CLARIFICATION#2

FOR

PROCUREMENT OF PLANT DESIGN, SUPPLY, DELIVERY, INSTALLATION, TESTING AND COMMISSIONING OF

LOT 1: LAPSIPHEDI-RATMATE-NEW HETAUDA 400KV D/C TRANSMISSION LINE
LOT 2: RATMATE-NEW DAMAULI 400KV D/C TRANSMISSION LINE
LOT 3: NEW DAMAULI-NEW BUTWAL 400KV D/C TRANSMISSION LINE (BASE) AND NEW
BUTWAL -NEPAL/INDIA BORDER 400KV D/C TRANSMISSION LINE (OPTION)
Ref No: MCA-N/ETP/CB/003

SN	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
1.	Regarding the Specific Procurement Notice published for procurement of plant design, supply, delivery, installation, testing and commissioning, we were interested to bid. To know more about the bidding process, please let us know the total amount of the project?	Please take note that MCA-Nepal has decided not to disclose the budget for this procurement process.
2.	The project has certain eligibility criteria for bidders, and we want to make sure that Chinese companies are eligible to participate in the bidding process. We would greatly appreciate it if you could provide us with detailed information about the eligibility criteria for Chinese companies?	MCC Program Procurement Guidelines include requirements for eligibility, including: a) Section III of the Invitations for Bid (IFB) Document, especially the Table "Eligibility" in pages 67 to 69. b) This table makes reference to Clause 5 of Instructions to Bidders, thus a thorough review of this provision is recommended. c) You are requested to go through the provision of Part 13. Government-Owned Enterprises under MCC Program Procurement Guidelines at https://assets.mcc.gov/content/uploads/guidance-2020001236804-procurement-program.pdf to check your eligibility. MCC will verify the submitted Government-Owned Enterprises (GOE) certification and will make a decision based on (i) the submitted documentation and (ii) further research regarding the GoE status of all firms that submit proposals. A Government-Owned Entity is not eligible to compete for MCC funded projects, for goods and works. d) A "GOE," or government-owned enterprise, is any enterprise established for a commercial or business purpose that

- is owned and/or controlled by a government, whether directly or indirectly.
- e) The PPG state under P13.2 that "GOEs are not eligible to compete for MCC-funded contracts for goods or works."
- f) "Owned" means a majority or controlling interest (whether by value or voting interest) of the shares or other ownership interest of the entity (whether directly or indirectly and whether through fiduciaries, agents, or other means). "Controlled by" is necessarily determined on a case-by-case basis, but means material support for, or the power by any means to control, an enterprise regardless of (i) the level of ownership, or (ii) whether the power is exercised. Detailed information is provided in part 13 of the PPG.
- g) P13.1.5 states "Additional evidence of control may be found in the organizational history of the enterprise regardless of its current status. In some cases, a GOE may be privatized or otherwise reorganized in such a manner that it loses its status as a GOE. In other cases, a GOE may purportedly have been privatized, but continue to receive subsidies or other forms of support from a government to such a degree that it can effectively be considered to be controlled by the government".
- h) Furthermore, "Evidence of control may also be assumed by MCC for enterprises from countries that have been <u>deemed</u> <u>non-market economies</u>¹ by either the US Department of Commerce or the World Trade Organization."
- Regarding eligibility please also check the links on page 113 of the bidding document:

¹ https://www.trade.gov/nme-countries-list

		j) System for Award Management (SAM) Excluded Parties List - https://www.sam.gov/SAM/pages/public/ searchRecords/search.jsf k) World Bank Debarred List - https://www.worldbank.org/debarr l) US Treasury, Office of Foreign Assets Control, Specially Designated Nationals (SDN) List - https://sanctionssearch.ofac.treas.gov/ m) US Department of Commerce, Bureau of Industry and Security, Denied Persons List - https://www.bis.doc.gov/index.php/the- denied-persons-list n) US State Department, Directorate of Defense Trade Controls, AECA Debarred List - https://www.pmddtc.state.gov/ddtc_publi c?id=ddtc_kb_article_page&sys_id=c22d 1833dbb8d300d0a370131f9619f0 o) US State Department, Foreign Terrorist Organizations (FTO) List - https://www.state.gov/foreign-terrorist- organizations/ p) US State Department, Executive Order 13224 - https://www.state.gov/executive- order-13224/ q) US State Sponsors of Terrorism List - https://www.state.gov/state-sponsors-of- terrorism/
3.	Bidding Document - Part 2: In the document provided under Part 2, there is B0 and B1 version. Please confirm the final data to be considered for the proposal.	B0 and B1 are not versions. B0 is the Project description and general project requirements and B1 is Particular Technical Requirements. B0 and B1 together makes Section V: Employer's Requirements and for submission of the Bid, the Bidder must consider both B0 and B1. Content, information and data of both B0 and B1 are required to be considered in your bid.
4.	Bill of Quantity-based on Master List dated November 8, 2019: Estimated Bill of quantities has been defined for each line. Please confirm whether any changes in these quantity will qualify for Change Order.	Please note that there is no Bill of Quantity in the Bidding document. The Price Schedule quantity change will not be reason for any variation.

		The purpose of price schedules is to identify the
		Bid Price which will be used to determine
		progress payment.
		The Bidder shall quote the price under the Price
		Schedule required to carry out Work stated under
		Employer's Requirements based on the
		Conditions of Contract.
5.	220916_TowerSchedule:	Details are expected to be conveyed to the
	For India Border to New Butwal: Tower no 15 to	prospective bidder through an Addendum to the
	22 & 40 to New Bhutwal S/S has not been	Bidding Document, tentatively before 10
	finalised. For New Butwal to New Damauli:	February 2023.
	Tower 143 to 149 & 198 to 200 has not been	·
	finalised. For 2 to 6, 86 to 89, 111 to 115, 172 to	
	189, 234 to 247 and balance two lines, the route	
	alignment finalised has not been defined. Please	
	inform the details for our proposal preparation.	
6.	220916 TowerSchedule:	The change in Tower Schedule will not be
	We understand that any change in location or	automatically a reason for Variation. However,
	alignment from the data provided under Tower	any change in location or alignment which will
	Schedule, which qualify under change order.	have an impact on scope, quantity, cost will
	Please confirm.	trigger variation. The variation can be an increase
	Ticase commin.	or decrease in scope, quantity and/or cost.
7.	Conflict of Interest, Page 18: As per clause	Same supplier by various Bidders will not be
/ ·	"Without limitation on the generality of the	considered as Conflict of Interest.
		considered as conflict of interest.
	foregoing, a Bidder or Contractor, including all	
	parties constituting the Bidder, or Contractor and	
	any subcontractors 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".	
	Subsequently under sub clause 5.8 (d), "participate	
	in more than one Bid in this process; participation	
	by a Bidder in more than one Bid will result in the	
	disqualification of all Bids in which the party is	
	involved; however, this provision does not limit	
	the inclusion of the same subcontractor in more	
	than one Bid;"	
	Please confirm whether same supplier by various	
	Bidders will be considered as conflict of interest.	
8.	Section III: Qualification and Evaluation Criteria,	Chartered Accountant certification that the
	Clause 11 Annual Average Turnover, Page 74:	Design cost was of US\$XX is acceptable.
	Minimum average annual design turnover, please	
	note that most of the project executed in	
	Transmission segment is on Turnkey basis and	

design is not separately billable and subsumed in the unit product cost. Please confirm whether Self Certification can be provided meeting this requirement.

Please confirm whether Chartered Accountant certified details can be provided meeting this requirement. Please confirm for the contracts with Design and in which design is not a revenue items, can we assign 2% or any standard industry norm, of the Contract Price to estimate of Design Revenue.

9. Section III. Qualification and Evaluation Criteria; A4. Litigation Criteria & CON-1, Page 56:

As per clause "The Bidder shall provide accurate information on any current or past litigation or arbitration resulting from contracts completed, terminated, or under execution by the Bidder over the last five (5) years, as indicated in Form CON-1." whereas in Form CON-1 "The Bidder, or a related company or entity, is currently, or within the past ten (10) years has been, involved in any proceeding, litigation, arbitration, action, claim, investigation or dispute the process or outcome of which the Employer".

Please confirm that the bidder to provide details over last five (5) years.

Section III. Qualification and Evaluation Criteria;Key Professional Personnel Qualifications, Page 60:

All the position requires to identify manpower for each position and bid is valid for 240 days. As per HR practices we cannot bind a personal for such long period and cannot be kept idle till the bid is awarded. Please note we have pool of manpower and the project position are filled based on the project award and execution plan either internally or through hiring process.

Please confirm bidder can propose multiple person and the personal shall be deployed based on their availability on award. The bidder should submit the litigation information for the last ten (10) years. An addendum to the bidding document clarifying this will be issued.

There will be no change in the requirements of the Bidding document. The Bidder should propose the person, who will be available at the time of award of the Contract.

If the bidder is participating in multiple lots then a separate set of personnel shall be submitted for each lot, if the bidder considers to be awarded more than one lot.

In the case that a bidder has capacity to be awarded only one lot but wants to compete for all lot, the bidder shall submit a bid complying with the highest requirements.

However, please note the provision stated under Section III as "The Bidders can submit their bids for any lots or for all three lots. As of now, The

	The bidder has participation in multiple lot then the personal has to be separately identified. Please confirm.	Employer may award maximum two Lots/Contract(s) to the Bidder(s) that offer(s) the best value lot combination of Bids and meets the qualification criteria (4. Qualification Criteria, below) for two lots cumulatively and price is found to be reasonable." Yes, the prospective Bidders are requested to submit one set of personnel for each Lot, identifying which sets of personnel are proposed for which Lot. Also, please refer to the upcoming addendum.
11.	Section III. Qualification and Evaluation Criteria; 3. Key Professional Personnel Qualifications, Page 61: For position i.e. Tree Clearance officer, Gender & Social Inclusion Manager, Environmental Manager and Social Safeguard Manager, As per practice these local skill set and the services and manpower is outsourced during the project initiation phase and we generally do not have person enrolled before award of project for these position. Please allow the support letter from local partners to meet the requirement.	There will be no change in the requirements of the Bidding document. However, the bidder can propose any personnel with the required qualifications and experience, who can be hired locally or from abroad. These are key personnel. They must be proposed as part of the bid.
12.	Form FIN-4, Page 121: Current Contract Commitments / Works in Progress: Kindly inform that the Works in Progress has to be provided for all Business unit under the company or only in Power Transmission segment, as a company we are working in various business segment and project are more than 100's. Please confirm. Interpretation, Page 191:	Works in Progress has to be provided for the organization/Bidder submitting the Bid. There will be no change in the requirements of the
	Profit shall be 5% of the Cost. Please review the profit interpretation considering the project risk and other elements as this may be referred during execution.	Bidding document.
14.	Adjustment Change in Cost, Page 197: Clause 13.8, The subject project construction is significant cost component and dependent on construction material, fuel and labour with	There will be no change in the requirements of the Bidding document.

	avacution time of more than 2 years and	
	execution time of more than 3 years and	
	dependency on global commodity and country	
	fiscal and beyond measureable by contractor.	
	Please allow price adjustment in Construction cost	
	towards material, fuel and labour linked to	
	Material index and WPI index. Please amend and	
	allow these provision.	
15.	Adjustment Change in Cost, i) For ACSR	We did not find enough information related to
	Conductor, Page 197:	your request/proposal.
	For Steel component it is varies with LME CFR	John 104mos hardes
	India price for Steel. Please allow variation as per	There will not be any amendment to the
		•
	Wire Rod published by CACMAI as the steel used	provisions of the Bidding Document.
	in Conductor is not same product as per LME steel	
	scrap CFR India price for steel. Please accept the	
	price adjustment as per applicable product.	
16.	Schedule of Payments, Page 202:	MCA-Nepal will review the request in detail and
		if accepted, an addendum to the bidding
	Plant and Material - "(c) 10% of DDP-Work Site	document may be issued.
	in Nepal Price (as per Schedule 2) for Plant and	
	Material upon Take Over of the Works and	
	Services	
	(d) 10% of DDP-Work Site in Nepal Price (as per	
	Schedule 2) for Plant and Material upon	
	completion of defects notification period, after	
	receipt of the request for interim payment."	
	These are long duration project and 20% is being	
	held up and payable on completion of the project.	
	There is going to have significant shortage of	
	funds for the project. As per interpretation	
	considering profit of 5% and 20% payment is	
	being paid on completion. Almost 15% funding	
	for the project is to be done to meet the project	
	cost, which is difficult considering the project size	
	and uncertainties. Please reduce the retention	
	payment to 10% as followed in other NEA project	
	to maintain project cash flow and improve project	
	viability.	
	J ·	
	Similar for Installation and Other Services	
	including all related Civil Works.	
17.	Schedule of Payments, Page 202:	There will be no change in the requirements of the
	10% for DPP -work Site Plant and Material and	Bidding document. Please note that the
	Installation and Other Services is being released	requirement is DDP not DPP.
	instantation and other services is being released	requirement is DDI not DII.

	on Defect liability period, please allow release of	
	this payment on submission of Retention	Please refer to PCC Sub-Clause 14.9, Payment of
	Guarantee.	Retention Money for clarity on release of retention money.
18.	Breakdown of Rates and Price Schedules, Page 207: As per provision under S. No 3 - "The Bid Price if accepted and included in the Contract shall become Accepted Contract Amount which shall be a fixed lump sum price. In addition, the rates quoted shall be used during variation for the scope of works". Please confirm any change in Tower schedule	Please refer to the response of Question number 6.
	given in the bid document, will qualify under	
19.	variation for scope of works establishment. Breakdown of Rates and Price Schedules, Page 208: As per provision: "The price quoted under Daywork Schedule shall be considered for evaluation purpose only but shall not form part of the Contract Price." Please clarify how the value of change order will be established if it is non binding.	The Dayworks Schedule ((Schedule 4.1, 4.2, 4.3, 4.4 (4.4.1., 4.4.2, 4.4.3) and 4.5) items shall only be exercised if MCA-Nepal requires any additional works to be carried out (which are not within scope of Employer's Requirement) during Contract implementation. The price quoted under Daywork Schedule shall be considered for evaluation purpose only but shall not form part of the Contract Price.
	oc established if it is non-omding.	If required by the Employer, the Employer will request the Contractor to carry out any additional work using the Daywork Schedule. A variation with this respect shall be issued using the rates in the Daywork Schedule. If there is no additional work, the amount associated with Daywork Schedule shall not be paid to the Contractor.
20.	Breakdown of Rates and Schedules, Page 208: Please explain the correlation between Sch 4 and Sch (4.1-4.5).	The Schedule 4 is divided into two parts: 1) Schedule No. 4. Installation and Other Services Included all Related Civil Works 2) DAYWORK (which include Schedule 4.1, 4.2, 4.3, 4.4 and 4.5)
		Schedule No. 4. Installation and Other Services Included all Related Civil Works shall form part of the Contract Price and which shall be paid in

accordance with the Schedule of Payments and as per Works done.

The Dayworks Schedule ((Schedule 4.1, 4.2, 4.3, 4.4 (4.4.1., 4.4.2, 4.4.3) and 4.5) items shall only be exercised, if MCA-Nepal requires any additional works to be carried out (which are not within scope of Employer's Requirement) during Contract implementation. The price quoted under the Daywork Schedule shall be considered for evaluation purposes only but shall not form part of the Contract Price.

21. Breakdown of Rates and Price Schedules, Page 246:

As per schedule is mentioned "Total for Schedules 4.1, 4.2, 4.3, 4.4 and 4.5 (to be carried forward to Schedule 4.0)" and in the Remarks it is indicated for 5 KM of route length.

Please check and confirm whether Total of Schedule 4.1, 4.2, 4.3, 4.4 and 4.5 is to be carried forward to Schedule 4.0 or Schedule 5.0.

Whether the value in Total for Schedules 4.1, 4.2, 4.3, 4.4 and 4.5 is to match with Schedule 4.0

Does the quantity measurable at 5 KM multiplied with route length for respective lot and then derived at the Total Schedule No 4 and in that case any changes in measurable quantity will be paid as per actual executed

Information and rates for 5 km of route length to be provided in Breakdown of Rates and Price Schedule shall only be used to establish price reasonableness (to be done by Employer) and to establish payments to the Bidder for possible additional works requested by the MCA Entity.

The Schedule 4 is divided into two parts:

- 1) Schedule No. 4. Installation and Other Services Included all Related Civil Works
- 2) DAYWORK (which include Schedule 4.1, 4.2, 4.3, 4.4 and 4.5)

The total of Schedule 4.1, 4.2, 4.3, 4.4 and 4.5 shall be inserted in to "Point 5. Total Schedule No. 4. Schedule 4.0 - Daywork only" of Schedule No. 5. Grand Summary

Schedule No. 4. Installation and Other Services Included all Related Civil Works is different from DAYWORK (which include Schedule 4.1, 4.2, 4.3, 4.4 and 4.5). Thus, Schedule No. 4. Installation and Other Services Included all Related Civil Works price shall be different from Daywork price which are stated under Schedules 4.1, 4.2, 4.3, 4.4 and 4.5.

No. As stated above, information and rates for 5 km of route length to be provided in the Breakdown of Rates and Price Schedule shall only be used to establish price reasonableness and to establish payments to the Bidder for possible additional works requested by the MCA Entity.

22.	Bidding Document - Part 1, BDS 1.1:
	We understand, if a bidder is participating in all
	three lots, then bidder need not to submit separate
	technical offer for each lot and one technical offer
	meeting all the requirements combined of 3 lots
	will be sufficient, please confirm.

23. Bidding Document - Part 1, BDS 15.6 (a):
Bidder need to quote on DDP basis, however PCC
21, says taxes will be exempted, please clarify if taxes are in scope of employer and exemption letter will be provided up front. Or Taxes and duties will be paid by contractor and same will be reimbursed by employer. Please clarify.

The Bidder should submit separate technical offer for different lots because there are many requirements that need to be separately complied for each lot such as Equipment, Personnel, etc. Further, a bidder may want to present a design, program etc. specific for each lot.

Please note that tax exemption shall be provided as per the provisions of the MCC Compact and the bidding document provisions. Please note that the Bidding Document states:

DDP-Works Site in Nepal: All Plant and Mandatory Spare Parts Supplied from Abroad shall be quoted as DDP- Works Site in Nepal basis. The Contractor shall also be responsible for custom clearance, loading, unloading, insurance, transportation, off-loading at Site and any other associate charges (inside or outside Nepal) to bring all goods and equipment to Site and staking and storing properly at Site.

However, the tax exemption letter as per MCC Compact provisions shall be provided to the winning bidder/future contractor if the required documents as per MCA-Nepal tax exemption process attached under Section V (Employer's Requirement) shall be submitted before arrival to Nepal border of the Plant and Mandatory Spare Parts Supplied from abroad. The bidder shall include all costs in their bid price. During Contract implementation, the Employer shall not be responsible for paying any extra/additional cost. The successful bidder/Contractor shall be required to submit a Pro forma invoice 60 days before arrival of Equipment/Goods to Nepal border and the delivered items shall be exactly the same as detailed in the Pro forma invoice.

24. Bidding Document - Part 1, BDS 19.3(a):
If Contract finalization gets delayed, will quoted price be negotiated as BDS says, price will be adjusted. Please confirm.

Please refer BDS 19.3 (a) which states "The Bid price shall **not be** adjusted."

Thus, even in case of delay in contract award exceeding 84 days beyond the expiry of the initial bid validity period, the Bid Price shall not be adjusted and there shall not be any negotiation of price.

		7
		MCA-Nepal will make every effort to award the Contract by September/October 2023. Therefore, there may not be necessary to request the bidders to extend the bid validity period.
25.	Can you please confirm whether a Turkish	MCC Program Procurement Guidelines include
	company is allowed to bid in the subject project?	requirements for eligibility, including:
		a) Section III of the Invitations for Bid (IEP) Decument, aspecially the Toble
		(IFB) Document, especially the Table "Eligibility" in pages 67 to 69.
		b) This table makes reference to Clause 5 of
		Instructions to Bidders, thus a thorough
		review of this provision is recommended.
		c) You are requested to go through the
		provision of Part 13. Government-
		Owned Enterprises under MCC Program
		Procurement Guidelines at
		https://assets.mcc.gov/content/uploads/gu
		idance-2020001236804-procurement-
		program.pdf to check your eligibility.
		MCC will verify the submitted
		Government-Owned Enterprises (GOE) certification and will make a decision
		based on (i) the submitted documentation
		and (ii) further research regarding the
		GoE status of all firms that submit
		proposals. A Government-Owned Entity
		is not eligible to compete for MCC
		funded projects, for goods and works.
		d) A "GOE," or government-owned
		enterprise, is any enterprise established
		for a commercial or business purpose that
		is owned and/or controlled by a
		government, whether directly or indirectly.
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		are not eligible to compete for MCC-
		funded contracts for goods or works."
		f) "Owned" means a majority or controlling
		interest (whether by value or voting
		interest) of the shares or other ownership
		interest of the entity (whether directly or
		indirectly and whether through
		fiduciaries, agents, or other means).

- "Controlled by" is necessarily determined on a case-by-case basis, but means material support for, or the power by any means to control, an enterprise regardless of (i) the level of ownership, or (ii) whether the power is exercised. Detailed information is provided in part 13 of the PPG.
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- h) Furthermore, "Evidence of control may also be assumed by MCC for enterprises from countries that have been <u>deemed</u> <u>non-market economies</u>² by either the US Department of Commerce or the World Trade Organization."
- i) Regarding eligibility please also check the links on page 113 of the bidding document:
- j) System for Award Management (SAM) Excluded Parties List -https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf
- k) World Bank Debarred List https://www.worldbank.org/debarr
- US Treasury, Office of Foreign Assets Control, Specially Designated Nationals (SDN) List
 - https://sanctionssearch.ofac.treas.gov/
- m) US Department of Commerce, Bureau of Industry and Security, Denied Persons List -

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² <u>https://www.trade.gov/nme-countries-list</u>

		https://www.bis.doc.gov/index.php/the-denied-persons-list n) US State Department, Directorate of Defense Trade Controls, AECA Debarred List - https://www.pmddtc.state.gov/ddtc_public?id=ddtc_kb_article_page&sys_id=c22d 1833dbb8d300d0a370131f9619f0 o) US State Department, Foreign Terrorist Organizations (FTO) List - https://www.state.gov/foreign-terrorist-organizations/ p) US State Department, Executive Order 13224 - https://www.state.gov/executive-order-13224/ q) US State Sponsors of Terrorism List - https://www.state.gov/state-sponsors-of-terrorism/
26.	With reference to the qualification requirement stipulated in tender document, we wish to inform you that we are very keen to participate in the above-mentioned tender. We feel, the current PQR of the tender is restrictive and may result in limited competition.: Section III: Qualification and Evaluation Criteria, 16. Similar Construction Experience: Successfully completed at least two (2) construction contracts of Transmission Line with 380kV/400kV and above; within the last ten 10 years, with a value of at least Lot 1: US\$ 63 million, Lot 2: US\$ 49 million All contracts have been successfully completed The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in Section V, Employer's Requirements.	In case of a Joint Venture, MCA-Nepal is looking for a lead firm who has significant experience (fifty percent (50%) of the requirement) and thus the requirement cannot be amended.

To be eligible for award of more than one lots, the bidder needs to satisfy the total requirements for the lots in consideration.

JV Requirements:

- All members Combined- Must meet Requirement
- Each Member- N/A
- Lead Member- Must meet fifty percent (50%) of the requirement (that is at least one work of required value of a Lot to qualify for that Lot.

Modification requested:

- All members Combined- Must meet Requirement
- Each Member- N/A
- Lead Member- N/A

Must meet fifty percent (50%) of the requirement (that is at least one work of required value of a Lot to qualify for that Lot.