Conference		
11	Exit Conference		
	Option Period 2		
	Tasks		
1	Pre-Audit Steps		
2	Fund Accountability Statement		
3	Cost-Sharing Schedule		
4	Internal Control		
5	Compliance with Agreement Terms and Applicable Laws and Regulations		
6	Follow Up on Prior Audit Findings and Recommendations		
7	Assessing MCA's Information System (IS) Controls		
8	Other Audit Responsibilities		
9	Closeout Audits		
10	Entrance Conference		
11	Exit Conference		
	Option Period 3		
	Tasks		
1	Pre-Audit Steps		

2	Fund Accountability Statement		
3	Cost-Sharing Schedule		
4	Internal Control		
5	Compliance with Agreement Terms and Applicable Laws and Regulations		
6	Follow Up on Prior Audit Findings and Recommendations		
7	Assessing MCA's Information System (IS) Controls		
8	Other Audit Responsibilities		
9	Closeout Audits		
10	Entrance Conference		
11	Exit Conference		
	Option Period 4		
	Tasks		
1	Pre-Audit Steps		
2	Fund Accountability Statement		
3	Cost-Sharing Schedule		
4	Internal Control		
5	Compliance with Agreement Terms and Applicable Laws and Regulations		
6	Follow Up on Prior Audit Findings and Recommendations		
7	Assessing MCA's Information System (IS) Controls		
8	Other Audit Responsibilities		
9	Closeout Audits		
10	Entrance Conference		
11	Exit Conference		
	Option Period 5		

	Tasks		
1	Pre-Audit Steps		
2	Fund Accountability Statement		
3	Cost-Sharing Schedule		
4	Internal Control		
5	Compliance with Agreement Terms and Applicable Laws and Regulations		
6	Follow Up on Prior Audit Findings and Recommendations		
7	Assessing MCA's Information System (IS) Controls		
8	Other Audit Responsibilities		
9	Closeout Audits		
10	Entrance Conference		
11	Exit Conference		
	Total		

Notes:

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

Form FIN-4. Breakdown of Remuneration**Re: Independent Audit Service****RFP Ref: MCA-N/PM/QCBS/005**

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

Name ¹	Position ³	Person-Month Fully Loaded Rate ⁴	
Staff ²			Nepalese Rupees
		Home	
		Field	
		Home	
		Field	
		Home	
		Field	
		Home	
		Field	
		Home	
		Field	
		Home	
		Field	

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

Section V. Terms of Reference

TERMS OF REFERENCE

INDEPENDENT AUDIT OF RESOURCES MANAGED BY MCA-NEPAL

1. INTRODUCTION

The Government of Nepal (the “Government”) and the United States of America, acting through the Millennium Challenge Corporation (“MCC”) have entered into

- (1) An Initial Engagement Technical Assistance Grant Agreement (“IE Agreement”) on May 24, 2015, and its subsequent amendment dated September 14, 2015 under which MCC provided funding to the Government in the amount up to USD750,000 (“Initial Engagement (IE) Fund”). On July 20, 2016, another amendment and restatement took place, under which the agreement name was changed to 609(g) Agreement and MCC increased funding by USD10,000,000 making the total MCC funding under 609(g) Agreement to USD10,750,000. The Government agreed to contribute under the terms of this Agreement, in the amount up to USD220,500 (the “Government Funding”) from its national budget to fund the activities of Compact development; and
- (2) A Millennium Challenge Compact for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in Nepal (the “Compact”) in the amount of USD500 million (“MCC Funding”) and USD130 million (“Government Contribution”) for a total of USD630 million.

Together, the Compact Development Fund, Government Funding, MCC Funding and the Government Contribution are herein referred to as the “Audited Funds”.

The Government is acting through **Millennium Challenge Account Nepal (“MCA-Nepal” or “MCA”)**, which is a designated Accountable Entity to implement the Compact. No party other than the Government and MCA-Nepal shall derive any rights from the Compact or have any claim to the proceeds of these Funds. Prior to establishment of MCA-Nepal, the Government was represented by the Office of the Millennium Challenge Nepal (“OMCN”), the Government team organized to develop the Compact.

The Compact and its related documents is available on the MCC website (www.mcc.gov) and MCA-Nepal website (www.mcanp.org). The goal of the Compact is to reduce poverty through economic growth. The Compact program includes two projects:

- (i) The Electricity Transmission Project (ETP) will fund the construction of about 300 kilometers of 400 kV electricity transmission lines, three substations, and technical assistance for the power sector; and

- (ii) The Road Maintenance Project (RMP) will fund technical assistance to improve the road maintenance regime and road maintenance works on about 300 kilometers of the strategic road network.

For more details on the project activities, please refer to Annex I of the signed Compact Agreement, which is available on the MCC website and MCA-Nepal website. The program would include the procurement of contractors and consultants for design, construction and supervision of electricity lines and substations, road maintenance works, including a variety of technical services, equipment and construction works in different geographic locations within Nepal.

The Compact is implemented by MCA-Nepal, which has overall management responsibility for implementation of the Compact. MCA-Nepal is governed by a Board of Directors. The Board is an independent decision making authority with ultimate authority and responsibility for the overall implementation of the Compact Program. MCA-Nepal is supported by:

- (1) Fiscal Agent - The Fiscal Agent is responsible for financial management and reporting functions of MCA-Nepal;
- (2) Procurement Agent – the Procurement Agent is responsible for the administration, management and execution of MCA-Nepal procurement activities; and
- (3) Providers and Covered Providers – The Providers and Covered Providers are other entities of the Governments that may receive or used MCC Funding or any other Program Asset in carrying out activities in furtherance of the Compact.

To ensure transparency and accountability during Compact implementation and in accordance with Section 3.8 (a) of the Compact, **MCA-Nepal** shall engage an independent audit firm to conduct financial audits of all Disbursements and Re-Disbursements under the Compact Agreement, Project Implementation Agreement (PIA), 609(g) Agreement, IE Agreement, and Supplemental Agreements, in accordance with the MCC Accountable Entities Guidelines for Contracted Financial Audits (the “AE Audit Guidelines”) <https://www.mcc.gov/resources/doc/guidelines-for-financial-audits-contracted-by-foreign-recipients>. As listed in Section 3.8(a) of the Compact, the audit to be completed under this proposed contract is separate from any audit that may be conducted by the Office of the Auditor General of Nepal and completion of this audit does not preclude the Office of the Auditor General of Nepal from conducting audits of MCA-Nepal.

MCA-Nepal has below funding sources:

- 1) **MCC Funding** further divided into below funds:
 - Initial Engagement Fund (“IE Fund”) is part of the Initial Engagement Technical Assistance Grant Agreement signed on May 24, 2015, and disbursement from this fund started from November 2015.
 - **Compact Development Fund (CDF)**, previously also known as “609(g) Fund” CDF is part of the Amended and Restated 609(g) Agreement signed on July 20, 2016, and disbursement from this fund started from September 2016.

- **Compact Facilitation Fund (CFF)**, previously also known as “Compact CDF”. CFF is a part of the Compact Agreement signed on September 14, 2017, and disbursement from this fund started from August 2018.
- **Program Funding** is also a part of the Compact Agreement signed on September 14, 2017. Disbursement from this fund has not yet started. This fund is available only after “Entry-Into-Force”.

2) Government Contribution further divided into below:

- **Government Funding for CDF**. This contribution is related to the amendment of 609(g) Agreement signed on July 20, 2016. Disbursement from this fund started from September 2016.
- **Government Contribution for the Compact**. This contribution is related to the Compact Agreement signed on September 14, 2017. Disbursement from this fund started from November 2019

The audit should cover all of the funds above.

The Base Period covers from May 24, 2015 to March 31, 2021 (Also known as “initial audit period”)

Thereafter, subsequent five audit periods will be a semi-annual period as Options. The detailed auditing periods will be as follows:

Table 1: Contract Periods and Audit Periods

Base/Option Period	Audit Period Covered	
	From	To
Base Period	May 24, 2015	March 31, 2021
Option Period 1	April 01, 2021	September 30, 2021
Option Period 2	October 01, 2021	March 31, 2022
Option Period 3	April 01, 2022	September 30, 2022
Option Period 4	October 01, 2022	March 31, 2023
Option Period 5	April 01, 2023	September 30, 2023

The volume of transactions in the initial audit period has been relatively small. Please refer to Appendix A “MCA ESTIMATED PLANNED DISBURSEMENTS” for guidance on approximate planned disbursement by fund.

2. AUDIT OBJECTIVES

The primary objectives of this engagement are:

1. To conduct financial audits of the MCC resources managed by OMCN and MCA-Nepal, described in this Terms of Reference.

The above financial audits are conducted in accordance with the U.S. Government Auditing Standards (GAS) issued by the Comptroller General of the United States and the Guidelines for Financial Audits Contracted by the Millennium Challenge Corporation's Accountable Entities ("AE Audit Guidelines") approved on February 3, 2020, and effective as of March 18, 2020, for audit review beginning after June 30, 2020. The AE Audit Guidelines on which this terms of reference is based can be found at <https://www.mcc.gov/resources/doc/guidelines-for-financial-audits-contracted-by-foreign-recipients> and is subject to modification at any time at the discretion of MCC. The version posted at the above address is the official version that auditors must review prior to each audit to ensure that all requirements are addressed. U.S. Government Auditing Standards (GAS) issued by the Comptroller General of the United States can be found at <https://www.gao.gov/products/GAO-18-568G>.

2. To conduct financial audits of the Government resources managed by OMCN and MCA-Nepal, described in this Terms of Reference.

A financial audit of the funds provided by the Government, by virtue of being a co-financing / co-funding requirement of the Compact as contributions to support implementation of the Compact, must be performed in accordance with U.S. Government Auditing Standards, or other approved standards where applicable, and accordingly includes such tests of the accounting records as deemed necessary under the circumstances.

3. To conduct financial audits of funds managed by recipient organizations under MCC-funded grants, contracts, and implementing agreements.

This financial audit must be performed in accordance with U.S. Government Auditing Standards, or other approved standards where applicable, and accordingly must include such tests of the accounting records as deemed necessary under the circumstances.

The specific objectives of the audit of resources managed by MCA-Nepal and its Covered Providers (please refer MCC Audit guidelines for definition of Covered Providers: <https://www.mcc.gov/resources/doc/guidelines-for-financial-audits-contracted-by-foreign-recipients> for definition) are to:

1. Express an opinion on whether the Fund Accountability Statement for the resources managed by MCA-Nepal using both MCC and Government Funds presents fairly, in all material respects, revenues received, costs incurred, assets and technical assistance directly procured by MCC and the Government (including by MCA-Nepal and its Covered Providers) for the period audited in accordance with MCC rules and regulations, other implementation guidance, and the terms of the IE Fund, CDF, , Compact, related agreements, conditions of award, and generally accepted accounting principles or other comprehensive basis of accounting (including the cash receipts and disbursements basis and modifications of the cash basis).

2. Evaluate and obtain a sufficient understanding of the MCA-Nepal's internal controls related to MCA-Nepal's development and implementation of the Compact using both MCC and Government funds, assess control risk, and identify significant deficiencies or material weaknesses in the design and effectiveness of these internal controls. This evaluation should include the internal control related to required cost-sharing contributions and Government contributions required for the Compact.
3. Perform tests to determine whether MCA-Nepal complied, in all material respects, with the Compact Development Funding Agreement, Compact (including those MCC rules and regulations regarding Government Contributions), supplemental agreements, and applicable laws and regulations related to MCC-funded grants. All material instances of noncompliance and all illegal acts that have occurred or are likely to have occurred should be identified. Such tests should include the compliance requirements related to the required cost-sharing contributions, if applicable. Specifically, the auditor shall perform tests to determine whether MCA-Nepal complied, in all material respects, with the MCC Program Procurement Guidelines, the MCC Cost Principles for Government Affiliates, the MCA-Nepal's Fiscal Accountability Plan in effect during the audit period, and the terms and conditions of the MCC-funded grant.
4. Determine whether MCA-Nepal has taken adequate corrective action on prior audit report recommendations, if applicable.
5. Auditors must design audit steps and procedures in accordance with US's Governmental Accounting Standards (GAS), to provide reasonable assurance of detecting instances or transactions in which fraud or illegal acts have occurred or are likely to have occurred. If such evidence exists, the auditors must contact the MCC Inspector General to report the issue to the OIG hotline. In addition, the auditor should exercise due professional care in pursuing indications of possible fraud and illegal acts so as not to interfere with potential future investigations or legal proceedings
6. If applicable, conduct a review engagement of the cost-sharing schedule to determine if the schedule is fairly presented in accordance with the basis of accounting used by the MCA-Nepal to prepare the schedule and to:
 - i. determine whether cost-sharing contributions were provided and accounted for by the MCA-Nepal in accordance with the terms of the agreements; and
 - ii. question all cost-sharing contributions that are either ineligible or unsupported costs.

3. SCOPE OF THE ASSIGNMENT

The Auditor should use the following steps as the basis for preparing their audit programs. These steps are not all-inclusive or intended to be restrictive in nature and do not constitute relief from exercising professional judgment and due professional care. The steps should be modified to address local conditions and specific program design, implementation procedures, and agreement

provisions which may vary from program to program. Any limitations in the Terms of Reference must be communicated as soon as possible to the MCA-Nepal.

S1. Pre-Audit Steps

Following is a list of documents related to MCC programs. The Auditor should review the applicable documents considered necessary to perform the audit:

- 1.1 IE Fund, CDF, Compact, and any supplemental agreements by and between MCC, the Government, and the MCA-Nepal for development and implementation of the Compact.
- 1.2 Other documents including but not limited to:
 - a. Program Implementation Agreement (PIA),
 - b. Bank Agreement,
 - c. Procurement Agent Agreement,
 - d. Fiscal Agent Agreement,
 - e. Fiscal Accountability Plan,
 - f. Procurement Operations Manual,
 - g. Procurement Plan,
 - h. Program Procurement Guidelines,
 - i. Project Cooperation Agreement(s) (PCAs)
 - j. M&E Plan,
 - k. Implementation Plan(s),
 - l. Audit Plan and
 - m. Work Plans for the relevant Project or Project Activity.
- 1.3 The agreements between the MCA-Nepal and contractors and grantees, and any other entities implementing MCC or Government-funded activities on the MCA's behalf.
- 1.4 The sub-agreements or PCAs between the MCA-Nepal and other implementing entities, if applicable.
- 1.5 Contracts and subcontracts with third parties, if any.
- 1.6 The budgets, implementation letters, and written procedures approved by MCC and the MCA-Nepal.
- 1.7 Applicable procurement laws and regulations.
- 1.8 All program financial and progress reports; charts of accounts; organizational charts; accounting systems descriptions; procurement policies and procedures; and receipt, warehousing and distribution procedures for materials, as necessary, to successfully complete the required work.
- 1.9 MCC's Cost Principles for Government Affiliates in effect during the audit period.

- 1.10 Any previous audits, financial reviews, etc., that directly relate to the objectives of the audit.

S2. Fund Accountability Statement

The Fund Accountability Statement (FAS) is a financial statement to be audited. The FAS presents the MCA-Nepal's revenues; the budgeted amounts by category and major items (i.e., Project and Activity); the revenues received from MCC and the Government for the period covered by the audit; the costs reported by the MCA-Nepal as incurred during that period; cash balance(s) on hand; and the commodities, assets, and technical assistance procured by MCC or the Government for the MCA-Nepal's use. The FAS also includes one or more lines for expenditures directly managed by MCC for the benefit of the MCA-Nepal.

The FAS must be presented in U.S. Dollars and the exchange rate(s) used must be disclosed in the notes to the FAS. Separate FAS's are required for all sources of funds, including CDF, CFF, Program Funding, and Government Contributions, managed by the MCA-Nepal.

The Auditor must examine the FAS for all resources managed by the MCA-Nepal including the budgeted amounts by category and major items (i.e., Project and Activity); the revenues received from MCC and the Government for the period covered by the audit; the costs reported by the MCA as incurred during that period; and the commodities, assets, and technical assistance directly procured by MCC or the Government for the recipient's use. The Fund Accountability Statement must include all resources managed by the MCA-Nepal identified by each specific Program or Agreement. The revenues received from MCC and the Government, less the costs incurred, after considering any reconciling items, must reconcile to the balance of cash on hand and/or in bank accounts. The Fund Accountability Statement should be reconciled to both the MCC and Government funds included in the general purpose financial statements by a note to the financial statements or the Fund Accountability Statement. The Fund Accountability Statement must not include cost-sharing/Government Contributions provided from the MCA-Nepal's own funds or in-kind. However, a separate cost sharing/Government Contributions schedule must be presented as a separate FAS within the audit report.

The Auditors may prepare or assist the MCA-Nepal in the preparation of the Fund Accountability Statements from the books and records maintained by MCA. However, MCA is solely responsible for the accuracy and content of the FAS before the audit commences.

The opinion on the Fund Accountability Statements must be in accordance with the American Institute of Certified Public Accounts' (AICPA) Statement of Auditing Standards No. 62 (SAS 62) "Financial Statements Prepared in Conformity with a Comprehensive Basis of Accounting Other Than Generally Accepted Accounting Principles," AU623 "Special Reports." The Fund Accountability Statement must separately identify those revenues and costs applicable to each specific agreement funded by MCC and the Government for the development and implementation of the Compact. The audit must evaluate program implementation actions and accomplishments to determine whether specific costs incurred are allowable, allocable, and reasonable under the agreement terms, and to identify areas where fraud, waste, abuse, and illegal acts have occurred or

are likely to have occurred as a result of inadequate internal control. At a minimum, the Auditor must:

- 2.1. Review direct and indirect costs billed to and reimbursed with MCC funds and the Government Contribution and costs incurred but pending reimbursement by MCC and the Government, identifying and quantifying any questioned costs. All costs which are not supported by adequate documentation or that are not in compliance with the IE Fund, CDF, Compact, any supplemental agreements, the MCA's Fiscal Accountability Plan, or MCC's Cost Principles for Government Affiliates must be reported as questioned. Questioned costs that are pending reimbursement must be identified in the notes to the fund accountability statement as not yet reimbursed.

Questioned costs must be presented in the Fund Accountability Statement in two separate categories:

- (a) ***ineligible costs*** that are explicitly questioned because they are unreasonable, prohibited by the Compact and related agreements or applicable laws and regulations, or not program related; and
 - (b) ***unsupported costs*** that are not supported with adequate documentation or did not have required prior approvals or authorizations. All material questioned costs resulting from instances of non-compliance with the Compact and related agreement terms and applicable laws and regulations must be included as findings in the report on compliance. Also, the notes to the Fund Accountability statement must briefly describe both material and immaterial questioned costs and must be cross-referenced to the corresponding findings in the report on compliance.
- 2.2. Review general and program ledgers to determine whether costs incurred were properly recorded. Reconcile direct costs billed to, and reimbursed by, MCC and the Government to the program and general ledgers.
- 2.3. Review the procedures used to control the funds, including transfers to contracted financial institutions or other implementing entities. Review the bank accounts and the controls on those bank accounts. Perform positive confirmation of balances, as necessary.
- 2.4. Determine whether payment or disbursement requests made to MCC and any advances of MCC funds or the Government Contribution were supported with adequate documentation, including reconciliations of funds advanced, disbursed, and available. The Auditor must ensure that all funding received by the MCA-Nepal from MCC and the Government were appropriately recorded in the MCA-Nepal's accounting records and that those records were periodically reconciled with information provided by MCC and the Government.
- 2.5. Determine whether program income was added to the funds used to further eligible program objectives, to finance the non-MCC share of the Program, or deducted from program costs, in accordance with MCC rules and regulations, other implementing

guidance, and the terms of the IE Fund, CDF, Compact, related agreements, and conditions of award.

- 2.6. Review procurement procedures to determine whether sound commercial practices including competition were used, reasonable prices were obtained, and adequate controls were in place over the qualities and quantities received. Assess whether the procurements were in accordance with MCC's Program Procurement Guidelines, the approved Procurement Plan(s) in effect during the period audited, and the MCA Fiscal Accountability Plan.
- 2.7. Review direct and indirect salary payments to determine whether salary rates are reasonable for that position, in accordance with those approved by MCC when MCC approval is required and supported by appropriate payroll records including the MCA staff employment agreements and timesheets. Determine if any overtime was charged to the program and whether overtime payments are allowable under the terms of the IE Fund, CDF, Compact, and related agreements. Determine whether allowances and fringe benefits received by employees, contractors, and consultants (whether employees of the MCA or an Implementing Entity) were in accordance with the employment agreements, consulting agreements, contracting agreements, PCAs and applicable laws and regulations. Determine whether salary increases or changes in compensation and benefits received were consistent with the policies and procedures of the MCA, and that they were appropriately reviewed, approved by MCC when MCC approval is required, and adequately documented. The Auditor must include unallowable salary, compensation, and benefit charges as questioned costs in the fund accountability statement.
- 2.8. Review travel, per diem, and transportation charges to determine whether they are reasonable, adequately supported, and approved. Travel charges that are not supported with adequate documentation or not in accordance with the Compact and related agreements and regulations must be questioned in the fund accountability statement.
- 2.9. Review assets (such as supplies, materials, vehicles, equipment, food products, tools, etc.), whether procured by the MCA-Nepal or directly by MCC or the Government for the MCA or any of their Implementing Entities' use. The Auditors must determine whether commodities exist or were used for their intended purposes in accordance with the terms of the IE Fund, CDF, Compact, and related agreements, and whether adequate control procedures have been placed in operation to adequately safeguard the commodities. As part of the procedures to determine if commodities were used for intended purposes, the Auditors must perform end-use reviews for an appropriate sample of all commodities based on the control risk assessment. End-use reviews would normally include site visits to verify that commodities exist or were used for their intended purposes in accordance with the terms of the IE Fund, CDF, Compact, and related agreements. The cost of all commodities that cannot be verified must be questioned in the fund accountability statement. (The Auditor should determine the cost of commodities based on supporting documentation from the MCA, MCC, or the Government, as appropriate).

2.10. Review technical assistance and services (including implementing entity, grant activity advisory, or consulting services). The Auditor must determine whether technical assistance and services were used for their intended purposes in accordance with the terms of the IE Fund, CDF, Compact, PCAs, Implementing Entity Agreement(s), or any other formal or informal agreements. The cost of technical assistance and services (including implementing entity, grant activity, advisory, or consulting services) not reasonable or not properly used in accordance with the agreements must be included as questioned costs in the fund accountability statement.

- (a) In addition to above audit procedures, if technical assistance and services (including implementing entity, advisory, or consulting services) were contracted by the recipient organization from a non-U.S. contractor, the Auditor must perform additional steps of the technical assistance and services (including implementing entity, advisory, or consulting services) under this Contract, unless the recipient organization has separately contracted for an audit of these costs.

When testing for compliance with the agreement terms and applicable laws and regulations, the Auditors must not only consider the agreements between MCA-Nepal, the recipient organization, and MCC, but also the agreements between MCA-Morocco, the recipient organization, and non-U.S. contractors providing technical assistance and services (including implementing entity, advisory or consulting services). The agreements between MCA-Nepal, the recipient organization, and non-U.S. contractors should be audited using the same audit steps described in the other paragraphs of this section, including all tests necessary to specifically determine that costs incurred are allowable, allocable, reasonable, and supported under the IE Fund, CDF Agreement, Compact, and related agreement terms. In case of any deficiencies or issues identified by MCA-Nepal or MCC in the activity of any of MCA-Nepal's contractors, consultants, or other service providers (including an implementing entity or other recipient government organizations), MCA-Nepal or MCC may require the Auditors to perform additional audit actions as needed to review compliance with the terms of the contract, IE Fund, CDF Agreement, Compact, supplemental agreements, or rules, regulations, policies, and procedures of MCC, the Government, or MCA-Nepal.

- (b) If technical assistance and services (including implementing entity, advisory, or consulting services) were contracted by MCA-Nepal or the recipient organization from a U.S. contractor, the Auditor is still responsible for determining whether technical assistance and services (including implementing entity, advisory, or consulting services) were used for their intended purposes in accordance with the terms of the IE Fund, CDF Agreement, Compact, and related agreements. However, the Auditor is not responsible for performing additional audit steps for the costs incurred under the technical assistance and services agreements, since either MCC or a cognizant U.S. government agency is responsible for contracting for audits of these costs.

2.11. When the MCA-Nepal or an Implementing Entity charges indirect costs to MCC or the Government using provisional rates, review the allocation method to determine that the

indirect cost pool and distribution base include only allowable items in accordance with the IE Fund, CDF, Compact, and related agreement terms. The auditors must be aware that costs that are unallowable as charges to MCC- or Government-funded agreements (e.g., fundraising) must be allocated their share of indirect costs if they represent activities that (1) include the salaries of personnel, (2) occupy space, and (3) benefit from the organization's indirect costs. Indirect costs must be calculated after all adjustments have been made to the pool and base. When indirect costs are charged to MCC or the Government using predetermined or fixed rates, verify that the correct rates are applied in accordance with the agreements with and/or approved by MCC.

Any funds managed by MCC and/or other third parties authorized by MCC as part of a Compact, pre-Compact or supplemental agreement will not be subject to the detailed audit procedures described below, but summary information must be displayed in the consolidated Fund Accountability Statement.

Any questioned costs identified through audits of the MCA-Nepal Covered Providers must be reported in the audit of the MCA since all uses of funds, whether by covered providers or by the MCA itself, will appear in the MCA Fund Accountability Statement. Any internal control findings identified through audits of the MCA-Nepal Covered Providers must be reported in the audit of the MCA, if the internal control deficiencies could adversely affect the ability of the MCA-Nepal to record, process, summarize, and report financial data consistent with the assertions of the MCA-Nepal management in the Fund Accountability Statement. Finally, any compliance findings identified through audits of the MCA-Nepal Covered Providers must be reported in the audit of the MCA-Nepal if the compliance deficiencies, alone or cumulatively, have a direct and material effect on the amounts in the MCA-Nepal's Fund Accountability Statement.

While the MCA-Nepal is the direct recipient of MCC and Government funds, the MCA may enter into contracts or agreements for goods/service with other entities – either host country or foreign entities. Such entities, if the agreements are of a certain type (typically other than fixed price contracts) and exceed amounts specified in the *AE Audit Guidelines*, may qualify as Covered Providers and be subject to certain audits.

S3. Cost-Sharing Schedule

MCC agreements may require cost-sharing contributions by the recipient country government, as the Compact between MCC and the Government in this case does. The type of cost-sharing government contribution selected, that is either a life-of-project budget or annual budgets, must be properly disclosed through the audit report. The review of the cost-sharing schedule must be approached differently depending on whether the cost-sharing budget is a life-of project budget or an annual budget. In either case, the review consists principally of inquiries of MCA's personnel and analytical procedures applied to financial data supporting the cost-sharing schedule.

The MCA must prepare the cost-sharing schedule from its books and records. In addition, the MCA must accept responsibility for the schedule's accuracy before the audit of the Government Contributions commences.

For an agreement with a life-of-project budget for cost-sharing contributions, it is not possible to determine whether the contributions have been made as required until the agreement ends. Nonetheless, MCC and MCA need reliable information to monitor actual cost-sharing contributions throughout the life of the agreement.

For agreements with a life-of-project budget for cost-sharing contributions, for each year that an audit is performed in accordance with the AE Audit Guidelines, the auditors will:

- 3.1. review the cost-sharing schedule to determine if the schedule is fairly presented in accordance with the basis of accounting used by MCA-Nepal to prepare the schedule.
- 3.2. question all cost-sharing contributions that are either ineligible or unsupported costs. An ineligible cost is a cost that is unreasonable, prohibited by the agreements or applicable laws and regulations, or is not program related. An unsupported cost lacks adequate documentation or does not have required prior approvals or authorizations. All questioned costs must be briefly described in the notes to the cost-sharing schedule. In addition, material questioned costs must be included as findings in the report on compliance. Notes to the cost-sharing schedule must be cross-referenced to the corresponding findings in the report on compliance. Also, reportable internal control weaknesses related to cost-sharing contributions must be set forth as findings in the report on internal control. (See an Illustration of a cost-sharing schedule at Appendix IV of the AE Audit Guidelines.)

In addition, for closeout audits of agreements with a life-of-project budget for cost-sharing contributions, the auditors will review the cost-sharing schedule to determine if the recipients provided such contributions in accordance with the terms of the agreement. If actual contributions were less than budgeted contributions, the shortfall will be identified in the appropriate column of the cost-sharing schedule. (See an Illustration of a cost-sharing schedule at Appendix IV of the AE Audit Guidelines.)

For agreements with an annual budget for cost-sharing contributions, for each year that an audit is performed in accordance with the AE Audit Guidelines, the auditors will:

- 3.3. review the cost-sharing schedule to determine whether: (i) the schedule is fairly presented in accordance with the basis of accounting used by MCA-Nepal to prepare the cost-sharing schedule, and (ii) contributions were provided by the Government in accordance with the terms of the agreement.
- 3.4. question all cost-sharing contributions that are either ineligible or unsupported costs. An ineligible cost is unreasonable, prohibited by the agreements (including the MCC Cost Principles) or applicable laws and regulations, or is not program-related. An unsupported cost lacks adequate documentation or does not have required prior approvals or authorizations. All questioned costs must be briefly described in the notes to the cost-sharing schedule. In addition, material questioned costs must be included as findings in the report on compliance. Notes to the cost-sharing schedule must be cross-referenced to the corresponding findings in the report on compliance. Also, reportable internal control weaknesses related to cost-sharing contributions must be set forth as findings in the report

on internal control. If actual cost-sharing contributions were less than budgeted contributions, the shortfall will be identified in the appropriate column of the cost-sharing schedule.

Anticipated Government Contribution is provisioned in the Schedule 3 of the PIA.

S4. Internal Control

The Auditor must review and evaluate the MCA's internal control related to the development and implementation of the Compact to obtain a sufficient understanding of the design of relevant control policies and procedures and whether those policies and procedures have been placed in operation. The auditor's understanding of the internal controls must be documented in the audit documentation file.

The Auditor must then prepare the report required by the *Audit Guidelines*, identifying deficiencies in the design or operation of internal control.

A **material weakness** is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's fund accountability statements will not be prevented or detected and corrected on a timely basis.

A **significant deficiency** is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Any significant deficiencies or material weaknesses must be set forth in the report as "findings." Any other matters related to internal control—such as suggestions for improving operational or administrative efficiency or internal control, or control deficiencies that are not significant deficiencies or material weaknesses—should be included in a separate management letter to the MCA and referred to in the report on internal control. The management letter should also be provided to the MCA-Nepal and to MCC along with the audit report.

The major internal control components to be studied and evaluated include, but are not limited to, the controls related to each revenue and expense account on the fund accountability statement for each source of funds (from both MCC and the Government). The Auditors must:

- 4.1. Obtain a sufficient understanding of the internal controls to plan the audit and to determine the nature, timing and extent of tests to be performed.
- 4.2. Assess inherent risk and control risk, and determine the combined risk. Inherent risk is the susceptibility of an assertion, such as an account balance, to a material misstatement assuming there are no related internal control policies or procedures. Control risk is the risk that a material misstatement, that could occur in an assertion, will not be prevented or detected on a timely basis by the entity's internal control policies or procedures. Combined risk (sometimes referred to as detection risk) is the risk that the auditor will not detect a

material misstatement that exists in an assertion. Combined risk depends upon the effectiveness of an auditing procedure and its application by the auditor.

- 4.3. Summarize the risk assessments for each assertion in the audit documentation. The risk assessments must consider the following broad categories under which each assertion should be classified: (a) existence or occurrence; (b) completeness; (c) rights and obligations; (d) valuation or allocation; and (e) presentation and disclosure. At a minimum, the audit documentation must identify the name of the account or assertion, the account balance or the amount represented by the assertion, the assessed level of inherent risk (high, moderate, or low), the assessed level of control risk (high, moderate, or low), the combined risk (high, moderate, or low), and a description of the nature, extent, and timing of the tests performed based on the combined risk. The summarized audit documentation must be cross-indexed to the supporting audit documentation files that contain the detailed analysis of the fieldwork. If control risk is evaluated at less than the maximum level (high), then the basis for the auditor's conclusion must be documented in the audit documentation files.

If the control risk is assessed at the maximum level for assertions related to material account balances, transaction classes, and disclosure components of financial statements when such assertions are significantly dependent upon computerized information systems, the Auditors must document in the audit documentation files the basis for such conclusions by addressing (i) the ineffectiveness of the design and/or operation of controls, or (ii) the reasons why it would be ineffective to test the controls.

- 4.4. Evaluate the control environment, the adequacy of the accounting systems, and control procedures. Emphasis must be placed on the policies and procedures that pertain to the MCA's ability to record, process, summarize, and report financial data consistent with the assertions embodied in each account of the fund accountability statement. This evaluation must include, but not be limited to, the control systems for:
- a. Ensuring that charges to the program are proper and supported;
 - b. Managing cash on hand and in bank accounts;
 - c. Procuring goods, works, and services;
 - d. Managing assets, commodities (such as supplies, materials, vehicles, equipment, food products, tools, etc.), inventory and receiving functions;
 - e. Managing personnel functions such as timekeeping, salaries, and benefits for the MCA and its Implementing Entities;
 - f. Managing and disposing of assets (such as vehicles, equipment, and tools, as well as other assets) purchased either by the program or directly by MCC, the MCA, an Implementing Entity, or the Government; and
 - g. Ensuring compliance with Compact and related agreement terms and applicable laws and regulations that collectively have a material impact on the Fund Accountability Statement.
- 4.5. Evaluate internal control established to ensure compliance with cost-sharing requirements, if applicable, including provision, management, disbursements, and reporting of the Government Contributions.

- 4.6. Include in the study and evaluation other policies and procedures that may be relevant if they pertain to data the auditor uses in applying auditing procedures. This may include, for example, policies and procedures that pertain to non-financial data that the auditor uses in analytical procedures.

In fulfilling the audit requirement relating to an understanding of internal control and assessing the level of control risk, the auditor must follow, at a minimum, the guidance contained in AICPA SAS Nos. 109 and 115 (AU-C sec 314 and AU-C sec 325), respectively entitled *Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatement*, and *Communicating Internal Control Related Matters Identified in an Audit*, as well as SAS No. 117 (AU801) entitled *Compliance Audits*.

S5. Compliance with Agreement Terms and Applicable Laws and Regulations

In fulfilling the audit requirement to determine compliance with agreement terms and applicable laws and regulations related to MCC programs, the auditors must, at a minimum, follow guidance contained in AICPA SAS No. 117 (AU801) entitled *Compliance Audits*. The compliance review must also determine on audits of awards that present cost-sharing budgets on an annual basis and on close-out audits of awards that present cost-sharing budgets on a life-of-project basis if cost sharing contributions were provided and accounted for in accordance with the terms of the agreements. The auditor's report on compliance must set forth as findings all material instances of noncompliance, defined as instances that could have a direct and material effect on the fund accountability statement. Nonmaterial instances of noncompliance should be included in a separate management letter to the MCA and referred to in the report on compliance. The management letter should also be provided to MCA-Nepal and to MCC along with the audit report.

The auditor's report must include all conclusions that a fraud, wasteful, abusive, or illegal act either has occurred or is likely to have occurred. In reporting material fraud, illegal acts, abuse, or other noncompliance, the Auditors must place their findings in proper perspective. To give the reader a basis for judging the prevalence and consequences of these conditions, the instances identified should be related to the universe or the number of cases examined and be quantified in terms of U.S. Dollar value, if appropriate. In presenting material irregularities (including fraud, waste, and abuse), illegal acts, or other noncompliance, Auditors must follow the reporting standards contained in Chapter 6 of U.S. *Government Auditing Standards*. Auditors may provide less extensive disclosure of irregularities and illegal acts that are not material in either a quantitative or qualitative sense. If the auditor concludes that sufficient evidence of irregularities (including fraud, waste, or abuse) or illegal acts exists, the Auditor must immediately contact the OIG, and must exercise due professional care in pursuing indications of possible irregularities (including fraud, waste, and abuse) and illegal acts so as not to interfere with potential future investigations and/or legal proceedings.

In planning and conducting the tests of compliance, the Auditor must:

- 5.1. Identify the pertinent laws and regulations and terms of the IE Fund, CDF, Compact, and related agreements and determine which of those, if not observed, could have a direct and material effect on the fund accountability statement. The Auditors must:
 - a. List all standard and program-specific provisions contained in the agreements that cumulatively, if not observed, could have a direct and material effect on the fund accountability statement;
 - b. Assess the inherent and control risk that material noncompliance could occur for each of the compliance requirements listed in 1.a. above;
 - c. Determine the nature, timing and extent of audit steps and procedures to test for errors, fraud, and illegal acts that provide reasonable assurance of detecting both intentional and unintentional instances of noncompliance with agreement terms and applicable laws and regulations that could have a material effect on the fund accountability statement. This must be based on the risk assessment in 1.b. above; and
 - d. Prepare a single summary document in the audit documentation that identifies each of the specific compliance requirements included in the review, the results of the inherent, control, and combined (detection) risk assessments for each compliance requirement, the audit steps used to test for compliance with each of the requirements based on the risk assessment, and the results of the compliance testing for each requirement. The summary document must be cross-indexed to detailed audit documentation that support the facts and conclusions contained in the summary document.
- 5.2. Determine if payments have been made in accordance with the Compact, and any supplemental agreements by and between MCC, the Government, the MCA, and an Implementing Entity for development and implementation of the Compact, as well as any applicable rules, regulations, policies, and procedures of MCC or the Government.
 - a. Determine whether the MCA is accurately tracking advance payments made to contractors and the liquidation of those advance payments consistent with the terms and conditions of contract agreements. Identify any material instances of non-compliance with agreement terms and/or instances in which the recipient's records do not support a complete and accurate status of advance payments owed by contractors.
 - b. Determine whether the MCA is accurately tracking amounts retained from their contractors as a percentage of amounts invoiced, consistent with the terms and conditions of contract agreements. Identify any material instances of non-compliance with agreement terms and/or instances in which the recipient's records

do not support a complete and accurate status of amounts withheld from contractors.

- c. Determine whether the MCA has an adequate system for ensuring that MCC funding is free of value-added taxes (VAT), and other such taxes, tariffs, duties and levies per the Compact agreement. The system should identify VAT paid, claims for reimbursement, status of refunds, and outstanding balance. A note and/or schedule describing the recipient's taxation control system and status of claims should be included in the Audit Report.
- 5.3. Determine whether funds have been expended for purposes not authorized or not in accordance with applicable agreement terms. If so, the Auditor must question these costs in the fund accountability statement.
- 5.4. Identify any costs not considered appropriate, classifying and explaining why these costs are questioned.
- 5.5. Determine whether assets (such as supplies, materials, vehicles, equipment, food products, tools, etc.), whether directly or indirectly procured by MCC, the MCA, the Government, or an Implementing Entity for use by the MCA, the Government, or an Implementing Entity, exist or were used for their intended purposes in accordance with the IE Fund, CDF, Compact, and/or related agreements. Ensure that assets are marked in accordance with agreement requirements. If not, the cost of such assets must be questioned.
- 5.6. Determine whether any technical assistance and services (including implementing entity, advisory, or consulting services), whether directly or indirectly procured by MCC, the MCA, the Government, or an Implementing Entity for use by the MCA, the Government, or an Implementing Entity, were used for their intended purposes in accordance with the Compact, and/or related agreements. If not, the cost of such technical assistance and services must be questioned (including implementing entity, advisory, or consulting services).
- 5.7. Determine if the amounts of cost-sharing funds were calculated and accounted for as required by the Compact, Program Implementation Agreement, and any related agreements or applicable rules, regulations, policies, and procedures of MCC or the Government.
- 5.8. Determine if the cost-sharing funds were provided by the Government in accordance with the terms of the Compact; that the MCA properly and timely disbursed funds from the Government Contribution into the program; that the MCA complied in all material respects with the policies and procedures regarding the source, use, valuation, timing, recording, and reporting of the Government Contributions required by MCC and the Government in support of the program; and quantify any shortfalls.
- 5.9. Determine whether those who received services and benefits were eligible to receive them.

- 5.10. Determine whether the MCA's financial reports (including those on the status of cost-sharing contributions) and claims for advances and reimbursement contain information that is supported by the books and records.
- 5.11. Determine whether the MCA (through its Fiscal Agent) complied with MCC's Common Payment System Policy and Procedures.
- 5.12. Determine whether the MCA (through its Fiscal Agent) held advances of MCC and Government funds in interest-bearing accounts, and whether the MCA (through its Fiscal Agent) remitted to MCC, and the Government (as applicable), any interest earned on those advances. If the MCA was required to place MCC funds in an interest-bearing bank account but did not, then the Auditor should determine the amount of interest that was foregone by the MCA, and this amount should be classified as ineligible costs.
- 5.13. Determine whether the MCA complied with MCC's Common Payment System Policy and Procedures and whether the MCA (and its Fiscal Agent) had adequate systems in place to monitor the amount of periodic spending authority authorized by MCC, if applicable.

S6. Follow Up on Prior Audit Findings and Recommendations

The Auditors must review the status of actions taken on findings and recommendations reported in any pre-award and in any prior audits of the IE Fund, CDF, and the Compact. The Auditor must refer to the most recent audit report for the same award (for a follow-up audit), or other MCC-funded awards and any pre-award survey (for an initial audit). When corrective action has not been taken and the deficiency remains unresolved for the current audit period and is reported again in the current report, the Auditor needs to briefly describe the prior finding and status and show the page reference to where it is included in the current report. If there were no prior findings and recommendations, the Auditor must include a note to that effect in this section of the audit report. For the first audit period, this follow-up task is not required.

S7. Assessing MCA's Information System (IS) Controls

In the Planning Stage, the Auditor, with the assistance of an IS controls specialist or an IS auditor, should use an appropriate methodology to understand the design of IS controls and whether they have been implemented and to determine whether IS controls are likely to be effective and should therefore be considered further in the audit.

The auditor should obtain an understanding of the MCA's internal control components – control environment, risk assessment, information and communication, monitoring, and control activities – sufficient for assessing the risks of material misstatement of the financial statements whether due to error or fraud, as well as for determining the nature, extent, and timing of further audit procedures.

The Auditor shall:

- 7.1. evaluate the MCA's control environment, the adequacy of the financial management and accounting systems, appropriateness of segregation of duties and access controls in place; and
- 7.2. assess the contingency plan and the risk of unplanned interruptions and disasters, and security management.

Emphasis must be placed on the policies and procedures that pertain to MCA's ability to record, process, summarize, and report financial data consistent with the assertions embodied in each account of the fund accountability statement. This evaluation must include, but not be limited to, the control systems for:

- i. Ensuring that disbursements to the program are properly recorded and supported;
- ii. Ensuring adequate change management within the financial management system is properly authorized;
- iii. Access controls that limit or detect inappropriate access to the financial management system;
- iv. Logical segregation of duties embedded within the financial management system and documented policies in place;
- v. Ensuring proper security administration within the financial management system; and
- vi. Ensuring there is a documented comprehensive contingency plan.

S8. Other Audit Responsibilities

The Auditors must perform the following steps:

- 8.1. Hold entrance and exit conferences with the MCA-Nepal. The MCC must be notified of these conferences in order that their representatives may attend. The audit firm is required to hold an Entrance Conference before the audit starts and an Exit Conference informing the Accountable Entity of its results and findings.
- 8.2. During the planning stages of an audit, communicate information to the MCA-Nepal regarding the nature and extent of planned testing and reporting on compliance with laws and regulations and internal control over financial reporting. This communication must be in the form of an engagement letter. Auditors must document the communication in the audit documentation files.
- 8.3. Institute quality control procedures to ensure that sufficient competent evidence is obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit. While auditors may use their standard procedures for ensuring quality control, those procedures must, at a minimum, ensure that:

- a) Audit reports and supporting audit documentation files are reviewed by an auditor, preferably at the partner level, who was not involved in the audit. This review must be documented in the audit documentation files;
 - b) All quantities and monetary amounts involving calculations are footed and cross-footed; and
 - c) All factual statements, numbers, conclusions and monetary amounts are cross-indexed to supporting audit documentation files.
- 8.4. Ascertain, before preparing its proposal for the audit engagement (or if this is not possible, at the earliest opportunity during the engagement itself), whether the MCA ensured that audits of its Covered Providers were performed to ensure accountability for MCC funds passed through to the Covered Providers (see paragraph 1.6 of the Audit Guidelines). If audit requirements for Covered Providers were not met, the auditors should disclose this in the Fund Accountability Statement and consider qualifying their opinion.
- 8.5. Obtain a management representation letter in accordance with AICPA SAS No. 85 (AU333), signed by the MCA's management. See Appendix II of the AE Audit Guidelines for an illustrative management representation letter.
- 8.6. Evaluate the supplemental information prepared and provided to recognize accrual activity such as expenses incurred, but not yet paid, for and portion of the outstanding advances that are actually assets at the end of the period

S9. Closeout Audits

A closeout audit is an audit for the Compact that concludes during the period audited. Closeout audits require additional scope of the audit services, including but not limited to the following:

- 9.1. Review advances made to MCA-Nepal by MCC as well as advances made by MCA-Nepal to contractors and ensure proper liquidation per the terms of the applicable agreement. Review pending reimbursements by MCC to MCA-Nepal or by MCA-Nepal to third-party recipients.
- 9.2. Ensure that MCA-Nepal has returned any excess cash to MCC
- 9.3. Review final share of costs in accordance with the terms of the agreement, if applicable
- 9.4. Ensure that all assets (e.g., inventories, fixed assets, commodities) procured with program funds were disposed of in accordance with the terms of the agreements.
The auditors must determine whether the Fund Accountability Statement showing the balances and details of final inventories of nonexpendable property acquired under the award is presented fairly in all material respects in relation to the financial statements. This inventory must indicate which items were titled to the U.S. Government and which were

titled to other entities. These closeout audit procedures must be performed for any award that expires during the period audited.

- 9.5 For closeout audits of awards with a life-of-project budget for cost-sharing or matching contributions, the auditors will review the cost-sharing or matching schedule to determine if the recipients provided such contributions in accordance with terms of the agreement. If actual contributions were less than budgeted contributions, the shortfall will be identified in the appropriate column of the cost-sharing or matching schedule.

S10. Additional On-Call Audit Services

- 10.1 The Auditors may be requested to provide additional On-Call Audit Services for two types of additional audits:
1. On-Call Audits of Covered Providers; and
 2. On-Call Audits of Grantees, Contractors, Service Providers, or other Recipient Organizations
- 10.2 Additional On-Call Audits could be program-specific audit of whether a Covered Provider, grantee, service provider, or recipient organization (or a group of grantees, service providers, or recipient organizations) engaged by MCA-Nepal complied with the terms of their agreement(s) with MCA-Nepal. On-Call Audits require the Auditors to express an opinion, at the level specified by the On-Call Audit requirement, on whether the audited entity complied in all material respects with the applicable compliance requirements in their agreement(s) with MCA-Nepal, and report appropriately. In forming an opinion, the auditor should evaluate likely questioned costs, not just known questioned costs, as well as other material non-compliance that, by its nature, may not result in questioned costs.
- 10.3 Additional On-Call Audits will follow the AE Audit Guidelines and the same professional auditing and reporting standards outlined in this Terms of Reference, but as part of exercising each service, MCA-Nepal may tailor the audits to focus solely on one or more grantees, contractors, service providers, or recipient organizations, and their compliance with their agreements with MCA-Nepal.

Note: Auditors may be required to provide additional on-call audit services. If additional on-call audit services will be required, MCA-Nepal will request a technical and financial proposal to be evaluated and negotiated based on the agreed rates in the Contract.

4. DELIVERABLES AND DISCUSSIONS

For each period the audit cycle has three deliverables written in English:

- D1:** a complete Audit **Planning Document (and supplemental supporting documentation)** due within 30 calendar days after the commencement of the audit services contract for the Base Period; all other subsequent periods D1 due 30 calendar days prior to the end of the auditing period, or such other period as otherwise agreed upon by MCA and MCC;

- D2:** an indexed **Draft Audit Report and Management Letter** (if applicable) (**and supplemental supporting documentation**) due within 90 calendar days after the commencement of the audit services contract for the Base Period; all other subsequent periods D2 due within 60 calendar days after the audit period, or such other period as otherwise agreed upon by MCA and MCC; and
- D3:** a **Final Audit Report and Management Letter** (if applicable) due within 10 calendar days after MCC's No Objection of the Draft Audit Report has been issued.

As a matter of process, each deliverable will be submitted by the Auditors to MCA-Nepal, and then forwarded to MCC for review of the deliverable and No Objection.

In addition, in performing the audit, the Auditor must conduct with the MCA and Covered Provider (*if applicable*):

- 1) an **Entrance Conference** to communicate at the beginning of each audit, to the MCA management and staff the audit scope, objectives, estimated time frames for completing the audit; access to required records, information and personnel; and management designation of a contact person for coordination purposes; and
- 2) an **Exit Conference** to communicate audit results to management and to obtain management's comments on proposed findings and recommendations before the Draft audit report is issued. The issues presented at the exit conference should have been previously discussed with management and the fiscal and procurement agents. This is the MCA management's last opportunity to comment on the findings and recommendations prior to issuance of the draft report and their input is important to ensure that the audit results are fairly presented and that recommendations are reasonable and free of any errors or misrepresentations.

Availability of Records: MCA-Nepal will make financial records and documentary evidence available up to 120 days after completion of the Compact.

Timeframe for final Closeout Audit activities: If the Compact end date and the last day of the close-out audit period are the same, and that the Fiscal Agent is on contract until 120 days after the Compact completion, time management of the closeout audit process will be very important to ensure successful completion.

5. AUDIT REPORT'S REQUIREMENTS

The Auditor is required to submit the reports as included under VI. INSPECTION AND ACCEPTANCE OF AUDIT WORK AND THE REPORT. The Auditor must submit one (1) hard copy and one (1) electronic copy of the final audit report of each audit period in English to MCA-Nepal. In turn, the MCA-Nepal will process the report deliverables in accordance with the MCC's

Review Process Related to Accountable Entity Financial Audit Deliverables effective July 1, 2020. A copy of these approval procedures will be made available to the successful bidder, upon request. To make it easier for auditors to comply with the *AE Audit Guidelines*, the format and content of the audit report must closely follow the illustrative reports in Appendix V, *Illustrative Audit Reports*, and Appendix VI, *Illustrative Auditor's Report on the Cost Sharing Schedule*, of the *AE Audit Guidelines*. The audit report must specify the correct award number(s) of each award covered by the audit.

R1. The audit report package must contain:

- 1.1.1. Title page;
- 1.1.2. Table of contents;
- 1.1.3. Transmittal letter;
- 1.1.4. Independent audit reports;
- 1.1.5. Summary which includes:
 - (i) a background section with a general description of the AE programs audited, the period covered, the program objectives, a clear identification of all entities mentioned in the report, a section on the follow-up of prior audit recommendations, whether the AE has a MCC-authorized provisional indirect cost rate
 - (ii) the objectives and scope of the financial audit and a clear explanation of the procedures performed and the scope limitations, if any;
- 1.2. A brief summary of the audit results on the:
 - (i) Fund Accountability statement;
 - (ii) questioned costs, internal controls;
 - (iii) compliance with the agreement terms and applicable laws and regulations;
 - (iv) and the status of prior audit recommendations;
- 1.3. a brief summary of the type of cost-sharing/matching contributions and the results of the review;
- 1.4. a brief summary of the AE's management comments regarding its views on the audit results and findings.

R2. The auditor's report on the Fund Accountability Statement must identify any questioned costs not fully supported with adequate records or not eligible under the terms of the IE Fund, CDF, Compact, and related agreements. The report must be in conformance with the standards for reporting in Chapter 6 of the U.S. *Government Auditing Standards* and must include:

- 2.1. The auditor's opinion on whether the Fund Accountability Statement presents fairly, in all material respects, program revenues, costs incurred, and assets and technical assistance directly procured by MCA-Nepal for the period then ended in

accordance with the terms of the agreements and in conformity with generally accepted accounting principles or other basis of accounting. This opinion must clearly state that the audit was performed in accordance with U.S. Government Auditing Standards. Any deviations from these standards, such as noncompliance with the requirements for continuing professional education and external quality control reviews, must be disclosed.

- 2.2. The Fund Accountability Statement identifying the program revenues, costs incurred, assets, and technical assistance directly procured for the period audited. The statement must also identify questioned costs not considered eligible for reimbursement and unsupported, if any, including the cost of any assets and technical assistance directly procured by MCC, MCA, the Government, or an Implementing Entity for use by MCA, the Government, or an Implementing Entity whose existence or proper use in accordance with agreements could not be verified. All questioned costs resulting from instances of noncompliance with the IE Fund, CDF, Compact, and related agreement terms and applicable laws and regulations must be included as findings in the report on compliance. Also, the notes to the Fund Accountability Statement must briefly describe all questioned costs and must be cross-referenced to any corresponding findings in the report on compliance. All questioned costs in the notes to the Fund Accountability Statement must be stated in U.S. Dollars. The U.S. Dollar equivalent must be calculated at the exchange rate applicable at the time the dollars were converted to local currency by MCA.
 - 2.3. Notes to the Fund Accountability Statement, including a summary of the significant accounting policies, explanation of the most important items of the statements, the exchange rates during the audit period, value-added taxes and foreign currency restrictions, if any. In addition, a note to the Fund Accountability Statement must state whether any interest on MCC-provided funds was returned to MCC or otherwise used in accordance with the terms of the Compact and related agreements.
- R3. The auditor's report on the schedule of cost-sharing/Government Contributions must include:
- 3.1. Material questioned costs related to the provision of, and accounting for, cost-sharing funds, with a reference to the corresponding finding in the report on compliance if the questioned costs are material. The report must provide negative assurance with regard to the provision of, and accounting for, cost-sharing contributions for items not tested.
 - 3.2. The cost-sharing schedule identifying questioned costs. Cost-sharing contributions that are unreasonable, prohibited by the agreements or applicable laws and regulations, or not program related are ineligible. Cost-sharing contributions that lack adequate documentation or do not have required prior approvals or authorizations are unsupported.

- 3.3. The cost-sharing schedule identifying the budgeted amounts required by the agreements, the amounts actually provided, and any cost-sharing shortfalls.
 - 3.4. Notes to the cost-sharing schedule that briefly explain the basis for questioned costs and shortfalls, if applicable. The notes must be cross-referenced to the corresponding findings, if the questioned costs are material, in the report on compliance.
- R4. The Auditor's report on internal control must include as a minimum:
- 4.1. the scope of the auditor's work in obtaining an understanding of the internal controls and in assessing the control risk, and;
 - 4.2. the reportable conditions, including the identification of material weaknesses in MCA's internal controls. Reportable conditions must be described in a separate section. This report must be made in conformance with SAS No. 115 and the standards for reporting in Chapter 6 of U.S. Government Auditing Standards. Other matters related to internal control must be communicated to MCA in a separate management letter which must be referred to in the report on internal controls and sent with the audit report.
- R5. The Auditor's report on MCA's compliance with terms and conditions of the IE Fund, CDF, Compact, and supplemental agreements in addition to the MCC Program Procurement Guidelines, MCA Procurement Plan(s), MCA Procurement Operations Manual, MCA and the MCA Fiscal Accountability Plan, and applicable laws and regulations related to MCC-funded programs in effect during the period audited. The report must follow the guidance in SAS No. 117. Nonmaterial instances of noncompliance must be communicated to MCA in a separate management letter that should be sent with the audit report. All questioned costs resulting from instances of noncompliance must be included as findings in the report on compliance. Also, the notes to the Fund Accountability Statement that describe questioned costs must be cross-referenced to any corresponding findings in the report on compliance.
- 5.1. The Auditor's report must include all conclusions, based on evidence obtained, that a fraud (including waste and abuse) or illegal act either has occurred or is likely to have occurred. This report must include an identification of all questioned costs, if any, as a result of fraud (including waste and abuse) or illegal acts, without regard to whether the conditions giving rise to the questioned costs have been corrected and whether MCA does or does not agree with the findings and questioned costs. Abuse that is material, either quantitatively or qualitatively must also be reported.
 - Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances.

- Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate.
 - Abuse does not necessarily involve fraud, violation of laws, regulations, or provisions of a contract or grant. If during the course of the audit, auditors become aware of abuse that could be quantitatively or qualitatively material to the financial statements, auditors should apply audit procedures specifically directed to ascertain the potential effect on the financial statements or other financial data significant to the audit objectives.
 - After performing additional work, auditors may discover that the abuse represents potential fraud or illegal acts. Because the determination of abuse is subjective, auditors are not required to provide reasonable assurance of detecting abuse.
- 5.2. In reporting material fraud (including waste and abuse), illegal acts, or other noncompliance, the Auditors must place their findings in proper perspective. To give the reader a basis for judging the prevalence and consequences of these conditions, the instances identified must be related to the universe or the number of cases examined and quantified in terms of U.S. Dollar value, if appropriate. In presenting material fraud, illegal acts, or other noncompliance, Auditors must follow the reporting standards contained in Chapter 6 of U.S. Government Auditing Standards. Auditors may provide less extensive disclosure of irregularities and illegal acts that are not material in either a quantitative or qualitative sense. Chapter 4 of U.S. Government Auditing Standards provides guidance concerning factors that may influence Auditors' materiality judgments. If the Auditors conclude that sufficient evidence of irregularities or illegal acts exist, they must contact the MCC Inspector General and exercise due professional care in pursuing indications of possible irregularities and illegal acts so as not to interfere with potential future investigations and/or legal proceedings.
- R6. The auditor's comments on the status of prior audit recommendations. The Auditor must review and report on the status of actions taken on findings and recommendations reported in prior audits and any pre-award survey recommendations. When corrective action has not been taken and the deficiency remains unresolved for the current audit period and is reported again in the current report, the Auditor needs only briefly describe the prior finding and show the page reference where it is included in the current report. If there were no prior findings and recommendations, a note to that effect must be included in this section of the audit report.
- R7. The findings contained in the reports on internal controls and compliance related to MCC-funded programs must include a description of:
- the condition (what is);
 - the criteria (what should be):

- the cause (why it happened);
- the effect (what harm was caused by not complying with the criteria); and
- an actionable recommendation that corrects the cause and the condition, as applicable.

It is recognized that material internal control weaknesses and noncompliance found by the Auditor may not always have all of these elements fully developed, given the scope and objectives of the specific audit. The Auditor must, however, at least identify the condition, criteria and possible effect to enable management to determine the effect and cause. This will help management take timely and proper corrective action.

- R8. Audit firms are expected to exercise independent judgment throughout the audit engagement, including in reporting on questioned costs. Indications of a lack of independence may result in removal of firms from the list of firms eligible to conduct audits of MCC funds. Findings which involve monetary effect must:
- 8.1. Be quantified and included as questioned costs in the fund accountability statement, the Auditor's Report on Compliance, and cost sharing/counterpart contributions schedule (cross-referenced).
 - 8.2. Be reported without regard to whether the conditions giving rise to them were corrected.
 - 8.3. Be reported whether MCA does or does not agree with the findings or questioned costs.
 - 8.4. Contain enough relevant information to expedite the audit resolution process (e.g., number of items tested, size of the universe, error rate, corresponding U.S. dollar amounts, etc.).
- R9. The reports must also contain, after each recommendation, pertinent views of responsible recipient officials concerning the auditor's findings and actions taken by MCA to implement the recommendations. If possible, the auditor should obtain written comments. When the Auditors disagree with management comments opposing the findings, conclusions, or recommendations, they should explain their reasons following the comments. Conversely, the Auditors should modify their report if they find the comments valid.
- R10. Any evidence of fraud, illegal acts or abuse that have occurred, or are likely to have occurred, must be included in a separate written report if deemed necessary by the MCC Inspector General. This report must include an identification of all questioned costs as a result of abuse, irregularities or illegal acts, without regard to whether the conditions giving rise to the questioned costs have been corrected or whether MCA does or does not agree with the findings and questioned costs.

6. INSPECTION AND ACCEPTANCE OF AUDIT WORK AND THE REPORT

Each audit cycle is completed through the following phases and step in accordance with the Deliverables defined under this Section. The report should be separated by fund (i.e. IE Fund, CDF, CFF, Program Funding, and Government Contribution):

D1. Planning Documentation and Entrance Conference:

- 1.1. The Auditor conducts an Entrance Conference with MCA and, if applicable, Covered Provider(s), and provides a copy of the meeting minutes and presentation of the Entrance Conference to MCA.
- 1.2. MCA reviews and accepts the meeting minutes and presentation of the Entrance Conference and transmits a copy to MCC.
- 1.3. For Base Period, the planning document to be submitted **30 calendar days after the commencement of the audit services contract**. For subsequent audit periods, the planning document to be submitted **30 calendar days prior to the end of the audit period to be audited**, or such other period as otherwise agreed upon by MCA and MCC;
- 1.4. MCA submits the Audit Planning Document and supplemental documentation to MCC for review and No Objection.

D2. Draft Audit Report and Exit Conference:

- 2.1. After the completion of fieldwork, the Auditor discusses the preliminary audit findings and allows MCA to correct and clarify any misunderstandings that may have arisen during fieldwork, and, upon consent from MCA, includes formal, written comments in the Draft Audit Report.
- 2.2. The Auditor prepares and submits the **Draft Audit Report and Management Letter (if applicable) to MCA within 90 calendar days after the commencement of the audit services contract** for the Base Period; all other subsequent periods D2 due **within 60 calendar days after the audit period**, or such other period as otherwise agreed upon by MCA and MCC;
- 2.3. Following the submission of the Draft Audit Report and Management Letter to MCA, the Auditor conducts an Exit Conference to discuss the findings of the audit and the recommendations in the draft audit report with MCA and Covered Provider(s) (if applicable) and provides a copy of the meeting minutes to MCA.
- 2.4. MCA reviews and accepts the meeting minutes and presentation of the Exit Conference and transmits a copy to MCC for review and No Objection.
- 2.5. **Within 30 calendar days**, MCC issues and provides a No Objection Memorandum or communicates to MCA a request for additional changes deemed necessary for the Auditor to incorporate into the Draft Audit Report.

D3. Final Audit Report:

- 3.1. **Ten (10) calendar days** after the MCC No Objection of the Draft Audit Report has been issued, the Auditor signs and dates the Final Audit Report and submits it to MCA.
- 3.2. MCA transmits the Final Audit Report, supplemental documents and, if applicable, Management Letter, to MCC for a No Objection.

Within 20 calendar days of receiving the Final Audit Report, MCC communicates its No Objection or a request for additional changes necessary for incorporation into the Final Audit Report.

If MCC waives to issue “No Objection” for the audit report because of deficiencies in the work, the Auditor must perform any additional audit work requested at no additional cost to MCC, MCA, or the U.S. Government.

MCA transmits all communications and documentation related to the Audit in accordance with the MCC’s Review Process Related to Accountable Entity Financial Audit Deliverables.

7. AUDIT PERIOD / DURATION OF CONTRACT

Below table summarized the periods (base/options) and audit periods.

Base/Option Period	Audit Period Covered	
	From	To
Base Period	May 24, 2015	March 31, 2021
Option Period 1	April 01, 2021	September 30, 2021
Option Period 2	October 01, 2021	March 31, 2022
Option Period 3	April 01, 2022	September 30, 2022
Option Period 4	October 01, 2022	March 31, 2023
Option Period 5	April 01, 2023	September 30, 2023

Base Period: The Base Period covers the initial audit period. Upon signing the contract MCA-Nepal commits to The Base Period.

Option Periods: There are five option periods that represent one audit period each. The MCA-Nepal shall determine in its sole discretion whether to exercise each of the Contract Option Periods regardless of the performance of the Auditor; provided that the MCA-Nepal shall obtain the consent from MCC. MCA-Nepal can opt out of these option periods with a written notification 30 days prior to the start of the audit period. If no notification is given within that time, MCA automatically commits to that upcoming option period. (For example, if MCA-Nepal plans to opt out of Option Period 4 and 5, it needs to provide written notification prior to September 1, 2022)

NOTE: It is the responsibility of MCA to ensure that all records are available, all accounting entries and adjustments are made, and all other necessary steps are taken to make it possible for

the Auditor to perform all work necessary to present the final audit report within 90 calendar days after the end of the audited period, or within any other period agreed by parties in writing.

Availability of Records: MCA will make financial records and documentary evidence available during the engagement period.

Contract Duration: The services will be for a Base Period and five Option Periods mentioned above.

8. RELATIONSHIPS AND RESPONSIBILITIES

The Auditor will work in coordination with the Chief Financial Officer and Internal Control and Compliance Officer of MCA-Nepal. The liaison for information and assistance from MCC will be the MCC Director, Program Financial Services or his/her designee. MCA-Nepal will provide working space adequate for the audit team to perform their work and entry/exit meetings. MCA-Nepal will also facilitate introduction/letters to Covered Providers, Implementing Entities and other relevant entities, if applicable.

MCC representatives may meet with the Auditor at the beginning of the audit to explain any financial/compliance areas of concern contained in the statement of work that they want emphasized and provide any advice concerning the performance of the audit, or at any time thereafter. The MCC Director, Program Financial Services or his/her designee shall provide the following information to the Auditors:

1. A list of all disbursements made by the MCC to MCA under the Compact, as applicable.

The auditor must properly maintain and store the audit documentation files for a period of five (5) years from the completion of the audit. During this five-year period the Auditor must immediately provide the audit documentation files when requested by the MCC. Auditors that are non-responsive or do not provide timely responses to questions raised by the MCC representatives shall be temporarily or permanently excluded from performing additional audits of MCC-funded programs.

9. AUDITOR'S KEY STAFF

The staffing requirements to carry out the responsibilities, duties and tasks of the Auditor will be determined by the Auditor. The Auditor shall maintain an organization chart of the team structure together with a description of the Composition of Team and Task Assignments. The eventual total size of the team will depend on the number and size of audited transactions and other activities. However, the Auditor is required to make an estimate based on the total value of the Auditor's level of effort. The Auditor is required to identify a minimum of two (2) Key Professional Personnel – the Audit Manager (one of them shall be the Team Leader) and three (3) other auditors. The Auditor must provide a team of experts with qualifications and experience needed to perform the role and obligations specified in this TOR. Key Personnel are expected to directly conduct the work of the audit. Although the Auditor may also complete their team with support personnel, audit proposals will be evaluated based on the degree to which Key Personnel are dedicated to the

engagement. The Key Personnel shall have as a minimum the experience and qualifications listed under section III.

The Auditor shall provide all non-key staffs required to carry out the assignment successfully as per the requirement.

10. TERMS OF REFERENCE – APPENDIX A

MCA ESTIMATED PLANNED DISBURSEMENTS

MCA has estimated the disbursements which are to be audited during the Base and Option Periods as follows:

Contract Periods	Audit Periods	Estimated Planned Disbursements to be Audited* (USD in millions)				
		IE Fund	CDF	CFE	PROGRAM FUNDING	GOVERNMENT CONTRIBUTION
Base Period	May 24, 2015 to March 31, 2021	0.25	4	17	0	18
Option Period 1	April 01, 2021 to September 30, 2021	0	0	8	0	10
Option Period 2	October 01, 2021 to March 31, 2022	0	0	8	10	15
Option Period 3	April 01, 2022 to September 30, 2022	0	0	0	20	15
Option Period 4	October 01, 2022 to March 31, 2023	0	0	0	30	15
Option Period 5	April 01, 2023 to September 30, 2023	0	0	0	50	15
TOTAL		0.25	4	33	110	88

Planned disbursements for period to be audited represent MCA's planned disbursements for illustrative purposes only to assist Auditors in preparing their Financial Proposals. Actual disbursements will be determined by actual program expenses and any variation from these planned disbursements will have no bearing the final lump-sum fixed price paid to the Auditor by MCA. After the effective date of the contract, there will be no negotiation of the Proposal Price, either in total, for the Base Period, nor any of the Option Periods, regardless of actual disbursements to be audited.

* These amounts represent funds managed by MCA and do not include funds managed by MCC on behalf of MCA. MCC-managed funds will be audited by MCC's financial statement auditors.

** These amounts are indicative based on initial budget planning and subject to be changed in accordance with the Compact Entry into Force, and do not represent the exact amount.

PART 2:

CONDITIONS OF CONTRACT AND CONTRACT

Section VI. Contract Notices, Agreement and General Conditions of Contract

Notice of Intent to Award (NOITA)

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

[date]

**THIS IS NOT A NOTIFICATION OF AWARD OR LETTER OF ACCEPTANCE.
MCA ENTITY INTENDS NO CONTRACT TO BE FORMED
WITH THIS NOTICE.**

To: [insert name and address of the Consultant]

Re: Independent Audit Service

RFP Ref: MCA-N/PM/QCBS/005

As provided in the Request for Proposal Document (ITC Clause 26.1) in connection with **Independend Audit Service RFP Ref: MCA-N/PM/QCBS/005**, this notice is to inform you that we have selected you as the successful Consultant in the procurement associated with such Request for Proposal 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 Request for Proposal Document and subjected to successful negotiations, we anticipate issuing to you a formal Notification of Award and Contract Agreement.

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

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

Signed:

In the capacity of:
[Print Name]

Notification of Award

[The Notification of Award shall be filled in and sent to the successful Consultant in accordance with ITC Clause 28.1]

[date]

To: [insert name and address of the Consultant]

Re: Independent Audit Service

RFP Ref: MCA-N/PM/QCBS/005

Dear [insert name of consultant],

This is to notify you that your Proposal dated [date] for providing **Independent Audit Service** (MCA-N/PM/QCBS/003) for the Accepted Contract Amount of the equivalent of **[insert amount in numbers and words] [insert name of currency]**, as corrected and modified in accordance with the Instructions to Consultants, is hereby accepted by us in our capacity as Client (MCA-Nepal) under the Contract.

Within twenty-eight (28) days of your receipt of this Notification of Award and the attached Contract Agreement you are hereby instructed to (a) sign and return the attached Contract Agreement in accordance with Sub-Clause 2.4(a) of the General Conditions of Contract; (b) complete and return the Compliance with Sanctions Certification Form included in Section VII, Special Conditions of Contract and Annexes to Contract; and (c) complete and return the Self-Certification Form for Contractors included in Section VII, Special Conditions of Contract and Annexes to Contract.

Signed:

In the capacity of:
[The Print Name]

CONTRACT AGREEMENT

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

[Note: If the Consultant consists of more than one entity, the following should be used]

This CONTRACT AGREEMENT (this “Contract”) made as of the [day] of [month], [year], between **Millennium Challenge Account Nepal** (the “MCA Entity”), on the one part, and [full legal name of lead Consultant] (the “Consultant”) in [joint venture / consortium / association] with [list names of each joint venture entity], on the other part, each of which will be jointly and severally liable to the MCA Entity for all of the Consultant’s obligations under this Contract and is deemed to be included in any reference to the term “Consultant.”

RECITALS

WHEREAS,

- (a) The Millennium Challenge Corporation (“MCC”) and the Government of **Nepal** (the “Government”) have entered into a Millennium Challenge Compact for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in **Nepal** on **14 September 2017** (the “Compact”) in the amount of approximately **US\$500 million** (“MCC Funding”) and an additional US\$130 million from the Government (“GoN Contribution”), for a total of approximately US\$ 630 million. The Government, acting through the MCA Entity, intends to apply a portion of the proceeds of MCC Funding to eligible payments under this Contract. Payments made under this Contract will be subject, in all respects, to the terms and conditions of the Compact and related documents, including restrictions on the use, and conditions to disbursement, 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; and
- (b) The MCA Entity has requested the Consultant to provide certain consulting Services as described in Annex A to this Contract; and
- (c) The Consultant, having represented to the MCA Entity that it has the required professional skills, and Personnel and technical resources, has agreed to provide such Services on the terms and conditions set forth in this Contract.

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

- 1. In consideration of the payments to be made by the MCA Entity to the Consultant as set forth in this Contract, the Consultant hereby covenants with the MCA Entity to perform the Services in conformity in all respects with the provisions of this Contract.
- 2. Subject to the terms of this Contract, the MCA Entity hereby covenants to pay the Consultant, in consideration of the performance of the Services, the Contract Price (as

defined below) or such other sum as may become payable pursuant to the provisions of this Contract at the times and in the manner prescribed by this Contract.

IN WITNESS whereof the Parties hereto have caused this Contract to be executed in accordance with the laws of **Nepal** as of the day, month and year first indicated above.

For the Client:

Millennium Challenge Account Nepal

Signature

Name

Position

Witnessed By:

Signature

Name

For the Consultant:

[full legal name of the Consultant]:

Signature

Name

Position

Witnessed By:

Signature

Name

[Note: If the Consultant consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]

For and on behalf of each of the Members of the Consultant

[Name of Member]

[Authorized Representative]

[Name of Member]

[Authorized Representative]

GENERAL CONDITIONS OF CONTRACT

1. Definitions

1.1. Capitalized terms used in this Contract and not otherwise defined have the meanings given such terms in the Compact or related document. Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “Applicable Law” has the meaning given the term **in the SCC**.
- (b) “Associate” means any entity that is a member of the Association that forms the Consultant. A Sub-Consultant is not an Associate.
- (c) “Association” or “association” or “Joint Venture” or “joint venture” means an association of entities that forms the Consultant, with or without a legal status distinct from that of its members.
- (d) “Compact” has the meaning given the term in the recital clauses to the Contract Agreement.
- (e) “Consultant” has the meaning given the term in the initial paragraph of the Contract Agreement.
- (f) “Contract” means this agreement entered into between the MCA Entity and the Consultant, to provide the Services, and consists of the Contract Agreement, these GCC, the SCC, and the Annexes (each of which forms an integral part of this agreement), as the same may be amended, modified, or supplemented from time to time in accordance with the terms of this agreement.
- (g) “Contract Price” means the price to be paid for the performance of the Services, in accordance with GCC Sub-Clause 17.1.
- (h) “Effective Date” has the meaning given the term in GCC Clause 16.2.
- (i) “Force Majeure” has the meaning given the term in GCC Clause 22.1.
- (j) “GCC” means these General Conditions of Contract.
- (k) “Government” has the meaning given the term in the recital clauses to the Contract Agreement.
- (l) “Key Professional Personnel” means the Personnel listed in Annex D to this Contract.
- (m) “Local Currency” has the meaning given the term **in the SCC**.

- (n) “MCA Country” has the meaning given the term **in the SCC**.
- (o) “MCA Entity” or “Client” has the meaning given the term in the initial paragraph of the Contract Agreement.
- (p) “MCC” has the meaning given the term in the recital clauses to this Contract.
- (q) “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.
- (r) “Member” means any of the entities that make up a joint venture or other association; and “Members” means all these entities.
- (s) “Party” means the MCA Entity or the Consultant, as the case may be, and “Parties” means both of them.
- (t) “Personnel” means persons hired by the Consultant or by any Sub-Consultants and assigned to perform the Services or any part thereof.
- (u) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented.
- (v) “Services” means the activities to be performed by the Consultant pursuant to this Contract, as described in Annex A to this Contract.
- (w) “Sub-Consultant” means any person or entity to whom/which the Consultant subcontracts any part of the Services.
- (x) “Tax” and “Taxes” have the meanings given the terms in the Compact or related agreement.
- (y) “Trafficking in Persons” has the meaning given at GCC Clause 25.
- (z) “US Dollars” means the currency of the United States of America.

2. Interpretation and General Matters

2.1 In interpreting this Contract, unless otherwise indicated:

- (i) “confirmation” means confirmation in writing;
- (ii) “in writing” means communicated in written form (e.g., by mail, e-mail, or facsimile) delivered with proof of receipt;
- (iii) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular;
- (iv) the feminine means the masculine and vice versa; and
- (v) the headings are for reference only and shall not limit, alter or affect the meaning of this Contract.

- Waivers, Forbearance, Etc.** 2.2 The following shall apply with respect to any waivers, forbearance or similar actions taken under this Contract
- (a) 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.
 - (b) 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** 2.3 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** 2.4 The following documents are deemed to form an integral part of this Contract and shall be interpreted in the following order of priority:
- (a) the Agreement consisting of the initial paragraphs, recitals and other clauses set forth immediately prior to the GCC and including the signatures of the MCA Entity and the Consultant;
 - (b) the SCC and Annex B to this Contract;
 - (c) the GCC;
 - (d) the Notification of Award;
 - (f) Annex A: Description of Services;
 - (g) any other Annex to this Contract;
 - (e) the Consultant's Proposal; and
 - (i) any other document listed in the SCC as forming part of this Contract.
- Assignment** 2.5 Neither party shall assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, without the consent of the other party; provided that, the MCA Entity may assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, to another person or entity of

the Government (or another entity designated by the Government) without the consent of the Consultant. The MCA Entity shall use commercially reasonable efforts to notify the Consultant as soon as reasonably practicable of any such assignment. Any attempted assignment that does not comply with the terms of this GCC Sub-Clause 2.5 shall be null and void.

3. Language and Law

- 3.1 This Contract has been executed in language(s) **specified in the SCC**. If the Contract is executed in both English and a specified local language, the English language version shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
- 3.2 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

4. Communications

- 4.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Subject to Applicable Law, any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when delivered to such Party at the address **specified in the SCC**, or sent by confirmed facsimile or confirmed email, in either case if sent during normal business hours of the recipient Party.
- 4.2 A Party may change its name or address for receiving notice under this Contract by giving the other Party notice in writing of such change to the address **specified in SCC 4.1**.

5. Subcontracting

- 5.1 If the Consultant intends to subcontract for a major item of its contracted Services (deemed major if valued in excess of US\$100,000) it shall seek the MCA Entity's prior written approval of the subcontractor. Subcontracting shall not alter the Consultant's obligations under this Contract.

6. Relationship Between the Parties

- 6.1 Nothing contained in this Contract shall be construed as establishing a relationship of master and servant or of principal and agent as between the MCA Entity and the Consultant. The Consultant, subject to this Contract, has complete charge of Personnel and Sub-Consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf in connection with this Contract.

7. Location

- 7.1 The Services shall be performed at such locations as are specified in Annex A to this Contract and, where the location

of a particular task is not so specified, at such locations, whether in the MCA Country or elsewhere, as the MCA Entity may approve.

- | | | |
|---|-------------|---|
| <p>8. Authority of Member in Charge</p> | <p>8.1</p> | <p>In case the Consultant consists of a joint venture or other association of more than one entity, the Members hereby authorize the entity specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations toward the MCA Entity under this Contract, including without limitation the receiving of instructions and payments from the MCA Entity.</p> |
| <p>9. Authorized Representatives</p> | <p>9.1</p> | <p>Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the MCA Entity or the Consultant may be taken or executed by the officials specified in the SCC.</p> |
| <p>10. Description and Approval of Personnel; Adjustments; Approval of Additional Work</p> | <p>10.1</p> | <p>The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultant's Key Professional Personnel are described in Annex D. The Key Professional Personnel and Sub-Consultants listed by title as well as by name in Annex D are hereby approved by the MCA Entity.</p> |
| | <p>10.2</p> | <p>GCC Sub-Clause 38.1 shall apply in respect of other Personnel and Sub-Consultants which the Consultant proposes to use in the carrying out of the Services, and the Consultant shall submit to the MCA Entity for review and approval a copy of their Curricula Vitae (CVs).</p> |
| | <p>10.3</p> | <p>Adjustments with respect to the estimated periods of engagement of Key Professional Personnel set forth in Annex D may be made by the Consultant without the prior approval of the MCA Entity only if (a) such adjustments shall not alter the originally estimated period of engagement of any individual by more than ten percent (10%) or one week, whichever is larger and (b) the aggregate of such adjustments shall not cause payments under this Contract to exceed the Contract Price. If so indicated in the SCC, the Consultant shall provide written notice to the MCA Entity of any such adjustments. Any other adjustments shall only be made with the MCA Entity's prior written approval.</p> |
| | <p>10.4</p> | <p>If additional work is required beyond the scope of the Services specified in Annex A, the estimated periods of engagement of Key Professional Personnel set forth in Annex D may be increased by agreement in writing between the MCA Entity and the Consultant. In a case in which such additional work</p> |

would result in payments under this Contract exceeding the Contract Price, such additional work and payments will be explicitly described in the agreement and shall be subject in all respects to the provisions of GCC Sub-Clauses 16.4, 16.5 and 17.4.

Resident Project Manager

10.5 **If required by the SCC**, the Consultant shall ensure that at all times during the Consultant's performance of the Services in the MCA Country a resident project manager, acceptable to the MCA Entity, shall take charge of the performance of such Services.

11. Working Hours, Overtime, Leave, etc.

11.1 The Consultant shall provide all personnel with documented information that is clear and understandable, regarding their rights under national labor and employment law and any applicable collective agreements, including their rights related to hours of work, wages, overtime, compensation, and benefits upon beginning the working relationship and when any material changes occur.

11.2 Working hours and holidays for Key Professional Personnel are set forth in Annex D. To account for travel time, foreign Personnel carrying out Services inside the MCA Country shall be deemed to have commenced, or finished work in respect of the Services such number of days before their arrival in, or after their departure from the MCA Country as is specified in Annex D.

11.3 The Consultant and Personnel shall not be entitled to reimbursement for overtime nor to take paid sick leave or vacation leave except as specified in Annex D, and except as specified in Annex D, the Consultant's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set forth in Annex D. Any taking of leave by Personnel shall be subject to the prior approval by the Consultant who shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

Engagement of Staff and Labor

11.4 The Consultant shall adopt and implement human resources policies and procedures appropriate to its size and workforce that set out its approach to managing the Personnel. At a minimum, the Consultant shall provide all Personnel with documented information that is clear and understandable regarding their rights under all the Applicable Laws regarding labor and any applicable collective agreements, including their rights related to their employment, health, safety, welfare, immigration and emigration upon beginning the working

relationship and when any material changes occur.

- 11.5 The Consultant shall adopt recruitment, hiring and retention practices that support the employment of women and staff from diverse backgrounds.
- 11.6 The Consultant shall ensure that the employment terms and conditions of migrant workers are not influenced by their migrant status.
- 11.7 The Consultant shall be responsible for monitoring compliance of Sub-consultants to the labor and working conditions outlined in the IFC Performance Standards in force from time to time.

Facilities for Staff and Labor

- 11.8 Where accommodation or welfare facilities are provided to Personnel, the Consultant shall put in place and implement policies on the quality and management of such accommodation and the provision of such welfare facilities (including as regards minimum space, supply of water, adequate sewage and garbage disposal systems, appropriate protection against heat, cold, damp, noise, fire and disease carrying animals, adequate sanitary and washing facilities, separate breastfeeding/pumping facilities, ventilation, cooking and storage facilities and natural and artificial lighting, and all reasonable precautions to maintain the health and safety of the Personnel). The accommodation and welfare facilities shall be provided in a manner consistent with the principles of non-discrimination and equal opportunity. Accommodation arrangements shall not restrict freedom of movement or of association, save that separate facilities should be provided for men and women. Sanitary and washing facilities should be provided in a manner that allows individuals' privacy and safety. Additional summary guidance may be found here: <https://www.mcc.gov/resources/doc/guidance-accommodation-welfare-staff-and-labor>

12. Removal and/or Replacement of Personnel

- 12.1 Except as the MCA Entity may otherwise agree, no changes shall be made in the Key Professional Personnel. If, for any reason beyond the reasonable control of the Consultant, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Key Professional Personnel, the Consultant shall, subject to GCC Sub-Clause 38.1(a), provide as a replacement a person of equivalent or better qualifications.
- 12.2 If the MCA Entity (a) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (b) has reasonable cause to be

dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the MCA Entity's written request specifying the grounds therefore and subject to GCC Sub-Clause 38.1(a), provide as a replacement a person with qualifications and experience acceptable to the MCA Entity.

12.3 The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

12.4 The Consultant shall provide a grievance mechanism for personnel to raise workplace concerns. The Consultant shall inform the workers of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution. The mechanism should also allow for anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.

13. Settlement of Disputes

Amicable Settlement

13.1 The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of this Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

Dispute Resolution

13.2 Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after the receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions **specified in the SCC**.

14. Commissions and Fees

14.1 The Consultant shall disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution and performance of this Contract. The information disclosed must include at least the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.

15. Entire Agreement

- 15.1 This Contract contains all of the covenants, stipulations and provisions agreed to by the Parties. No agent or representative of either Party has the authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth in this Contract.

16. Commencement, Completion and Modification of Contract

Contract Entry into Force

- 16.1 This Contract shall come into full force and be legally binding on the Parties in all respects, on the date this Contract is signed by the Parties or such other date as may be **stated in the SCC**.

Effective Date and Commencement of Services

- 16.2 The Consultant shall commence the Services on the date **specified in the SCC**, which shall be defined as the “Effective Date.”

Expiration of Contract

- 16.3 Unless terminated earlier pursuant to GCC Clause 20, this Contract shall expire at the end of such time period after the Effective Date as **specified in the SCC**.

Modifications or Variations

- 16.4 Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to GCC Sub-Clause 50.1, however, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

Modification

- 16.5 Any modification or amendment to this contract will require the prior written consent of MCC and the MCA Entity’s Board of Directors

17. Payments to the Consultant

Contract Price

- 17.1 Except as provided in GCC Sub-Clause 17.5, the total payment due to the Consultant shall not exceed the Contract Price **set forth in the SCC** (as may be adjusted in accordance with the terms of the SCC). The Contract Price is an all-inclusive fixed-price covering all costs required to provide the Services in accordance with the terms of this Contract. The Contract Price may only be increased above the amounts **stated in the SCC** (including, without limitation, pursuant to the terms of GCC Sub-Clauses 10.4, 46.2 and 48.2) if the Parties have agreed to additional payments in accordance with GCC Sub-Clauses 16.4, 16.5 and 17.4.

Currency of Payment	17.2	Payments shall be made in US Dollars, or the Local Currency, or, if justified for sound business reasons and approved by the MCA Entity, a combination of the two currencies.
Terms, Conditions and Mode of Billing and Payment	17.3	Payments will be made to the account of the Consultant and according to the payment schedule stated in SCC 17.1 and against an invoice. Any other payment shall be made after the conditions listed in the SCC for such payment have been met, and the Consultant has submitted an invoice to the MCA Entity specifying the amount. In all cases, invoices shall be delivered to the MCA Entity no later than thirty (30) days prior to the requested payment date and will not be deemed delivered until they are in form and substance satisfactory to the MCA Entity. Payments will be made to the Consultant within thirty (30) days of the date of receipt by the MCA Entity of a valid and proper invoice or the date of the MCA Entity's acceptance of required deliverables (e.g., the delivery of reports), whichever is later. The Consultant shall comply with any other instructions related to payment as may be reasonably requested by the MCA Entity.
Payment for Additional Services	17.4	For the purposes of determining the remuneration due for additional Services as may be granted under GCC Sub-Clause 16.4, a breakdown of the Contract Price is provided in Annexes E and F.
Interest on Delayed Payments	17.5	If the MCA Entity has delayed payments beyond thirty (30) days after the payment date determined in accordance with GCC Sub-Clause 17.3, interest shall be paid to the Consultant for each day of delay at the rate stated in the SCC .
18. Taxes and Duties	(a)	Except as may be exempted pursuant to the Compact or another agreement related to the Compact, available in English at https://www.mcc.gov/where-we-work/program/nepal-compact , the Consultant, the Sub-Consultants, and their respective Personnel may be subject to certain Taxes on amounts payable by the MCA Entity under this Contract in accordance with Applicable Law (now or hereinafter in effect). The Consultant, each Sub-Consultant and their respective Personnel shall pay all Taxes levied under Applicable Law. In no event shall the MCA Entity be responsible for the payment or reimbursement of any Taxes. In the event that any Taxes are imposed on the Consultant, any Sub-Consultant or their respective Personnel, the Contract Price shall not be adjusted to account for such Taxes.
	(b)	The Consultant, the Sub-Consultants and their respective Personnel, and their eligible dependents, shall follow the usual

customs procedures of the MCA Country in importing property into the MCA Country.

- (c) If the Consultant, the Sub-Consultants or any of their respective Personnel, or their eligible dependents, do not withdraw, but dispose of any property in the MCA Country upon which customs duties or other Taxes have been exempted, the Consultant, the Sub-Consultants or such Personnel, as the case may be, (i) shall bear such customs duties and other Taxes in conformity with Applicable Law, or (ii) shall reimburse such customs duties and Taxes to the MCA Entity if such customs duties and Taxes were paid by the MCA Entity at the time the property in question was brought into the MCA Country.
- (d) Without prejudice to the rights of the Consultant under this clause, the Consultant, the Sub-Consultants and their respective Personnel will take reasonable steps as requested by the MCA Entity or the Government with respect to the determination of the Tax status described in this GCC Clause 18.
- (e) If the Consultant is required to pay Taxes that are exempt under the Compact or a related agreement, the Consultant shall promptly notify the MCA Entity (or such agent or representative designated by the MCA Entity) of any Taxes paid, and the Consultant shall cooperate with, and take such actions as may be requested by the MCA Entity, MCC, or either of their agents or representatives, in seeking the prompt and proper reimbursement of such Taxes.
- (f) The MCA Entity shall use reasonable efforts to ensure that the Government provides the Consultant, the Sub-Consultants, and their respective Personnel the exemptions from taxation applicable to such persons or entities, in accordance with the terms of the Compact or related agreements. If the MCA Entity fails to comply with its obligations under this paragraph, the Consultant shall have the right to terminate this Contract in accordance with GCC Sub-Clause 20.2(d).

19. Suspension

- 19.1 The MCA Entity may, by giving thirty (30) days' written notice to the Consultant, suspend all payments to the Consultant under this Contract if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (a) shall specify the nature of the failure, and (b) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

20. Termination

By the MCA Entity

20.1 Without prejudice to any other remedies that may be available to it for breach of this Contract, the MCA Entity may, upon written notice to the Consultant, terminate this Contract in case of the occurrence of any of the events specified in subparagraphs (a) through (i) of this GCC Sub-Clause 20.1, and in the case of the occurrence of any of the events specified in paragraphs (h) or (i) of this GCC Sub-Clause 20.1, the MCA Entity may suspend this Contract.

- (a) If the Consultant, in the judgment of the MCA Entity or MCC, fails to perform its obligations relating to the use of funds set out in Annex B. Termination under this provision shall (i) become effective immediately upon delivery of the notice of termination and (ii) require that the Consultant repay any and all funds so misused within a maximum of thirty (30) days after termination.
- (b) If the Consultant does not remedy a failure in the performance of its obligations under this Contract (other than failure to perform obligations relating to use of funds as set forth in GCC Sub-Clause 20.1(a) of this Contract, which such failure shall not be entitled to a cure period) within thirty (30) days after delivery of the notice of termination or within any further period of time approved in writing by the MCA Entity. Termination under this provision shall become effective immediately upon the expiration of the thirty (30) days (or such further period as may have been approved by the MCA Entity) or on such later date as may be specified by the MCA Entity.
- (c) If the Consultant (or any Member or Sub-Consultant) becomes insolvent or bankrupt, and/or fails to exist or is dissolved. Termination under this provision shall become effective immediately upon delivery of the notice of termination or on such other date as may be specified by the MCA Entity in such notice of termination.
- (d) If the Consultant (or any Member or Sub-Consultant), in the judgment of the MCA Entity has engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption or prohibited practices in competing for or in the performance of this Contract or another MCC funded contract. Termination under this provision shall become effective immediately upon delivery of the notice of termination.

- (e) If, as the result of an event of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination or on such later date as may be specified by the MCA Entity.
- (f) If the MCA Entity, in its sole discretion and for any reason whatsoever, decides to terminate this Contract. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination or on such later date as may be specified by the MCA Entity.
- (g) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 13. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination or on such later date as may be specified by the MCA Entity.
- (h) If the Compact expires, is suspended or terminates in whole or in part in accordance with the terms of the Compact. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-Clause 20.1(h), the Consultant has an obligation to mitigate all expenses, damages and losses to the MCA Entity during the period of the suspension.
- (i) If an event has occurred that would be grounds for suspension or termination under Applicable Law. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-Clause 20.1(i), the Consultant has an obligation to mitigate all expenses, damages and losses to the MCA Entity during the period of the suspension.

By the Consultant

- 20.2 The Consultant may terminate this Contract, upon written notice to the MCA Entity in accordance with the time period specified below, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (e) of this GCC Sub-Clause 20.2.

- (a) If the MCA Entity fails to pay any money due to the Consultant pursuant to this Contract that is not otherwise subject to dispute pursuant to GCC Clause 13 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the payment that is the subject of such notice of termination is made by the MCA Entity to the Consultant within such thirty (30) days.
- (b) If, as the result of an event of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.
- (c) If the MCA Entity fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 13. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.
- (d) If the Consultant does not receive a reimbursement of any Taxes that are exempt under the Compact within one hundred and twenty (120) days after the Consultant gives notice to the MCA Entity that such reimbursement is due and owing to the Consultant. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the reimbursement that is the subject of such notice of termination is made to the Consultant within such thirty (30) days.
- (e) If this Contract is suspended in accordance with GCC Sub-Clauses 20.1(h) or (i) for a period of time exceeding three (3) consecutive months; provided that the Consultant has complied with its obligation to mitigate in accordance with GCC Sub-Clauses 20.1(h) or (i) during the period of the suspension. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.

21. Payment Upon Termination

- 21.1 Upon termination of this Contract pursuant to GCC Sub-Clauses 20.1 or 20.2, the MCA Entity shall make, or cause to be made, the following payments to the Consultant:

- (a) payment pursuant to GCC Clause 17 for Services satisfactorily performed prior to the effective date of termination; and
- (b) except in the case of termination pursuant to paragraphs (a) through (d) and (g) of GCC Sub-Clause 20.1, reimbursement of any reasonable cost (as determined by the MCA Entity or MCC) incidental to the prompt and orderly termination of this Contract; provided, that in the case of suspension of this Contract pursuant to GCC Sub-Clauses 20.1 (h) or (i), the Consultant has complied with its obligation to mitigate in accordance with such clauses.

Disputes about Events of Termination

21.2 If either Party disputes whether an event specified in paragraphs (a), (b), (c), (e) or (g) of GCC Sub-Clause 20.1 or paragraphs (a) through (d) of GCC Sub-Clause 20.2 has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to dispute resolution in accordance with GCC Clause 13, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

Cessation of Rights and Obligations

21.3 Upon termination of this Contract pursuant to GCC Clause 20, or upon expiration of this Contract pursuant to GCC Sub-Clause 16.3, all rights and obligations of the Parties under this Contract shall cease, except (a) such rights and obligations as may have accrued on the date of termination or expiration, (b) the obligation of confidentiality set forth in GCC Clause 33, (c) the Consultant's obligation to permit inspection, copying and auditing of its accounts and records set forth in GCC Clause 37 and Annex B and (d) any right or obligation which a Party may have under the Applicable Law.

Cessation of Services

21.4 Upon termination of this Contract by notice of either Party to the other pursuant to GCC Sub-Clauses 20.1 or 20.2, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the MCA Entity, the Consultant shall proceed as provided, respectively, by GCC Clauses 34 or 41.

22. Force Majeure

- Definition** 22.1 For the purposes of this Contract, “Force Majeure” means an event or condition that (a) is not reasonably foreseeable and is beyond the reasonable control of a Party, and is not the result of any acts, omissions or delays of the Party relying on such event of Force Majeure, (or of any third person over whom such Party has control, including any Sub-Consultant), (b) is not an act, event or condition the risks or consequence of which such Party has expressly agreed to assume under this Contract, (c) could not have been prevented, remedied or cured by such Party’s reasonable diligence, and (d) makes such Party’s performance of its obligations under this Contract impossible or so impractical as to be considered impossible under the circumstances.
- No Breach of Contract** 22.2 The failure of a Party to fulfil any of its obligations under this Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as practicable (and in no event later than five (5) days after the occurrence) about the occurrence of an event giving rise to a claim of Force Majeure.
- Measures to be Taken** 22.3 Subject to GCC Sub-Clause 22.6, a Party affected by an event of Force Majeure shall continue to perform its obligations under this Contract as far as is reasonably practical, and shall take all reasonable measures to minimize and otherwise mitigate the consequences of any event of Force Majeure.
- 22.4 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.
- 22.5 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.
- 22.6 During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the MCA Entity, shall either:
- (a) demobilize, in which case the Consultant shall be reimbursed for additional costs it reasonably and necessarily incurred and, if the Consultant is required by

the MCA Entity to reactive its performance of the Services at the time of restoration of normal conditions, the additional costs the Consultant reasonably and necessarily incurred as part of such reactivation; or

- (b) continue with the Services to the extent possible, in which case the Consultant shall continue to be paid under the terms of this Contract. and be reimbursed for additional costs reasonably and necessarily incurred.

22.7 In the case of disagreement between the Parties as to the existence or extent of and event of Force Majeure, the matter shall be settled in accordance with GCC Clause 13.

23. Required Provisions; Flow Through Provisions

23.1 For the avoidance of doubt, the Parties agree and understand that the provisions set forth in Annex B reflect certain obligations of the Government and the MCA Entity under the terms of the Compact and related documents that are also required to be transferred onto any Consultant, Sub-Consultant or Associate who partakes in procurements or contracts in which MCC Funding is involved and that, as with other clauses of this Contract, the provisions of Annex B are binding obligations under this Contract.

23.2 In any subcontract or sub-award entered into by the Consultant, as permitted by the terms of this Contract, the Consultant shall ensure the inclusion of all the provisions contained in Annex B in any agreement related to such subcontract or sub-award.

24. Fraud and Corruption Requirements

24.1 MCC requires that the MCA Entity and any other beneficiaries of MCC Funding, including any bidders, suppliers, contractors, Sub-Consultants and Consultants under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts.

MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations ("MCC's AFC Policy") is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC's AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC's AFC Policy and certify to the MCA Entity that they have acceptable commitments and procedures in place to address the potential for fraud and corruption.

Any entity receiving an award (including, but not limited to, both contracts and grants) of MCC Funding of over \$500,000 will be required to certify to the MCA Entity that they will adopt and implement a code of business ethics and conduct within ninety (90) days of Contract award. Such entity will also

include the substance of this clause in subcontracts that have a value in excess of \$500,000. Information regarding the establishment of business ethics and conduct programs can be obtained from numerous sources, including but not limited to:

<http://www.oecd.org/corruption/Anti-CorruptionEthicsComplianceHandbook.pdf>;

https://www.cipe.org/wp-content/uploads/2014/01/CIPE_Anti-Corruption_Compliance_Guidebook.pdf

- (a) For purposes of the Contract, the terms set forth below are defined as follows, and sometimes referred to collectively in this document as “Fraud and Corruption”:
 - (i) “**coercion**” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to influence improperly the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including such actions taken in connection with a procurement process or the execution of a contract;
 - (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) 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, corruption, fraud, or a prohibited practice; or (b) that threatens, harasses, or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; or (c) that is intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or the Office of the Inspector General (OIG) responsible for MCC provided under the Compact, Threshold Program agreement, or related agreements.
 - (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) set forth in Annex B (Additional Provisions) to this Contract.
- (b) MCC may cancel any portion or all of the MCC Funding allocated to the Contract if it determines at any time that representatives of the MCA Entity, the Consultant or any other beneficiary of the MCC Funding were engaged in any coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the selection process or the performance of the Contract, or another MCC-funded contract, without the MCA Entity, the Consultant or such other beneficiary having taken timely and appropriate action satisfactory to MCC to remedy the situation.
 - (c) MCC and the MCA Entity may pursue sanction of the Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract if at any time either MCC or the MCA Entity determines that the contractor has, directly or through an agent, engaged in any coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in performance of, the Contract or another MCC-funded contract.

- (d) If the MCA Entity or MCC determines that the Consultant, any subcontractor, any of the Consultant's Personnel, or any agent or affiliate of any of them has, directly or indirectly, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices, in competing for or in the performance of the Contract, then the MCA Entity or MCC may, by notice, immediately terminate the Contract, and the provisions of GCC Sub-Clause 20.1 shall apply.
- (e) Should any of the Consultant's Personnel be determined to have engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the competition for or execution of the Contract, but the MCA Entity or MCC determines not to terminate the Contract in accordance with the immediately preceding subparagraph, then the relevant Consultant's Personnel shall be removed in accordance with GCC Clause 12.

25. Combatting Trafficking in Persons

25.1 MCC, along with other United States Government entities, has adopted a zero-tolerance policy with regard to Trafficking in Persons ("TIP") through its Counter-Trafficking in Persons Policy.⁵ In pursuance of this policy:

(a) **Defined Terms.** For purposes of the application and interpretation of this Sub-Clause:

- (i) 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
- (ii) "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

⁵ <https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy>

bondage, or slavery.

Prohibition. Contractors, subcontractors, Consultants, Sub-Consultants and any of their respective Personnel shall not engage in any form of Trafficking in Persons during the period of performance of any contract funded, in whole or in part, with MCC funding and must also comply with those prohibitions described in U.S. laws and Execute Orders regarding TIP, including using misleading recruitment practices; charging employees recruitment fees; or destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity documents,

(b) Consultant Requirements.

- (i) Each contractor, subcontractor, Consultant or Sub-Consultant shall:
 - a. 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
 - b. take appropriate action, up to and including termination, against Personnel or subcontractors or Sub-Consultants that violate the prohibitions set out in this policy.
- (ii) Each Consultant shall:
 - a. 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;
 - b. 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
 - c. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.
- (iii) A bidder, supplier, contractor, subcontractor, Consultant or Sub-Consultant shall inform the MCA Entity within 24 hours of:

- a. 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;
 - b. and any actions taken against any Personnel, subcontractor, subcontractor/consultant, or the employee of a subcontractor or Sub-Consultant, pursuant to these requirements.
- (c) **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:
- (i) the MCA Entity requiring the Consultant to remove the involved Personnel, Sub-Consultant or any of its involved Personnel, or any involved agent or affiliate;
 - (ii) the MCA Entity requiring the termination of a subcontract or sub-award;
 - (iii) suspension of Contract payments until the breach is remedied to the satisfaction of the MCA Entity;
 - (iv) 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;
 - (v) the MCA Entity pursuing sanctions against the Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract;
 - (vi) termination of the Contract by the MCA Entity for default or cause in accordance with the termination clause of the Contract; and
 - (vii) the MCA Entity directing the Consultant to provide reasonable financial support or restitution to the victim(s) of any such incident, in each case in accordance with the Consultant's applicable TIP risk management plan, and/or based on a final judicial or administrative determination issued pursuant to Applicable Law or the findings of an investigation conducted (directly or through a third party) by the MCA Entity.

26. Gender and Social Inclusion

26.1 The Consultant shall ensure that its activities under the Contract

comply with the MCC Gender Policy⁶ and the MCA Entity's Social and Gender Integration Plan, as relevant to the activities performed under this Contract. The MCC Gender Policy requires that activities funded by MCC specifically address social and gender inequalities to ensure opportunities for the participation and benefit of women and vulnerable groups, as well as to ensure that its activities do not cause significant negative social and gender impacts. MCC also requires equitable opportunities for women and other disadvantaged groups to participate in and benefit from MCC funded activities, including in project-related employment.

27. Prohibition of Harmful Child Labor

27.1 The Consultant shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. The Consultant will identify the presence of all persons under the age of eighteen (18). Where Applicable Law does not specify a minimum age, the Consultant shall ensure that children aged below 15 are not employed to perform work under this contract. Where Applicable Law diverges from this specified age standard, the higher age should apply. Children under the age of eighteen (18) will not be employed in hazardous work. All work of persons under the age of eighteen (18) will be subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work.

28. Prohibition of Sexual Harassment

28.1 The Consultant, including all Sub-Consultants and any Personnel, shall prohibit, and refrain from, sexual harassment behaviors directed at Compact beneficiaries, partners, stakeholders, MCA Entity employees, MCA Entity consultants, MCC personnel, or MCC consultants. Examples of sexual harassment include, but are not limited to, the following behaviors: unwelcome sexual advances; requests for sexual favors; verbal or physical harassment of a sexual nature; or offensive remarks about a person's sex, sexual orientation or non-conformity with gender stereotypes. The Consultant shall put in place an incident referral and reporting plan with respect to the provision of the Services to support a safe and respectful

⁶ Available at: <https://assets.mcc.gov/guidance/mcc-policy-gender.pdf>

work environment, in form and substance satisfactory to the MCA Entity and MCC. The Consultant shall be responsible for ensuring that all Consultant and Sub-Consultant Personnel understand and operate in accordance the requirements of this Clause in order to assure a safe, respectful, and harassment free work environment. The MCA Entity may investigate (either directly or through a third party) allegations of sexual harassment as it determines appropriate. The Consultant shall fully cooperate with any investigation conducted by the MCA Entity regarding breach of this provision. The Consultant will ensure that any incident of sexual harassment investigated by the MCA Entity has been resolved to the MCA Entity and MCC's satisfaction.

29. Non-Discrimination and Equal Opportunity

29.1 The MCA Entity adheres to the principle of equal opportunity and fair treatment in its employment practices. The MCA Entity expects that the Consultant shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. Personal characteristics include sex, race, nationality, ethnic, social and indigenous origin, religion or belief, disability, age, sexual orientation, and gender identity. The MCA Entity expects that the Consultant shall base its employment decisions on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline. Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination.

30. Grievance Mechanism for Consultant and Subcontractor Personnel

30.1 The Consultant shall provide a grievance mechanism for Personnel, including Sub-consultant staff if a separate Sub-consultant grievance mechanism does not exist, to raise workplace concerns. The Consultant shall inform its Personnel of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution. The mechanism should also allow for anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms

provided through collective agreements.

- 31. Standard of Performance** 31.1 The Consultant shall perform the Services and carry out its obligations under this Contract with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the MCA Entity, and shall at all times support and safeguard the MCA Entity's legitimate interests in any dealings with Sub-Consultants or third parties.
- Law Governing Services** 31.2 The Consultant shall perform the Services in accordance with Applicable Law and shall take all practicable steps to ensure that any Sub-Consultants, as well as the Personnel of the Consultant and any Sub-Consultants, comply with the Applicable Law.
- 32. Conflict of Interests** 32.1 The Consultant shall hold the MCA Entity's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or its own corporate interests.
- Consultant Not to Benefit from Commissions, Discounts, etc.** 32.2 The payment of the Consultant pursuant to GCC Clause 17 shall constitute the Consultant's only payment in connection with this Contract and, subject to GCC Clause 32.3, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations under this Contract, and the Consultant shall use its best efforts to ensure that any Sub-Consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional payment.
- 32.3 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the MCA Entity on the procurement of goods, works or services, the Consultant shall comply with the "MCC Program Procurement Guidelines" from time to time in effect as posted on the MCC website at www.mcc.gov/ppg and shall at all times exercise such responsibility in the best interest of the MCA Entity. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the MCA Entity.

**Consultant and
Affiliates Not to Engage
in Certain Activities**

32.4 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Services.

**Prohibition of
Conflicting Activities**

32.5 The Consultant shall not engage, and shall cause its Personnel as well as its Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

**33. Confidential
Information; Rights of
Use**

33.1 Except with the prior written consent of the MCA Entity, or as may be required to comply with Applicable Law, the Consultant and its Personnel shall not (and shall cause any Sub-Consultants and their Personnel not to) at any time (a) communicate to any person or entity any confidential information acquired in the course of the Services, or (b) make public the recommendations formulated in the course of, or as a result of, the Services.

33.2 The Consultant and its Personnel shall not (and shall cause any Sub-Consultants and their Personnel not to), without the previous written consent of the MCA Entity, disclose this Contract, or any provision of this Contract, or any specification, plan, drawing, pattern, sample or information provided by or on behalf of the MCA Entity in connection therewith, to any person other than a person employed by the Consultant in the performance of this Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

33.3 The Consultant and its Personnel shall not (and shall cause any Sub-Consultants and their Personnel not to), without the previous written consent of the MCA Entity, make use of any document or information related to or delivered in connection with this Contract, except for the purpose of performing this Contract.

33.4 Any document related to or delivered in connection with this Contract, other than this Contract itself, shall remain the property of the MCA Entity and shall be returned (including, except as provided in GCC Clause 34, all the copies) to the MCA Entity on completion of the Consultant's performance under this Contract.

**34. Documents Prepared
by the Consultant to
be the Property of**

34.1 All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant under this Contract shall become and remain the property of the MCA Entity,

the MCA Entity

and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the MCA Entity, together with a detailed inventory thereof in accordance with this GCC Sub-Clause 34.1 and Sub-Clause 33.4, and in format and substance specifically required in the Terms of Reference. The Consultant may retain a copy of such documents and software, and use such software for its own use with prior written approval of the MCA Entity. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of the development or use of any such computer programs, the Consultant shall obtain the MCA Entity's prior written approval to such agreements, and the MCA Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be **specified in the SCC**.

35. Liability of the Consultant

35.1 Subject to additional provisions, if any, **set forth in the SCC**, the Consultants' liability under this Contract shall be provided by the Applicable Law.

36. Insurance to be taken out by the Consultant

36.1 The Consultant (a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at its (or the Sub-Consultants', as the case may be) own cost but on terms and conditions approved by the MCA Entity, insurance against the risks, and for the coverage **specified in the SCC** and in Annex B, and (b) at the MCA Entity's request, shall provide evidence to the MCA Entity showing that such insurance has been taken out and maintained and that the current premiums have been paid. The Consultant shall ensure that insurance is in place prior to commencing the Services as stated in GCC Sub-clause 16.2.

37. Accounting, Inspection and Auditing

37.1 The Consultant shall keep accurate and systematic accounts and records in respect of the provision of the Services under this Contract, in accordance with the provisions of Annex B and internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and costs, receipt and use of goods and services and the base thereof, together with a detailed inventory thereof.

Reporting Obligations

37.2 The Consultant shall maintain such books and records and submit to the MCA Entity the reports, documents and other information specified in Annexes B and C, in the form, in the numbers and within the time periods set forth in such Annexes. The Consultant shall submit to the MCA Entity such other reports, documents and information as may be requested by the MCA Entity from time to time. Final reports shall be delivered in an electronic form specified

by the MCA Entity in addition to the hard copies specified in Annexes B and C. The Consultant consents to the MCA Entity's sharing of the reports, documents and information delivered by the Consultant pursuant to this Contract with MCC and the Government.

- 38. Consultant's Actions Requiring the MCA Entity's Prior Approval** 38.1 In addition to any modification or variation of the terms and conditions of this Contract pursuant to GCC Sub-Clause 16.4, the Consultant shall obtain the MCA Entity's prior approval in writing before taking any of the following actions:
- (a) any change or addition to the Personnel listed in Annex D;
 - (b) in accordance with Section 5.1 above, entering into a subcontract with a Sub-Consultant for the performance of a major item of the Services; and
 - (c) any other action that may be **specified in the SCC**.
- 39. Obligations with Respect to Subcontracts** 39.1 Notwithstanding the MCA Entity's approval for the Consultant to enter into a subcontract pursuant to GCC Clause 38, the Consultant shall retain sole and full responsibility for the Services and all payments due to subcontractors thereof. In the event that any Sub-Consultants are found by the MCA Entity to be incompetent or incapable in discharging assigned duties, the MCA Entity may require that the Consultant provide a replacement, with qualifications and experience acceptable to the MCA Entity, or to resume the performance of the Services itself.
- 40. Use of Funds** 40.1 The Consultant shall ensure that its activities do not violate provisions relating to use of funds and the prohibition of activities likely to cause a significant environmental, health or safety hazard, as set out in Annex B. Environmental, health, and safety hazards are defined in Appendix A of the MCC Environmental Guidelines available at www.mcc.gov.
- 41. Equipment, Vehicles and Materials Furnished by the MCA Entity** 41.1 Equipment, vehicles and materials made available to the Consultant by the MCA Entity, or purchased by the Consultant wholly or partly with funds provided by the MCA Entity, shall be the property of the MCA Entity and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the MCA Entity an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the MCA Entity's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the MCA Entity in writing, shall insure them in an amount equal to their full replacement value.

- 42. Equipment and Materials Provided by the Consultant** 42.1 Equipment, vehicles or materials brought into the MCA Country by the Consultant, Sub-Consultants and Personnel, or purchased by them without funds provided by the MCA Entity, and used either for provision of the Services or personal use shall remain the property of the Consultant, its Sub-Consultants or the Personnel concerned, as applicable.
- 43. Assistance and Exemptions** 43.1 Unless otherwise **specified in the SCC**, the MCA Entity shall use its best efforts to ensure that the Government shall:
- (a) Provide the Consultant, Sub-Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Sub-Consultants or Personnel to perform the Services.
 - (b) Arrange for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Government's country.
 - (c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents.
 - (d) To the extent permitted by Applicable Law, exempt the Consultant, Sub-Consultants and their Personnel employed for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity.
 - (e) Grant to the Consultant, Sub-Consultants and their Personnel the privilege, pursuant to the Applicable Law, of bringing into the MCA Country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services.
- 44. Access to Land** 44.1 The MCA Entity warrants that the Consultant, Sub-Consultants and their Personnel shall have, free of charge, unimpeded access to all land in the MCA Country in respect of which access is required for the performance of the Services. The MCA Entity will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultant, Sub-Consultants and their Personnel in respect of liability for any such damage, unless such damage is caused by the default or

negligence of the Consultant or Sub-Consultants or their Personnel.

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| 45. Change in the Applicable Law Related to Taxes and Duties | 45.1 | If, after the date of this Contract, there is any change in the Applicable Law with respect to Taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, payments to the Consultant shall not be adjusted. However, the provisions of GCC Sub-Clause 18(e) shall be applicable in such a situation. |
| 46. Services, Facilities and Property of the MCA Entity | 46.1 | The MCA Entity shall make available to the Consultant and the Personnel, for the purposes of performing the Services and free of any charge, the services, facilities and property described in Annex G at the times and in the manner specified in Annex G. |
| | 46.2 | In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Annex G, the Parties shall agree on (a) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (b) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (c) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to GCC Sub-Clause 17.1. |
| 47. Payment | 47.1 | In consideration of the Services performed by the Consultant under this Contract, the MCA Entity shall make to the Consultant payments in the manner provided in GCC Clause 17. |
| 48. Counterpart Personnel | 48.1 | The MCA Entity shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the MCA Entity with the Consultant's advice, if specified in Annex G. |
| | 48.2 | If counterpart personnel are not provided by the MCA Entity to the Consultant as and when specified in Annex G, the MCA Entity and the Consultant shall agree on (a) how the affected part of the Services shall be carried out, and (b) the additional payments, if any, to be made by the MCA Entity to the Consultant as a result thereof pursuant to GCC Sub-Clause 17.1. |
| | 48.3 | Professional and support counterpart personnel, excluding the MCA Entity's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the |

counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the MCA Entity shall not unreasonably refuse to act upon such request.

49. Good Faith

49.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

50. Operation of the Contract

50.1 The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of this Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness.

51. Contractor Past Performance System

51.1 The Consultant acknowledges that during the performance of the Contract the Employer shall maintain a performance record of the Consultant in accordance with MCC's Contractor Past Performance Reporting System, as described on MCC's website. The Consultant shall provide timely information or input to, and otherwise respond to requests for input or information

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

SPECIAL CONDITIONS OF CONTRACT

Amendments of, and Supplements to, Clauses in the General Conditions of Contract of this Contract	
GCC 1.1	<p>(a) “Applicable Law” means the laws and any other instruments having the force of law in Nepal, as they may be issued and in force from time to time.</p> <p>(m) “Local Currency” means Nepalese Rupee (NPR).</p> <p>(n) “MCA Country” means the country of Nepal.</p>
GCC 3.1	This Contract shall be executed in the English language .
GCC 4.1	<p>The addresses for serving notices under this Contract are:</p> <p><u>For the MCA Entity:</u></p> <p><u>Address:</u> Millennium Challenge Account Nepal (MCA-Nepal) 2nd & 3rd Floor, East Wing, Lal Durbar Convention Centre, Yak & Yeti Complex, Durbar Marg, Kathmandu, Nepal</p> <p><u>For the Consultant:</u></p>
GCC 8.1	<p>The Member in charge is [insert name of member]</p> <p><i>[Note: If the Consultant consists of a joint venture or another association of more than one entity, the name of the entity whose address is specified in SCC 9.1 should be inserted here. If the Consultant consists only of one entity, this is not applicable.]</i></p>
GCC 9.1	<p>The Authorized Representatives are:</p> <p><u>For the MCA Entity:</u> Millennium Challenge Account Nepal (MCA-Nepal) Att.: Mr. Khadga B. Bisht, Executive Director</p> <p><u>Address:</u> 2nd & 3rd Floor, East Wing, Lal Durbar Convention Centre, Yak & Yeti Complex, Durbar Marg, Kathmandu, Nepal</p> <p><u>For the Consultant:</u></p>

GCC 10.3	Written notification to the MCA Entity of adjustments is required.				
GCC 10.5	A resident project manager shall not be required for the duration of this Contract.				
GCC 13.2	Arbitration shall be conducted in accordance with Nepal's Arbitration Act, 2055 (1999) or any domestic law on arbitration in effect in Nepal				
	<p><u>MCC Right to Observe.</u></p> <p>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.</p>				
GCC 16.1	This Contract shall enter into force on the date of signing of the Contract by both parties.				
GCC 16.2	The Effective Date shall be 07 (seven) days after signing of the Contract by both parties.				
GCC 16.3	<p>The Contract (Base Period) shall expire after acceptance of Final Audit Report for base period and addressing the deficiency identified by the MCA Entity (if any). The duration for Base Period is 8 months but will conclude only after the MCA-Entity's approval of Final Audit Report and Payment to Auditor for the Base Period.</p> <p>In case Option/s will be exercised by the MCA Entity, each Option period shall expire after acceptance of Final Audit Report for that option period and addressing the deficiency identified by MCC (if any). The duration for each option period will be 6 months but will conclude only after MCC approval of Final Audit Report and Payment to Auditor for the Option/s Period/s.</p>				
GCC 17.1	<p>The amount of the fixed price contract is NPR XXXXXX (Nepalese Rupees XXXXXXXXXXXXXXXXXXXXXXXXXX) (the Contract Price). The composition of fixed price is as follows:</p> <table border="1" data-bbox="630 1740 1312 1885"> <tr> <th>Period</th><th>Price in Nepalese Rupee</th></tr> <tr> <td>Base Period</td><td></td></tr> </table>	Period	Price in Nepalese Rupee	Base Period	
Period	Price in Nepalese Rupee				
Base Period					

		Option Period 1	
		Option Period 2	
		Option Period 3	
		Option Period 4	
		Option Period 5	
		Total excluding VAT	
		VAT	
		Total including VAT	
	<p>Exercise of the Option Periods is in the sole discretion of the MCA Entity. The MCA Entity shall not be liable whatsoever to the Consultant for payments associated with option period in the event that MCA Entity does not choose to exercise the option. The MCA Entity will provide the Consultant with its determination of whether it intends to exercise the option by no later than thirty (30) days before end of Base Period and in case of options, before end of previous period.</p> <p>Latest tax clearance document needed prior to final payment of each period (base/options).</p> <p>The accounts is:</p> <p>For Nepalese Rupee (Local currency): [insert account number]</p>		
GCC 17.3	<p>Payments for the deliverables shall be made according to the following schedule of percentages of the amounts included in the Contract:</p> <p>Base Period and all Option/s Periods (if exercised):</p> <p>For each contract period (Base and Option Periods), the payment will be provided per below percentage of the contract value upon completion of all deliverables described in the Terms of Reference and acceptance from the MCA Entity of such completion</p> <p>The payment schedule will be as follows:</p> <ul style="list-style-type: none">- 20% of the Period amount (period in consideration) shall be paid no later than thirty (30) days, upon acceptance from MCA of successful completion of D1 (Planning Documentation and Entrance Conference)- 40% of the Period amount (period in consideration) shall be paid no later than thirty (30) days, upon acceptance from MCA of successful completion of D2 (Draft Audit Report and Exit Conference)		

	<p>- 40% of the Period amount (period in consideration) shall be paid no later than thirty (30) days, upon acceptance from MCA of successful completion of D3 (Final Audit Report)</p>
GCC 17.4	<p>The Consultant may be required to provide additional on-call audit services. If additional on-call audit services will be required, the MCA Entity will request a technical and financial proposal to be evaluated and negotiated based on the agreed rates in the Contract</p>
GCC 17.5	<p>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</p>
GCC 27.1	<p>Amend GCC 27.1 to read as:</p> <p>The Consultant shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. The Consultant will identify the presence of all persons under the age of eighteen (18). Where Applicable Law does not specify a minimum age, the Consultant shall ensure that children aged below 16 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.</p>
GCC 34.1	<p>The Auditor shall not disclose the audit finding to any entity other than MCC without consent of the MCA Entity.</p>
GCC 36.1	<p>The risks and the minimum coverage shall be as follows:</p> <ul style="list-style-type: none"> (a) third party motor vehicle liability insurance in respect of motor vehicles operated in Nepal by the Consultant or its Personnel or any Sub-Consultants or their Personnel, with a minimum coverage as applicable under law of Nepal; (b) third party liability insurance, with a minimum coverage of NPR 1,000,000; (c) professional liability insurance, with a minimum coverage of the Contract amount; (d) employer's liability and workers' compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultants, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and (e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant's property used in the performance of the Services, and (iii)

	any documents prepared by the Consultant in the performance of the Services.
GCC 43.1	The MCA Entity will provide the Consultant working space adequate for the audit team to perform their work and entry/exit meetings. The MCA Entity will also facilitate introduction/letters to Covered Providers, Implementing Entities and other relevant entities, if applicable.

ANNEXES TO CONTRACT

Annex A: Description of Services

[*Note to MCA Entity:* Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by the MCA Entity, etc. This Description of Services is to be based on the TOR issued with the RFP and **incorporates changes agreed upon during negotiations**. It must be noted that this Description of Services takes precedence over the Consultant's Proposal, so any changes recommended or requested by the Consultant do not alter the services the Consultant is required to perform unless agreed to during negotiations and incorporated into this Description of Services.]

This Annex A shall incorporate by reference: the proposal dated **[insert date of awarded Proposal]** submitted by **[insert name of Consultant awarded the Contract]** in connection with the procurement for this Contract (the "Proposal"), as well as **changes agreed upon during negotiations**. In the event of any inconsistency between this Description of Services and the Proposal, the priority of interpretation shall be given to this Description of Services.

Annex B: Additional Provisions

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

NB: These provisions must be downloaded and attached to the Contract

Annex C: Reporting Requirements

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

Annex D: Key Professional Personnel and Sub-Consultants

Note: List under:

- D-1 Titles **[and names, if already available]**, detailed job descriptions and minimum qualifications of foreign Key Professional Personnel to be assigned to work in **[Country]**, and estimated staff-months for each.
- D-2 Same as D-1 for foreign Key Professional Personnel to be assigned to work outside **[Country]**.
- D-3 List of approved Sub-Consultants (if already available) and same information with respect to their Personnel as in D-1 or D-2.
- D-4 Same information as D-1 for local Key Professional Personnel.
- D-5 Working hours, holidays, sick leave and vacations, as provided for in GCC Clause 11 (if applicable)

Annex E: Breakdown of Contract Price in US Dollars

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

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

Not Applicable

Annex F: Breakdown of Contract Price in Local Currency

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

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

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

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

Annex H: Compliance with Sanctions Certification Form

In satisfaction of Clause G of the Additional Provisions at Annex B of the Contract, this form is to be completed by the Consultant upon submission of the Proposal and, if selected, within 28 days of receipt of Letter of Acceptance and Contract Agreement, and subsequently thereafter on the last business day prior to the last day of each quarter (March 31, June 30, September 30, December 31) after the signature of an MCC-Funded Contract⁷, for the duration of the Contract.

The form is to be submitted to the MCA Procurement Agent [MCANepalPA@mcanp.org] at the time of Bid submission, and to the MCA Entity Fiscal Agent thereafter [babken.mnatsakanyan@cardno.com] with a copy to MCC at: sanctionscompliance@mcc.gov.

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

⁷ “MCC-Funded Contract” is defined as a contract signed by an MCA Entity, 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.

Instructions for completing this form are provided below.

Compliance with Sanctions Certification Form

Full Legal Name of Consultant: _____

Full Name and Number of Contract: _____

MCA Entity with which Contract Signed: _____

- ☐ All eligibility verifications have been completed in accordance with Annex B “**Additional Provisions**”, Paragraph G “**Compliance with Terrorist Financing Legislation and Other Restrictions**”, including (without limiting the scope of paragraph G):
- The Consultant, to the best of its current knowledge, has not provided, at any time within the previous ten years or currently, any material support or resources (including without limitation, any MCC Funding⁸), directly or indirectly to, or knowingly permitted any funding (including without limitation any MCC Funding) to be transferred to, any individual, corporation or other entity that the Consultant knew, or had reason to know, commits, attempts to commit, advocates, facilitates, or participates in any terrorist activity, or has committed, attempted to commit, advocated, facilitated or participated in any terrorist activity, including, but not limited to, the individuals and entities on the enumerated lists described below (including the Consultant itself).
- OR**
- ☐ All eligibility verifications have been completed in accordance with Annex B “**Additional Provisions**”, Paragraph G “**Compliance with Terrorist Financing Legislation and Other Restrictions**,” and the following results were obtained (information to be provided for each result):
- Name of individual, corporation or other entity:
 - Eligibility verification source(s) where listed ineligible:
 - Position (if individual), or goods or services provided (if corporation or other entity):
 - Estimated value of work performed as of certification date:

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

Authorized Signature: _____ **Date:** _____

Printed Name of Signatory: _____

⁸ “MCC Funding” is defined as funding provided by MCC, through a Compact Program, a Threshold Program, or 609(g) funding

INSTRUCTIONS FOR COMPLETING THE COMPLIANCE WITH SANCTIONS CERTIFICATION FORM:

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

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

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

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

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

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

The Consultant should list the date on which the search was conducted using each eligibility verification source, and whether the staff member, consultant, sub-contractor, vendor, supplier, or

grantee was determined to be eligible – that is, did not show up on any of the eligibility verification sources.

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

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

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

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

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

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

1. The Counter 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 the Counter 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, (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, or (iv) on such other list as the MCA Entity may request from time to time.

For purposes of this provision:

- a. “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.
 - b. “Training” means instruction or teaching designed to impart a specific skill, as opposed to general knowledge.
 - c. “Expert advice or assistance” means advice or assistance derived from scientific, technical, or other specialized knowledge.
2. The Counter 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 Counter 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 Counter 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.

3. Other restrictions on the Counter Party shall apply as set forth in Section 5.1 of the Compact 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 Compact, the Program Implementation Agreement, any Supplemental Agreement, or other related Compact document, or that materially and adversely affects the Program Assets or any Permitted Account.

Annex I: Self-Certification Form for Consultants

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

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

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

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

Record any exceptions to the above here:

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

Authorized Signature: _____ Date: _____

Printed Name of Signatory:

Annex J: Code of Business Ethics and Conduct Certification Form

In satisfaction of Clause 24.1 of the General Conditions of Contract, this form is to be completed by the Consultant and submitted for any MCC-Funded Contract⁹ with a value in excess of \$500,000. This form is to be completed by the Consultant and submitted together with the signed Contract Agreement.

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

The form is to be submitted to the MCA Entity Procurement Agent at MCANepalPA@Cardno.com, together with a copy of the Consultant’s code of business ethics and conduct.

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

Code of Business Ethics and Conduct Certification Form

Full Legal Name of Consultant: _____

Full Name and Number of Contract: _____

MCA Entity with which Contract Signed: _____

As stipulated in GCC 24.1 of the Contract, the Consultant must certify to the MCA Entity that they will adopt and implement a code of business ethics and conduct within ninety (90) days of Contract award. The Consultant must also include the substance of this clause in subcontracts that have a value in excess of \$500,000.

In satisfaction of this requirement, pursuant to GCC 24.1 of the Contract, I certify that with respect to this contract:

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

OR

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

⁹ “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.

resubmit this certification, together with a copy of the Consultant's code of business ethics and conduct, when such code has been adopted and implemented.

- ☐ **[Name of Consultant]** will include the substance of this requirement in all subcontracts having a value in excess of \$500,000 and will forward all resulting certifications to **[Name of MCA Entity]**.

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

Authorized Signature: _____ **Date:** _____
Printed Name of Signatory: _____