



CLARIFICATION #2

FOR

CONSULTING SERVICES FOR EMBEDDED (RESIDENT) ADVISORS FOR ELECTRICITY REGULATORY COMMISSION (ERC) UNDER ELECTRICITY TRANSMISSION PROJECT (POWER SECTOR TECHNICAL ASSISTANCE ACTIVITY);

REF MCA-N/ETP/QCBS/008

ISSUED ON: 2 NOVEMBER 2023

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
1.	<p>Evaluation Criteria <i>Organizational Capability and Experience of the Consultant and Past Performance</i></p>	<p>IFIs such as World Bank, FCDO, ADB and GiZ undertake multi-million-dollar programs to support sectoral initiatives with state and central government agencies as beneficiaries.</p> <p>Such programmes are typically divided into a number of projects targeted at one or multiple beneficiaries and having different scope of work.</p> <ul style="list-style-type: none"> • For such IFI programmes, MCA Nepal is requested to consider each project as a separate engagement for qualification and evaluation purpose. • MCA Nepal is requested to clarify if a single project, which fulfills the requirement of evaluation criteria under multiple regulatory areas (viz. Technical, Economic/Financial, Policy, Legal), can be submitted for consideration against each such regulatory area. <p><i>(Justification - It may be appreciated that the assignments of regulatory nature undertaken</i></p>	<p>One Contract will be considered one experience.</p> <p>1.1: The Consulting firm with 15 years of general experience in providing services in power sector. The Consultant needs to demonstrate 15 years of general experience in providing services in Power Sector.</p> <p>1.2: The Consultant is required to demonstrate experience in two projects. These two projects can have components</p>

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		<i>by a Consultant may substantially include more than one regulatory areas as identified under the RFP. Therefore, it will be prudent to allow such assignments to be evaluated against all such regulatory areas.)</i>	of multiple regulatory areas as per the requirement stated in the RFP.
2.	<p>ITC 3.4 Evaluation Criteria Qualification and Experiences of the Embedded Advisors (Clause 3.1) <i>Embedded Economic /Financial Regulatory Advisor:</i> <i>I. Education. • Minimum bachelor’s degree or equivalent in engineering, economics, business, finance or related field. Any advanced degree in one of those fields will be an advantage.</i></p>	<p>MCA Nepal is requested to revise the criterion as below: “Minimum bachelor’s/ master’s degree or equivalent in engineering, economics, business, finance, or related field. Any advanced degree in one of those fields will be an advantage” (Justification: <i>It may be appreciated that the proposed expert has relevant skill and experience including an advanced degree in a related field but a Bachelor’s degree in an unrelated field. In such cases assessing an expert basis his/her Bachelor’s degree may not be prudent</i>)</p>	The Request for Proposal shall not be amended
3.	<p>ITC 3.4 Evaluation Criteria Qualification and Experiences of the Embedded Advisors (Clause 3.2) <i>Embedded Technical Regulatory Advisor: I. Education.</i> <i>• Minimum bachelor’s degree in engineering or equivalent in engineering, management or related field. Any advanced degree in one of those fields will be an advantage.</i></p>	<p>MCA Nepal is requested to revise the criterion as below: “Minimum bachelor’s/ master’s degree in engineering or equivalent in engineering, management, or related field. Any advanced degree in one of those fields will be an advantage”. (Justification: <i>• It may be appreciated that the proposed expert has relevant skill and experience including an advanced degree in a related field but a bachelor’s degree in an unrelated field. In such cases assessing an expert basis his/her bachelor’s degree may not be prudent</i>)</p>	The Request for Proposal shall not be amended

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	<p>ITC 3.4 Evaluation Criteria Qualification and Experiences of the Embedded Advisors (Clause 3.3) Embedded Legal Regulatory Advisor: I. Education.</p> <ul style="list-style-type: none"> • Minimum bachelor’s degree <i>in law, public policy or similar field. Any advanced degree in one of those fields will be an advantage</i> 	<p>MCA Nepal is requested to revise the criterion as below: “Minimum bachelor’s/ master’s degree in law, public policy, or similar field. Any advanced degree in one of those fields will be an advantage” <i>(Justification: It may be appreciated that the proposed expert has relevant skill and experience including an advanced degree in a related field but a bachelor’s degree in an unrelated field. In such cases assessing an expert basis his/her bachelor’s degree may not be prudent)</i></p>	<p>The Request for Proposal shall not be amended</p>
4.	<p>ITC 3.4 Evaluation Criteria Qualification and Experiences of the Embedded Advisors (Clause 3.4) Embedded Policy /Institutional Regulatory Advisor I. Education</p> <ul style="list-style-type: none"> • Minimum bachelor’s degree <i>in law, economics, engineering, finance, public policy or a similar field. Any advanced degree in one of those fields will be an advantage.</i> 	<ul style="list-style-type: none"> • MCA Nepal is requested to revise the criterion as below: “Minimum bachelor’s/ master’s degree in law, economics, engineering, finance, public policy, or a similar field. Any advanced degree in one of those fields will be an advantage”. <p><i>(Justification: It may be appreciated that the proposed expert has relevant skill and experience including an advanced degree in a related field but a bachelor’s degree in an unrelated field. In such cases assessing an expert basis his/her bachelor’s degree may not be prudent)</i></p>	<p>The Request for Proposal shall not be amended.</p>
5.	<p>Form TECH-4 Email and phone of reference</p> <ul style="list-style-type: none"> • 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 	<p>MCA Nepal may consider revising this requirement as follows: “Provide contact information for at least three (3) two (2) references that can provide substantial input about (1) the type of work performed and (2) the quality of the work. For each reference,</p>	<p>This is the requirement of the MCC Standard Request for Proposals document. Thus, the Request for Proposal shall not be amended.</p>

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	<p><i>work. For each reference, list a contact individual, their title, address, phone and e-mail address</i></p>	<p>list a contact individual, their title, address, phone and e-mail address” <i>(Justification: It may be appreciated that while it is always our endeavor to provide reliable and extensive references for our prior assignments, it might not be always feasible to provide three separate references for each project particularly in case of completed assignments.)</i></p>	
6.	<p>Form FIN-1 <i>• We estimate% [insert percentage if Consultant wants to get part of the payment in Local currency for making local payments] of our Contract Price to be paid in Local Currency (Nepalese Rupees) at prevailing exchange rate of Nepal Rastra Bank at the time of payment</i></p>	<p>MCA Nepal is requested to clarify whether it is mandatory for the Consultant to opt for a specific percentage of payment in local currency (Nepalese Rupees) or the Consultant can claim the full payment in USD.</p>	<p>Payments in NPR are not mandatory. The Consultant can claim all payment amount in USD.</p>
7.	<p>Responsibility of the Consultant (Pg-128) <i>In addition to the training /workshops as specified in the Scope of work, the consultant firm will support ERC staff and Commissioners to expand their knowledge and experience through targeted external capacity building programs...</i></p>	<p>MCA Nepal is requested to clarify which entity i.e., MCA Nepal or Consultant shall bear the logistic costs (including lodging, travel and food related expenses) of Embedded Advisors during training excursions as envisaged under the RFP. • It is suggested that MCA Nepal may bear the above cost at least for excursions outside Nepal. <i>(Justification: At the time of bid submission, a Bidder can't envisage the cost on account of training excursions as details of such trainings are not available beforehand. Therefore, such cost (particularly those on</i></p>	<p>The Consultant may be required by MCA-Nepal to travel inside or outside of Nepal. In such case, the costs related to Per diem, lodging/ accommodation for night stay and other acceptable travel expenses, approved by MCA-Nepal, will be borne by MCA-Nepal as per MCA-Nepal rules and the consultant need not to include these costs in its total price in form FIN-2. The travel expenses shall be directly paid to the individual travelling to the site as per MCA-Nepal rules.</p>

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		<i>account of training excursions outside Nepal) can't be realistically built into the bid.)</i>	This is not applicable for the consultant travelling inside Kathmandu Valley.
8.	Last date of Proposal/ Bid Submission	MCA Nepal is requested to allow Consultants a minimum of 6 weeks starting date of publication of clarification on pre-bid queries, for providing an adequate response to RFP. <i>Justification: The timelines for bid submission are not sufficient to provide adequate preparation time to consultants</i>	As of now, the deadline for submission of proposals remains the same as in the Request for Proposals (RFP). However, in case MCA-Nepal decides to extend the submission deadline it will be via an addendum to the RFP, which will be notified to the registered Consultants and the same will be posted at the MCA-Nepal web page
9.	Specific Procurement Notice (Pg-2) <i>Employer- Millennium Challenge Account Nepal</i>	MCA Nepal is requested to confirm that MCA Nepal (and not MCC) shall be the entity with which the selected Consultant shall execute the Contract under RFP, and raise invoices under the executed Agreement.	Confirmed.
10.	Clarification for Private Entity Section I – Instruction to Consultants Clause 5.2 – Eligible Consultants (RFP Page 4) <i>A Consultant may be a private entity, certain government-owned entities (in accordance with MCC Program Procurement Guidelines as described in ITC Sub-clause 5.6), or any combination of such entities supported by a letter of intent to enter into an agreement or under an existing agreement of</i>	Clarification is required if the Private entity means a Private Company as well as a Partnership Firm. We are a Limited Liability Partnership firm very keen to participate in the bid	Private entities are those other than government-owned entities. All business firms (such as sole proprietorship firms, partnership firms, limited liability partnership firms, private limited companies etc.) would fall under private entity.

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	<i>association in the form of a joint venture or other association.</i>		
11.	<p>Clarification for Nationality Constraints Section I – Instruction to Consultants Clause 5.2 – Eligible Consultants (RFP Page 14) <i>A Consultant, all parties constituting the Consultant, and any Sub-consultants for any part of the Contract, including related services, may have the nationality of any country, subject to the nationality restrictions specified in this ITC Clause 5. An entity will be deemed to have the nationality of a country if such entity is constituted, incorporated, or registered in, and operates in conformity with, the provisions of the laws of that country.</i></p>	<p>Clarification is required whether we can utilise the Services of Embedded Advisors based out of Nepal having criteria as mentioned in the RFP document.</p>	<p>The consultant can propose any eligible key personnel of any nationality who meets the requirement as per Part 10 of MCC Program Procurement Guidelines (PPG). Please note that the assignment requires the Advisors to be permanently working in Nepal.</p>
12.	<p>Reference Check for entities Section I – Instruction to Consultants Clause 26.1 – Past Performance and Reference Check <i>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</i></p>	<p>We are a network of member firms bringing in valuable international experiences blended with the local requirements. This gives the organization flexibility to bring in resources and skillset from different member firms whenever required. With above background kindly clarify if credentials / qualifications of all member firms will be considered for evaluation. Also clarify if such member firm member firms will have to be part of the bid as a sub-contractor, consortium/ JV member.</p>	<p>The Consultants shall decide by themselves which is the most convenient association arrangement to comply with the Qualification and Experience required to undertake the assignment. It is recommended to carefully review Section III. Only the credentials/qualifications of the firm(s) submitting a proposal will be evaluated.</p>

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	<i>submitted with its Proposal using Technical Form TECH-5</i>		
13.	Expense Related Section II – Proposal Data Sheet ITC 12.11 <i>Per diem and in-country travel will be included in the total price in form FIN-2.</i>	Clarification is required if any expense related guidelines are to be followed for per diem, travel expenses etc.	This query will be clarified by issuing an Addendum to the Request for Proposal document after obtaining approval from the authorities.
14.	Financial Criteria Section III – Qualification and Evaluation Criteria Clause 3.2 – Financial Criteria If required by PDS ITC 12.5 (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.	As per Form Tech-2A <i>Audited financial statements for the last three (3) years, supported by audit letters or Certified financial statements for the last three (3) years, supported by tax returns</i> is required. 1. Are there any minimum financial criteria like revenue etc? 2. Any format to be followed for submission of Audit Letter? Any specific Certifying Authorities to be followed for submission of Financial Statements?	<ol style="list-style-type: none"> 1. Evidence of Financing (US\$360,000) dedicated for the implementation of the consulting services as attested by an authorized representative of the Consultant. 2. There is no template or format for Audit letters. For the Certified Financial Statements, the Consultant shall follow the regulations applicable in their own Countries. In any case the certified financial statements shall be submitted along with the tax returns.
15.	Financial Criteria Form Tech- 2 A Evidence of financing (US\$360,000) dedicated for the implementation of the consulting services as attested by an authorized representative of the Consultant.	Clarification is required regarding the evidence to be submitted.	The documentary evidence to be submitted may be a letter from consultant’s bank which reveals the Evidence of financing (US\$360,000) for the implementation of the consulting services as attested by an authorized representative of the Consultant.

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16.	<p>Availability of Non-Key Staff / Support Staff Terms of Reference (ToR) ... C. Scope of Work In addition, the Consultant may propose non-key personnel to strengthen their team to successfully complete the assignment. The roles and responsibility of the non-key and support staff proposed by the Consultant must be explained in the consultant's approach and methodology. The Consultant shall be responsible for all expenses and the resources required to successfully complete the assignment as per Terms of Reference and Conditions of Contract.</p>	<p>RFP does not mandate the presence of Non-Key Staffs in Nepal during the course of the engagement. In this regard, clarification is required for the following:</p> <ol style="list-style-type: none"> 1. Whether Technical Evaluation Scores shall depend on the presence of Non-Key Staff in Nepal 2. Minimum number of days for non - key staff 3. Minimum number of days for non - key staff in Nepal <p>In RFP, a tentative list of non-key staff requirement has been provided. We understand that Consultant can deploy such non-key staff depending on the project requirement and no conditions has been set for availability of non-key staff in Nepal</p>	<ol style="list-style-type: none"> 1. Non key staff will be evaluated under Approach, Methodology, Work Plan, and Organization and Staffing. 2. The Consultant needs to decide based on their Approach, Methodology. 3. The Consultant needs to decide based on their Approach and Methodology. <p>The Consultant needs to decide on the input of Non-Key staff as per their Approach and Methodology. The requirement is only for the key staff to work full time from Nepal.</p> <p>Consultant is not required to field additional key personnel beyond the embedded Advisors, it is essential that the Advisors have the ability to focus on technical, substantive regulatory work. However, Consultant may add non-key personal if required. Role and scope of work of any non-key and support staff proposed by the Consultant must be explained in the Consultants' approach and methodology.</p>

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17.	<p>Resource Replacement Conditions Form Tech-3 – Organization of the Consultant – Providing brief background of firm <i>The Proposal shall further demonstrate that the Consultant has the capacity to field and provide experienced replacement Personnel on short notice.</i> Section VI - General Conditions of Contract (GCC) Clause 12.1 - Removal and/or Replacement of Personnel <i>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</i></p>	<p>We understand that changes in the Key Professional Personal is under purview of MCA-Nepal. However, due to different circumstances as highlighted in Clause 12.1, specified conditions and procedure for Resource Replacement shall be required. Accordingly, for Resource replacement, following clarifications are required: 1. Procedures for the Resource Replacement. 2. Whether the procedures for the Resource Replacement is common for the Key Professional Personnel and the Non-Key Staff.</p>	<p>GCC 12.1 states that “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.” For further details, please refer Clause 12 (complete) of General Conditions of Contract (GCC). In case, the Consultant is requesting changes, the Consultant is required to submit justification for change in line with provision of RFP with CVs of proposed personnel for MCA-Nepal review and approval. The change of personnel is only be acceptable in exceptional circumstances as per the provisions of the Contract. MCA-Nepal expects that the contract implementation will be fully undertaken by the nominated key staff in the Proposal.</p>
18.	<p>Cost Overrun Section VI - General Conditions of Contract</p>	<p>During the engagement, in case if actual level of effort for some tasks has increased than estimated level of effort due to reasons</p>	<p>Your understanding is not correct. Please note that in case MCA-Nepal requires additional services, payment for additional</p>

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	<p>Clause 16 – Commencement, Completion and Modification of Contract</p> <p>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</p> <p>Substantial Modifications 16.5 - In cases of any of the below, the prior written consent of MCC is required:</p> <p>(a) the Contract value of a Contract that did not require approval under an MCC policy is raised to a value that would require approval</p> <p>(b) the original Contract duration is extended by 25% or more, or</p> <p>(c) the original value of the Contract is increased by ten percent (10%) or 1 million US Dollars or more (whichever may apply); once the 10% Contract (or 1 million US Dollars) threshold for modifications or change orders has been reached for a Contract, any subsequent Contract modification or change order that individually or collectively exceed 3% of</p>	<p>beyond the control of the Consultants, it is inferred that as per the Clause 16.5, MCC will approve the same and the payment for the actual level of effort will be made as per Clause 17.4 - Payment for Additional Services.</p>	<p>services will be made following the calculation as stated in clause 17.4. Further please note that “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.”</p> <p>Further in case of additional services required which needs additional cost above the threshold as stated in GCC 16.5, MCA-Nepal will obtain the MCC No-Objection, prior signing/performing an amendment for the additional services.</p> <p>By design, the Advisors will be deployed with a flexible scope of work to allow responsiveness to evolving needs and urgent priorities.</p> <p>The Consultant is required to provide services to the ERC through the Embedded Advisors which are required to achieve current or amended objective of the ERC and which comes under the expertise of the</p>

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	<p><i>the original Contract value will also require MCC approval.</i></p> <p>Payment for Additional Services 17.4 - <i>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.</i></p>		<p>Embedded Advisors. Any change in objective/scope of work shall not be considered additional work and the Consultant shall not be paid any additional amount for it.</p>
19.	<p>Applicability of Taxes</p> <p>Section I – Instruction to Consultants</p> <p>Clause 29.4 – Financial Negotiations <i>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.</i></p> <p>Section VI – General Conditions of Contract Clause 18 (a) – Taxes and Duties <i>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</i></p>	<p>In reference to Clause 29.4 (Financial Negotiations), MCA Nepal is requested to specify the applicable tax amount pertaining to project deliverables so that it can be easily incorporated for Financial Proposal.</p>	<p>As per ITC 29.4, it is the responsibility of the consultant to determine the relevant tax amount to be paid by the Consultant under the Contract. This shall be as per section 2.8 of the Compact read along with related Schedules in Annex VII.</p>

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	<p><i>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.</i></p>		
20.	<p>Section I. Instructions to Consultants (ITC) Conflict of Interest Section 5.8 (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</p>	<p>We request to make this clause applicable to the team members being proposed as part of the project. This is because, in case this clause is made applicable to our firm as a whole, then given the size and scale of operations of our firm, it may be difficult to confirm / adhere to the clause.</p>	<p>This ITC clause related to conflict of interest shall not be modified.</p>

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21.	<p>Section VI - General Conditions of Contract 20. Termination: <i>By the Consultant</i> <i>By the Consultant 20.2. (e)</i> <i>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.</i></p>	<p>We request MCA-N to include the below condition in the mentioned section: "If the Consultant determines that a law, regulation or anything having similar import, or circumstances (including cases where the MCA entity's ownership or constitution has changed), makes the Consultant's performance of the Contract impermissible or in conflict with independence or professional rules applicable to the Consultant."</p>	<p>This requested change shall not be accepted.</p>
22.	<p>Section VI - General Conditions of Contract 21. Payment Upon Termination Cessation of Rights and Obligations 21.3 - ... (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.</p>	<p>We wish to inform you that audit & inspection of our office and system is not permissible as our office will have data / information of other Clients and it would be breach of confidentiality in case we allow the Client to audit & inspect our office / system. We can arrange for the MCA-N to visit our project office and audit the relevant documents.</p>	<p>The requirement of the Request for Proposal shall not be amended. GCC Clause 37 limit the review and/or inspection only to the records related to the services under the contract.</p>
23.	<p>Section VI - General Conditions of Contract 33. Confidential Information; Rights of Use</p>	<p>We request for the inclusion of the below in the mentioned clause: "The confidentiality obligations shall survive the termination of this Contract /</p>	<p>The GCC clauses and Sub-clauses shall not be amended.</p>

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	<p>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.</p>	<p>completion of services for a period of one (1) year”</p>	
24.	<p>Section VI - General Conditions of Contract 34. Documents Prepared by the Consultant to be the Property of the MCA Entity 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, 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</p>	<p>The ownership of the deliverables under the Contract will be with the Client. However, to address our pre-existing Intellectual Property Rights (IPR), we propose the below language: “Upon expiration of this Agreement / Contract or sooner upon written request of the Client, all Confidential Information in the possession of the Consultant shall be returned to the Client or destroyed under conditions which preserve the confidentiality of the Confidential Information, at the option and instruction of the Client. The Consultant's pre-existing IPR in the deliverables will still vest with the Consultant. Notwithstanding the foregoing, the Consultant retains all rights in the Deliverables and work product, and in any software, materials, know-how and/or methodologies that the Consultant may use or develop in connection with this Contract. The Consultant is not responsible if the Client infringes the IPR by modifying the deliverables submitted by the Consultant.”</p>	<p>The GCC clauses and Sub-clauses shall not be amended.</p>

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	<p>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.</p>		
25.	<p>Section VI - General Conditions of Contract 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.</p>	<p>The SCC does not contain any provision which limits firm's liability. We request MCA-N to incorporate below clause in the contract. "Notwithstanding anything contained in the contract, Client agrees that the Consultant shall not be liable to Client, for any losses, claims, damages, liabilities, cost or expenses ("Losses") of any nature whatsoever, for an aggregate amount in excess of the fee paid under the contract for the services provided under the contract, except where such Losses are finally judicially determined to have arisen primarily from fraud or bad faith of the Consultant. In no event shall the Consultant be liable for any consequential (including loss of profit and loss of data), special, indirect, incidental, punitive, or exemplary loss, damage, or expense relating to the services provided pursuant to this Contract."</p>	<p>The GCC clauses and Sub-clauses shall not be amended.</p>

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26.	GCC 17.3 Payment Milestones	The payment milestone is back-loaded but the effort will be substantial during the initial phases - the final deliverable has the highest % payment weightage. We request MCA-N to kindly make the Final Report milestone to 5%.	The payment schedule shall not be amended.
27.	Form TECH-2A. Financial Capacity of the Consultant Evidence of financing (US\$360,000) dedicated for the implementation of the consulting services as attested by an authorized representative of the Consultant.	Kindly clarify which documents will suffice towards this requirement.	The document such as letter from consultant's bank which reveals the evidence of financing (US\$360,000) for the implementation of the consulting services as attested by an authorized representative of the Consultant.
28.	Form TECH-5. References of MCC-Funded Contracts	Does this form also apply to sub-consultants with whom the lead consulting firm will submit the proposal?	Each Consultant or member of a Joint Venture/Association making up the consultant must fill in Form Tech-5 where they have worked as a lead Consultant, affiliate, associate, subsidiary, Sub-Consultant, or in any other role.
29.	Section III. Qualification and Evaluation Criteria 3.1 Embedded Economic /Financial Regulatory Advisor <i>Experience in a senior position at an electricity regulatory entities / firm / utility for five years.</i>	We understand that experience in consulting firms but working with regulatory commissions / regulated utility etc. for the required duration will qualify for this requirement. Kindly confirm our understanding.	Five years of experience in a senior position as an electricity regulator, either for an electricity regulatory entities or for firm or for a utility.
30.	Section III. Qualification and Evaluation Criteria 3.1 Embedded Economic /Financial Regulatory Advisor	We understand that the six-month effort may be over a period of time. For e.g. the advisor may have supported the regulatory commission for 6 months (cumulative effort)	Your understanding is correct; however the individual Embedded Economic/Financial Regulatory advisors should have

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
	<i>Experience as a Regulatory Advisor for two similar projects/assignments for a six-month duration in each project/assignment.</i>	over a period of 2 years. Kindly confirm our understanding.	experience in the number of projects as per the requirements of the RFP.
31.	Section III. Qualification and Evaluation Criteria 3.1 Embedded Economic /Financial Regulatory Advisor <i>Evidence of knowledge of international best practices covering three of the areas such as regulatory/utility accounting, utility finance, power system economics, regulatory analysis and behaviour, project finance, financial modelling and tariff/pricing methodologies and setting including social tariff/pricing methodologies etc.</i>	We understand the demonstration of the required experience will be through the project description in the CV. Kindly confirm our understanding. Further, the three areas as mentioned can be demonstrated as one or separate projects. Kindly confirm our understanding.	Yes, your understanding is correct.
32.	Section III. Qualification and Evaluation Criteria 3.3	Kindly confirm the name of the embedded advisor.	The name of the Embedded Advisor is “Embedded Legal Regulatory Advisor”. The title of this advisor is missing in the Qualifications and Evaluation Criteria. This will be included in the RFP by issuing an addendum.
33.	Section III. Qualification and Evaluation Criteria 1. Qualification and Experiences of the Embedded Advisors	Will the qualification of CPA/CA/CS be equivalent to Master degree as accepted in South Asian countries.	The requirement is clear. No equivalence will be made until and unless documentary evidence in support of it will be provided.
34.	Form TECH – 9. Staffing schedule	We understand that the embedded staff are full, does that mean in the staffing schedule it will be shown as field time?	Yes. Your understanding is correct.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
35.	Form FIN- 2 Price summary	In the financial price summary, we have to mention VAT. We request to remove the VAT row, as we are not sure of the implication.	<p>VAT is required to be included if applicable.</p> <p>Please note that the Note 8 of the FIN-2 states “Total Price of Financial Proposal (Excluding VAT) stated in the above table shall be used for evaluation, comparison, and recommendation of award of the Contract. Options will be exercised by MCA-Nepal as per provision of the Contract.”</p> <p>Please take note that at the financial evaluation stage VAT is not considered.</p>
36.	Financial Submission form	Do we expect to make domestic air travel in Nepal within contract period for outreach and stakeholder consultation?	<p>The Consultant may be required to travel inside or outside of Nepal. In such case, cost related to Per diem, lodging /accommodation and other acceptable travel expenses, as approved by MCA-Nepal will be borne by MCA-Nepal as per MCA-Nepal rules and the consultant need not to include this cost in its total price in form FIN-2. The Per diem shall be directly paid to the individual travelling to the site as per MCA-Nepal rules.</p> <p>This is not applicable for the consultant travelling inside Kathmandu Valley.</p>
37.	Financial Submission form	Do we need to budget for offsite work planning/training session and study tours?	No, MCA-Nepal will be responsible for arranging the venue and managing the logistics (lodging, food, travel, reproduction of training material and other

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
			<p>necessary arrangements for the participants) for the training/workshops; and will bear the cost for these arrangements.</p> <p>In addition to the training / workshops as specified in the Scope of work, the consultant firm will support ERC staff and Commissioners to expand their knowledge and experience through targeted external capacity building programs (e.g., short courses in regulatory fundamentals), exposure/visits to hydropower projects including substation (in operation and under construction in Nepal and outside the country) as well as study tours to observe regulatory best practices in comparable power sectors.</p> <p>The Consultant is responsible for planning and managing such Training / Executive Tour(s). On the recommendation of the Consultant, MCA-Nepal will procure such Training / Executive Tour(s) for the ERC personnel.</p>
38.	Section V : Terms of reference	For implementing RIMS and DMS who will provide the budget for the software, licence and Hardwares, data centre/cloud etc	Requirements and specifications for RIMS and DMS will be prepared by a separate consultant. Supply and installation of the systems would also be a separate

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
			consultant which will be procured by MCA-Nepal. ERC, with the advisors' support, will engage with consultants to ensure effective installation of the system and integration of the system into its work.
39.	<p>1.2, 3.4 Evaluation Criteria</p> <p><i>b) In two projects with a duration of at least six months for each project related to technical regulation covering three of the areas such as power sector technical operations, grid code, power sector planning, monitoring of regulated entity of technical performance and service delivery, tariff design including service standards and technical parts of the tariff design and so on,</i></p>	<p>Proposed Clause:</p> <p>b) In two projects with a duration of at least six months for each project related to technical regulation covering any three of the areas such as power sector technical operations, grid code, power sector planning, monitoring of regulated entity of technical performance and service delivery, tariff design including service standards and technical parts of the tariff design and so on,</p> <p>Suggestion /Clarification:</p> <p>It is important to note that works related tariff determination / framing of tariff rules/regulations or framing of technical performance and service delivery / tariff design including service standards and technical parts of the tariff design may not be available in a single work order. Therefore, it is suggested that bidder's experience in any of such areas shall be considered for evaluation. It is further suggested that bidder's experience in framing of Regulations such as Modalities of Tariff Determination and tariff regulations should also form a part of this criterion.</p>	The requirement is clear. No further clarification is required.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
		<p>We request you to kindly clarify that whether the experience of the bidder in providing support in tariff filing also be considered relevant under this criterion. We further understand that experience in supporting the regulator or the utilities in the above mentioned areas shall be equally evaluated under this criterion. Kindly clarify the same.</p>	
40.	<p>1.2, 3.4 Evaluation Criteria <i>c) In two projects with a duration of at least six months for each project related to legal regulation covering three of the areas such as regulatory rulemaking, review and analysis of power purchase agreements, competitive and transparent bidding process, dispute resolution, stakeholder engagement and so on.</i></p>	<p>Proposed Clause: c) In two projects with a duration of at least six months for each project related to legal regulation covering any three of the areas such as regulatory rulemaking, review and analysis of power purchase agreements, competitive and transparent bidding process, dispute resolution, stakeholder engagement and so on.</p> <p>Suggestion /Clarification: It is important to note that works in the above identified areas such as regulatory rulemaking, review and analysis of power purchase agreements, competitive and transparent bidding process, dispute resolution, stakeholder engagement may not be covered in a single work order. Therefore, it is suggested that bidder’s experience in any of such areas shall be considered for evaluation.</p> <p>We further understand that experience in supporting the regulator or the utilities in the above mentioned areas shall be equally evaluated under this criterion. Kindly clarify the same.</p>	<p>The requirement is clear. No further clarification is required.</p>

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
41.	<p>1.2, 3.4 Evaluation Criteria <i>d) In two projects with a duration of at least six months for each project related to policy regulation covering three of the areas such as power sector reform, power trade regulations, open- access and market reforms, social equity policies, strategic planning including regulatory management and competitive markets and so on.</i></p>	<p>Proposed Clause: d) In two projects with a duration of at least six months for each project related to policy regulation covering any three of the areas such as power sector reform, power trade regulations, open- access and market reforms, social equity policies, strategic planning including regulatory management and competitive markets and so on.</p> <p>Suggestion /Clarification: It is important to note that works in the above identified areas such as power sector reform, power trade regulations, open- access and market reforms, social equity policies, strategic planning including regulatory management and competitive markets may not be covered in a single work order. Therefore, it is suggested that bidder’s experience in any of such areas shall be considered for evaluation under this criterion.</p> <p>We further understand that experience in supporting the regulator or the utilities in the above mentioned areas shall be equally evaluated under this criterion. Kindly clarify the same.</p>	<p>The requirement is clear. No further clarification is required.</p>
42.	<p>1.4, 3.4 Evaluation Criteria <i>The firm having an experience in the execution of two Projects as an Advisor or Consultant for a period of Six Months for each project in the electricity/energy sector</i></p>	<p>Clarification: We understand that Regulator and Utilities will be considered as “<i>regulatory entities</i>” under this criterion.</p>	<p>Yes, your understanding is correct.</p>

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
	<i>regulatory entities within the last 15 years till the date of submission of the proposal.</i>		
43.	<p>1.5, 3.4 Evaluation Criteria <i>The firm having completed one similar project (with a minimum duration of six months) as a prime or lead consultant or as the member of the Joint Venture (not sub consultant) in the Electricity /Energy Regulatory Commission / Sector the South Asian region within the fifteen years preceding the submission of this proposal.</i></p>	<p>Clarification: It is suggested to define the phrase “<i>similar project</i>”.</p>	<p>Similar Projects means a project that has similar Scope of Work related to Electricity /Energy Regulatory Commission / Sector.</p>
44.	<p>3.1, 3.4 Evaluation Criteria <i>Embedded Economic /Financial Regulatory Advisor</i></p> <p><i>II. Demonstrated successful experience and past Performance</i></p> <p><i>Experience in a senior position at an electricity regulatory entity / firm / utility for five years.</i></p> <p><i>Evidence of knowledge of international best practices covering three of the areas such as regulatory/utility accounting, utility finance, power system economics, regulatory analysis and behaviour, project finance, financial modelling and tariff/pricing methodologies and setting including social tariff/pricing methodologies etc.</i></p>	<p>Proposed Clause: Embedded Economic /Financial Regulatory Advisor</p> <p>II. Demonstrated successful experience and past Performance</p> <p>Experience in a senior position at an electricity regulatory entity / firm / utility / Consulting firm for five years.</p> <p>. Evidence of knowledge of international best practices covering three of the areas such as regulatory/utility accounting, utility finance, power system economics, regulatory analysis and behaviour, project finance, financial modelling and tariff/pricing</p>	<p>Five years of experience in a senior position as an electricity regulator, either for an electricity regulatory entities or for firm or for a utility.</p>

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
		<p>methodologies and setting including social tariff/pricing methodologies etc.</p> <p>Rationale: The experience of an individual in the relevant sector clearly defines his/her capabilities to perform the desired task, it shouldn't matter if he/she is at a senior position in a specific type of firm but doing the same work.</p> <p>We further understand that experience and knowledge of the advisor in best practices of South-Asian countries shall be considered as international experience/ best practices under this criteria. Please clarify the same.</p>	<p>Experiences as the Regulatory Advisor for one similar project/assignment in the South Asian Countries is the requirement as per RFP.</p>
45.	<p>3.2, 3.4 Evaluation Criteria <i>Embedded Technical Regulatory Advisor</i></p> <p>· II. Demonstrated successful experience and past Performance</p> <p>· <i>Experience in a senior position in a regulatory role or at regulated electricity utility, utility operations and related engineering issues or with an electricity sector/firm/regulator for five years.</i></p> <p>· ..</p>	<p>Proposed Clause: Embedded Technical Regulatory Advisor</p> <p>· II. Demonstrated successful experience and past Performance</p> <p>· Experience in a senior position in a regulatory role or at regulated electricity utility, utility operations and related engineering issues or with an electricity sector/firm/regulator/consultancy firm for five years.</p> <p>· ..</p>	<p>Five years of experience in a senior position in a regulatory role or at regulated electricity utility, utility operations and related engineering issues or with an</p>

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
46.	<p>3.4, 3.4 Evaluation Criteria <i>Embedded Policy /Institutional Regulatory Advisor</i></p> <p>.</p> <p>II. Demonstrated successful experience and past Performance</p> <p>.</p> <p>Experiences as the Regulatory Advisor for two similar projects/assignments for a six months duration in each project/assignment.</p> <p>.</p> <p>Experience in hydropower-dominant system as Regulatory Advisor in one similar project/assignment for a duration of six months.</p>	<p>Proposed Clause: Embedded Policy /Institutional Regulatory Advisor</p> <p>.</p> <p>II. Demonstrated successful experience and past Performance</p> <p>.</p> <p>Experiences as the Regulatory Advisor for two similar projects/assignments for a six month duration in each project/assignment.</p> <p>.</p> <p>Experience in hydropower-dominant system as Regulatory Advisor in one similar project/assignment or experience in hydro power sector for a duration of six months.</p> <p>Suggestions: We suggest that the advisor’s experience in hydro power sector assignments shall also be considered as relevant experience in this criteria.</p>	<p>It may be clarified through addendum, if needed.</p>
47.	<p>Section II. Proposal Data Sheet. ITC 1.5 <i>“Please note that PAN/VAT registration is required for Consulting Firms after Contract award as per the rules of the Government of Nepal. Firms which are</i></p>	<p>Please provide confirmation if VAT registration is still required for consulting firms who have no permanent establishment within Nepal as VAT is one of the taxes listed as exempt/refundable under the MCC Compact.</p>	<p>You may be required to obtain VAT registration after award of the Contract if you already do not have the registration in Nepal.</p>

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
	<p><i>already registered in Nepal, have to provide following Documents: VAT/PAN registration, Tax clearance to fulfill the local Government requirements.”</i> AND Section VI - General Conditions of Contract 18. Taxes and Duties (a) <i>(see RfP and MCC Nepal Compact)</i> Under the MCC Nepal Compact, Annex VII – Tax Schedules, page 61 of the PDF, it states that “consultants, and other entities and individuals that received MCC funding directly or indirectly in furtherance of the Compact are exempt from Taxes or will be refunded equal amount of Taxes paid in respect of the MCC funding”. The Compact goes on to list the following taxes which are to be exempt or exempt/refundable, which include VAT.</p>		
48.	Section III. Qualification and Evaluation Criteria: Qualification and Experiences of the Embedded Advisors 3.1 Embedded Economic /Financial Regulatory Advisor: <i>“Experience in a senior position at an electricity regulatory entitie / firm / utility for five years.”</i>	Please confirm that experience in a senior position at an electricity utility for five years will be accepted.	Yes, your understanding is correct.
49.	Section III. Qualification and Evaluation Criteria: Qualification and Experiences of the Embedded Advisors	Please confirm that the following understanding of the requirement is correct. If not, please clarify the requirement.	Yes, your understanding is correct.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
	<p><i>3.1 Embedded Economic /Financial Regulatory Advisor:</i> <i>“Evidence of knowledge of international best practices covering three of the areas such as regulatory/utility accounting, utility finance, power system economics, regulatory analysis and behavior, project finance, financial modeling and tariff/pricing methodologies and setting including social tariff/pricing methodologies etc.”</i></p>	<p>Evidence of knowledge of international best practices covering three of the following areas: 1.regulatory/utility accounting, 2.utility finance, 3.power system economics, 4.regulatory analysis and behavior, 5.project finance, 6.financial modelling 7. tariff/pricing methodologies and setting including social tariff/pricing methodologies etc.”</p>	
50.	<p>Section III. Qualification and Evaluation Criteria: Qualification and Experiences of the Embedded Advisors <i>3.2 Embedded Technical Regulatory Advisor</i> “Evidence of knowledge of international best practices covering three of the areas such as power system planning, power system technical operations, electricity utility benchmarking & monitoring, grid code study, and tariff design including service standards and technical parts of tariff design.”</p>	<p>Please confirm that the following understanding of the requirement is correct. If not, please clarify the requirement. Evidence of knowledge of international best practices covering three of the following areas: 1. power system planning, 2. power system technical operations, 3. electricity utility benchmarking & monitoring, 4. grid code study, 5. tariff design including service standards and technical parts of tariff design</p>	Your understating is correct.
51.	<p>Section III. Qualification and Evaluation Criteria: Qualification and Experiences of the Embedded Advisors <i>3.2 Embedded Technical Regulatory Advisor</i></p>	<p>Please clarify this requirement. Would experience in a senior position at a regulated utility, including utility operations and related engineering issues meet this requirement?</p>	The requirement is clear. No further clarification is required.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
	“Experience in a senior position in a regulatory role or at a regulatory utility, utility operations and related engineering issues or with an electricity sector/firm/regulator for five years.”		
52.	<p>Section III. Qualification and Evaluation Criteria: Qualification and Experiences of the Embedded Advisors 3.3 / “Evidence of knowledge of international best practices covering three of the areas such as power sector dispute resolution, review of bylaws, regulations, rules, contract negotiation, and development and review of independent power projects (IPP), and review of documents such as power purchase agreements (PPAs) and implementation agreements.”</p>	<p>Please confirm that the following understanding of the requirement is correct. If not, please clarify the requirement. Evidence of knowledge of international best practices covering three of the following areas:</p> <ol style="list-style-type: none"> 1. power sector dispute resolution, 2. review of bylaws, regulations, rules, 3. contract negotiation, development and review of independent power projects (IPP), 4. review of documents such as power purchase agreements (PPAs) and implementation agreements 	Your understating is correct.
53.	<p>Section III. Qualification and Evaluation Criteria: Qualification and Experiences of the Embedded Advisors 3.4 Embedded Policy /Institutional Regulatory Advisor “Evidence of extensive knowledge covering three of the areas such as regulatory reform, tariff model, legal and regulatory framework for electricity market development, regional power pools and cross border power trading, open-access, market reform, and</p>	<p>Please confirm that the following understanding of the requirement is correct. If not, please clarify the requirement. Evidence of extensive knowledge covering three of the following areas:</p> <ol style="list-style-type: none"> 1. regulatory reform, 2. tariff model, 3. legal and regulatory framework for electricity market development, 4. regional power pools and cross border power trading, 5. open-access, 6. market reform, 	Your understating is correct.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
	expertise in one regulatory area (economic, policy, technical).”	In addition to the above, the expert should have expertise in one of the following regulatory areas: 1. economic, OR 2. policy, OR 3. technical.	
54.	<p>Section III. Qualification and Evaluation Criteria: Qualification and Experiences of the Embedded Advisors 3.4 Embedded Policy /Institutional Regulatory Advisor “Experiences in supporting and managing works in fundamental regulatory activities covering three of the areas such as public consultation, consumer protection (including low-income and poor households), strategic planning, regulatory oversight, policy-related rulemaking, analyze utility filings.”</p>	Please confirm that the following understanding of the requirement is correct. If not, please clarify the requirement. Experience in supporting and managing works in fundamental regulatory activities covering three of the following areas: <ol style="list-style-type: none"> 1. public consultation, 2. consumer protection (including low-income and poor households), 3. strategic planning, 4. regulatory oversight, 5. policy-related rulemaking, 6. analyze utility filings 	Your understating is correct.
55.	<p>Section III. Qualification and Evaluation Criteria: Qualification and Experiences of the Embedded Advisors 3.5 Team Leader “In addition to the expertise of the proposed expert, the team leader has experience in other regulatory areas and strong familiarity with each of those regulatory practices and fundamental understanding of key issues related to power sector operations and growth.”</p>	Please define “other regulatory areas” so that we can ensure the TL CV complies with the requirement.	For Example: If an Economic Advisor is proposed as the team leader, his experiences in Technical, Financial and Policy regulatory areas are considered as other regulatory areas.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
56.	Section III. Qualification and Evaluation Criteria: Qualification and Experiences of the Embedded Advisors	Please provide a definitive list of South Asian countries.	The South Asian Association for Regional Cooperation (SAARC), a contiguous block of countries, started in 1985 with Eight countries – Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka
57.	Section III. Qualification and Evaluation Criteria: Qualification and Experiences of the Embedded Advisors	The scoring methodology for each of the experts is completely individualistic. However, each of the four experts will be expected, and quite rightly so, to operate as a closely knit team. Accordingly, it would seem reasonable that each of the scored points of experience should be assessed on a team, rather than an individual basis. Can compliance with RFP requirements, and resulting scoring, be therefore assessed equally both on a team and an individual basis?	The Request for Proposal document shall not be amended. Please note that the total score for Criterion 1. Organizational Capability and Experience of the Consultant and Past Performance and Criterion 2. Approach, Methodology, Work Plan, and Organization and Staffing is 35 and total score for the Criterion 3. Professional staff is 65.
58.	RfP: Form FIN-2. Price Summary “Tax Deduction at Source (TDS), if applicable as per Nepalese Income Tax Act, will be deducted at the time of payment.” <i>AND</i> MCC Nepal Compact Schedule D – Corporate Income and Withholding Tax	Please confirm if Tax Deduction at Source (TDS) is given to have the same definition as Withholding Tax in the MCC Nepal Compact?	Your understanding is correct.
59.	RfP: Form FIN-2. Price Summary “Tax Deduction at Source (TDS), if applicable as per Nepalese Income Tax Act, will be deducted at the time of payment.”	If Tax Deduction at Source is given to have the same meaning as Withholding Tax. The Nepalese Income Tax Act states tax will be deducted at time of payment but the MCC Nepal Compact lists withholding tax as one	Refer Compact Section 2.8 along with the Schedule D “2. Beneficiaries of Exemptions” states “Each Exempt Entity, other than legal persons that are legal entities registered under the laws of Nepal

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
	<p><i>AND</i></p> <p>MCC Nepal Compact Annex VII – Tax Schedules</p> <p>“The Government will ensure that MCA-Nepal and all ... consultants, ...that receive MCC funding directly or indirectly in furtherance of the Compact are exempt from Taxes or will be refunded equal amount of Taxes paid in respect of the MCC funding in accordance with Section 2.8.”</p> <p>Schedule D – Corporate Income and Withholding Tax</p> <p>“MCA-Nepal and all Income Tax Exempt Entities will be entitled to an exemption from Nepali income tax and related taxes on income earned from supplying goods, works, or services in furtherance of the Compact.”</p> <p>“MCA-Nepal will not be required to withhold tax deductible at source from payments made from or with respect to MCC Funding to an Income Tax Exempt Entity.”</p> <p>“All income derived from MCC Funding will be recorded as exempt income and an Income Tax Exempt Entity will not be liable to pay tax with respect to any such income, including any taxes in respect to transfer of such income.”</p>	<p>of the taxes exempt in relation to furtherance of the Compact.</p> <p>Please confirm if Withholding Tax will be applicable on payments made by MCA-Nepal to consultants relating to their work on the proposed project.</p>	<p>(the “Income Tax Exempt Entity”). Any income that is derived from MCC funding by legal entities or persons, but not individuals, that are considered taxable, per the tax code, due to residence in Nepal solely with respect to their work performed in furtherance of the Compact will not be considered taxable or subject to taxation in Nepal.”</p> <p>For further detail please refer the provisions stated under the MCC Nepal Compact.</p>

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
60.	<p>section 2.8 of the Millennium Challenge Compact dated 14 September 2017 “Section 2.8 Taxes. (a) Unless the Parties specifically agree otherwise in writing, the Government will ensure that all MCC Funding is free from the payment or imposition of any existing or future taxes, duties, levies, contributions or other similar charges (but not fees or charges for services that are generally applicable in Nepal, reasonable in amount and imposed on a non-discriminatory basis) (“Taxes”) of or in Nepal (including any such Taxes imposed by a national, federal, state, local, or other governmental or taxing authority of or in Nepal). Specifically, and without limiting the generality of the foregoing, MCC Funding will be free from the payment of (i) any tariffs, customs duties, import taxes, export taxes, and other similar charges on any goods, works or services introduced into Nepal in connection with the Program; (ii) value added tax, sales tax, excise duty, property transfer tax, and other similar charges on any transactions involving goods, works or services in connection with the Program, (iii) taxes and other similar charges on ownership, possession or use of any property in connection with the Program, and (iv) taxes and other</p>	<p>From perusal of section 2.8 of the Millennium Challenge Compact dated 14 September 2017 (“the Compact”), it seems that MCC funding will not be subject to any taxes, duties and levies in Nepal. However, it also mentions that tax exemption may not be on fees or charges for services that are generally applicable in Nepal. Further it also mentions that MCC is funding is free from any value added taxes, tax on income or gross receipts or social security, etc except for natural persons who are citizens or permanent residents of Nepal or legal persons formed under the laws of Nepal. Given the above, we request you kindly clarify/ confirm the following:</p> <ol style="list-style-type: none"> 1. As per section 2.8(2) of the Compact if the contracting entity is a foreign company i.e., a company incorporated outside Nepal, it will be exempt from all taxes in Nepal for this project including but not limited to Nepal corporate tax on income, Value added tax, personal tax for international experts, social security, etc. Further, the payment will not be subject to any Nepal tax deduction. Please confirm whether the above interpretation is correct. 2. Whether the exemption will also be available to international experts for personal tax applicable in Nepal and corresponding compliance? If the answer to above question is no i.e., above exemptions are not available to contracting entity being a foreign 	<ol style="list-style-type: none"> 1.This shall be as per section 2.8 of the Compact read along with SCHEDULES under Annex VII. The Consultants are requested to go through the MCC Nepal Compact carefully and understand the different requirements to be eligible for Tax exemptions and refunds under Value Added Tax, Custom Duties, Excise Duties, Corporate Income and Withholding Tax and other taxes mentioned in Schedule VII of the Compact. 2.Refer Section 2.8 of the Compact and Schedule on Income Tax- Schedule E

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
	<p>similar charges on income, profits or gross receipts attributable to work performed in connection with the Program and related social security taxes and other similar charges on all natural or legal persons performing work in connection with the Program except (1) natural persons who are citizens or permanent residents of Nepal and (2) legal persons formed under the laws of Nepal (but excluding MCA-Nepal and any other entity formed for the purpose of implementing the Government’s obligations hereunder).” (Emphasis supplied)</p>	<p>company, whether it will be subject to Nepal TDS? If yes, at what rate? 3. If contracting entity is a Nepal branch of a foreign company, whether it will also be exempt from all taxes in Nepal for this project including but not limited to Nepal corporate tax on income, Value added tax, personal tax for international experts, social security, etc.? 4. Please confirm no tax exemption will be available to local experts, sub-contractors, etc. from any Nepal taxes for the project? If the foreign contracting entity or Nepal branch of the foreign company is exempt for all taxes for the project and the Nepal contractor levies Nepal VAT to contracting company whether the foreign company or Nepal branch of foreign company will be able to claim refund of such VAT?</p>	<p>3.Refer Section 2.8 of the compact and read with Schedule D & E 4.Refer Section 2.8 of the compact and read with Schedule A, Refund and Exemption Route</p>
61.	<p>Page No. 47 of RFP ITC 24.1 (1.5) "The firm having completed one similar project (with a minimum duration of six months) as a prime or lead consultant or as the member of the Joint Venture (not sub consultant) in the Electricity /Energy Regulatory Commission / Sector in the South Asian region within the fifteen years preceding the submission of this proposal. "</p>	<p>In ITC 24.1 (1.1 to 1.4) specific requirements related to the work to be executed are elicited for each of the criterion. The criterion listed at 1.5 is very generic i.e., term 'one similar project' is very generic and it is not clear what specific requirement is being evaluated. Please elaborate and provide more clarity.</p>	<p>Joint Venture (not sub consultant) in the Electricity /Energy Regulatory Commission / Sector in the South Asian region (Afghanistan, India, Pakistan, Nepal, Bangladesh, Bhutan, Maldives and Sri Lanka) within the fifteen years preceding the submission of this proposal.”</p>

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
62.	Page No. 48 of RFP ITC 24.1 (3.1) II. Demonstrated successful experience and past performance. For 'Experience in a senior position at an electricity regulatory entity / firm / utility for five years. '	For this criterion 2.5 marks have been allotted. Will the experience in a consulting firm majorly helping electricity utilities/ regulatory commissions in the electricity sector on regulatory matters be counted towards this? If no, we request you to consider the same as it is relevant for the position.	The requirement is clear. No further clarification is required.
63.	Page No. 48, 49, 50, 51 of RFP ITC 24.1 (3.1, 3.2, 3.3 and 3.4)	For all the positions, certain marks have been allotted to capacity building which includes: "Experiences/capacity to design/conduct/deliver trainings in the related field as specified in the Scope of Work and have provided five related trainings." We request you to modify the criteria as follows: "Experiences/capacity to design/conduct/deliver five trainings in the related field as specified in the Scope of Work. Te	The requirement is clear. No further clarification is required.
64.	Page No. 48 of RFP ITC 24.1 (3.2) and (3.4) II. Demonstrated successful experience and past performance. For 'Experience in hydropower-dominant system as a Regulatory Advisor in one similar project/assignment for a duration of six months.	What is the meaning of Hydro-dominant system? We understand that Nepal has primarily hydropower generation as the key source of power and therefore the embedded advisor needs to have exposure to consulting work related to hydropower stations such as financing for hydropower stations, assistance in negotiation of PPAs for hydropower station, assistance to ERC in framing of regulations for hydropower generation, assisting hydropower companies in filing their tariff applications as per the regulations,	It may be clarified through addendum, if needed.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
		<p>assistance to hydropower company/ offtake in resolution of disputes related to PPA, assisting regulatory commission for evaluation of various petitions related to hydropower stations which may range from dispute resolution, tariff and other miscellaneous issues. We request you to make the criteria specific as noted in the above paragraph instead of just specifying hydro-dominant system which is very vague.</p>	
65.	<p>Form TECH-2A Evidence of financing dedicated for the implementation of the consulting services as attested by an authorized representative of the Consultant.</p>	<p>Please note that, the Banks issue lines of credit, solvency certificate in the role of lender to consulting firms. Consulting firms do not necessarily avail loans/ credit lines specifically to fund the consulting engagement/ project requirements. Moreover, Consulting firms do not approach Banks/ Lending institutions to avail loans on the basis of a consulting engagement/ project thus, banks can not issue any certificate showing they provided funding for specific consulting engagements. In support of this requirement can following be considered as equivalent to evidence of financing US\$360,000: 1) Last 3-year average of cash and cash equivalent as reflected on the Balance Sheet, 2) Select list of consulting engagements and their contract value as executed/ being executed in the last 5 years duly certified by an authorized representative of the Consultant. 3) Solvency certificate issued by Bank.</p>	<p>Cash and cash equivalents (working capital) as reflected in the Balance Sheet, and Solvency certificate issued by Bank are acceptable.</p>

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
66.	Page No. 125 E. Deliverables and Payment Schedule For all reports, payment shall be made upon acceptance by MCA-Nepal of a quality report as per ToR and in-compliance with all points raised and agreed during the Inception Phase and subjected to positive recommendation by ERC.	The clause provides the procedure/ process for payment wherein the payment will be released after every acceptance of every monthly/ quarterly/ annual report as per ToR and in compliance with all points raised and agreed during the inception phase subject to positive recommendation by ERC. However, it is not clear about the quantum of payments on monthly basis, quarterly basis and annual basis as Form FIN-2 is the overall price summary, FIN-3 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 and FIN-4 shall only be used to establish price reasonableness and to establish payments to the Consultant for possible additional services requested by the MCA Entity. Please provide clarity on what would be the approximate levels of quantum of payments (say 1/24 every month for the quoted value in form FIN-2 etc.)	Payment Schedule is clearly mentioned in Section VII-Special Conditions of Contract (SCC), GCC 17.3 (Page 188-189.)
67.	Page No. 125 D. Duration of Assignment MCA-Nepal seeks an Economic/Financial Regulatory Advisor, a Technical Regulatory Advisor, a Legal Regulatory Advisor and a Policy/Institutional Regulatory Advisor through a consulting firm for a base period of Two (2) years. Similarly, for additional optional period of two (2)	It is observed that, during the base period 4 Embedded Advisors are required while during the additional optional period, only 3 Embedded Advisors are required wherein Embedded Policy/ Institutional Regulatory Advisor is not required. It is not clear why the Embedded Policy/ Institutional Regulatory Advisor is not needed during the additional period. Embedded Policy/	The requirement is clear. No further clarification is required.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
	<p>years MCA-Nepal will continue with one Economic/Financial Regulatory Advisor, one Technical Regulatory Advisor and one Legal Regulatory Advisor from the same consulting firm based on performance under a contract option.</p>	<p>Institutional Regulatory Advisor will play a key role in the areas of Power sector reform, governance and development, power trade, open-access and market reforms, social equity policies, strategic planning and communications including inclusive consultations and, regulatory management and governance, models of competitive markets, etc. and will be instrumental in framing rules and regulations in the area of open access, market reforms, bilateral trade etc. Therefore, we believe that Embedded Policy/ Institutional Regulatory Advisor will play a key role in matters such as open access, power trade and reforms for enabling competition in the power sector all of which will take more than 2 years' time (i.e., base period) to gradually fructify.</p>	
68.	General	<p>We expect to receive clarifications to these queries by 2nd November 2023. Whereas the date for submission of the proposal is 23 November 2023. Thus, there are around 20 days' time between the two days, with 'Diwali' the biggest festival also falling within these days between 10th November to 14th November. Considering this we request you to extend the deadline for submission of the proposal to 14th of December 2023 so that all the bidders get adequate time to consider the clarifications provided by MCA Nepal and submit their bids.</p>	<p>As of now, the deadline for submission of proposals remains the same as in the Request for Proposals (RFP). However, in case MCA-Nepal decides to extend the submission deadline it will be via an addendum to the RFP, which will be notified to the registered Consultants and the same will be posted at the MCA-Nepal web page</p>

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
69.	<p>Page No. 106 As longer-term priorities, ERC has identified the following:</p> <ul style="list-style-type: none"> • Establishing competition in a wholesale power market • Establishing a framework for power trading licenses • Ensuring non-discriminatory open-access to electricity networks • Creating rules on generation expansion planning for the generation, transmission and distribution • Developing competition in the electricity retail sector • Restructuring the vertically integrated utility (NEA) • Achieving full-fledged automation in regulation 	<p>Please explain what is meant by following:</p> <ul style="list-style-type: none"> • Creating rules on generation expansion planning for the generation, transmission and distribution. • Achieving full-fledged automation in regulation. 	<ul style="list-style-type: none"> • It encompasses the planning for generation, transmission, and distribution to ensure a reliable and cost-effective supply of electricity to meet current and future demands. • Achieving full-fledged automation in energy regulation holds the potential to revolutionize the energy sector, making it more efficient, reliable, and sustainable.
70.	<p>Page no. 109 ERC is in the process of recruiting permanent staff, however, this recruitment is contingent upon the approval of Employee Administration Bylaws by the Ministry of Finance. In the event of a delay in the recruitment of permanent staff, staff training scheduled for the first year will be deferred to the second year of Compact support and Embedded Advisors will carry out the activities on short-term technical assistance during the first year of Compact support.</p>	<p>What does activities on short-term technical assistance during the first year of compact support comprise of?</p>	<p>Short-term technical assistance and analysis: The Compact will also support ERC through the acquisition of services to conduct analysis or intensive training in specialized areas. Studies and analysis include developing/reviewing a tariff methodology and cost-of-service study, investment guideline; creating/reviewing a grid code/distribution code and other technical requirements; developing a social and gender equity strategy; preparing market rules; and developing a regional regulatory framework for power trade and</p>

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
			cross boarder regulations as per the necessity of ERC and its urgencies.
71.	Page No. 112 Annual Retreat and Work Planning Session: On an annual basis, MCA-Nepal, ERC and the advisors will hold a retreat and work planning session that mimics the format of the project inception workshop.	Normally retreats are arranged outside the work area (i.e., offices). Who will be responsible for arranging the annual retreats and whether the Consulting organization is required to budget for arranging the annual retreats?	MCA-Nepal will be responsible for arranging the venue and managing the logistics (lodging, food, travel, reproduction of training material and other necessary arrangements for the participants) for the training/workshops; annual retreats and will bear the cost for these arrangements.
72.	Footnote on Page No. 113: Since the ERC conducts its formal operations and rulemaking in Nepali, the Advisors must be prepared to work through an iterative process, engaging formal translation services as necessary (at the expense of the program).	Please clarify the meaning of 'at the expense of the program'. Does it mean MCA-Nepal will reimburse expenses of formal translation services or the Consulting organization is required to include the expenses of the same in its financial proposal?	It shall be included in the financial proposal.
73.	Page no. 68 Form TECH-2B. Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes of the Consultant	We request the MCA to kindly appreciate the details of a pending/past enquiry/litigation or investigation against an entity is confidential information of such bidding entity. Such enquiry/litigation or investigation even if adversely determined, may not necessarily impact the entity's ability to perform the services under this RFP. Hence, we request you to kindly	These criteria and requirements shall not be modified.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
		<p>modify the undertaking/qualification criteria to the effect that the bidders are required to submit only a declaration (without mentioning details of investigation/litigation or enquiry pending or past) stating that there is no material pending enquiry or investigation for a non-grave offence which if adversely determined would impact the ability of the Bidder to perform services under the RFP.</p>	
74.	<p>Page no. 41 ITC 12.11 Per diem and in-country travel shall be included in the total price in form FIN-2.</p>	<p>As per our understanding, the financial proposal will be prepared considering the advisors' deployment in ERC's office in Kathmandu. Please clarify, whether in case of travel outside Kathmandu, the Consultant will be allowed to seek reimbursement of travel, lodging and other expenses?</p>	<p>The Consultant may be required to travel inside or outside of Nepal. In such case, cost related to Per diem, lodging /accommodation and other acceptable travel expenses, that approved by MCA-Nepal will be borne by MCA-Nepal as per MCA-Nepal rules and the consultant need not to include this cost in its total price in form FIN-2. The Per diem shall be directly paid to the individual travelling to the site as per MCA-Nepal rules. This is not applicable for the consultant travelling inside Kathmandu Valley.</p>
75.	<p>Page no. 97 Form FIN-3. Breakdown of Price by Activity</p>	<p>We understand that the purpose of Form FIN-3 is 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. In case any of the activities do not take place due to any reasons beyond consultant's control, the</p>	<p>Please note the purpose of FIN-3 state is as follows: Information to be provided in Form FIN-3 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</p>

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
		payment to the consultant shall not be held/ forsaken. Please confirm our understanding.	of the prices offered. Please complete for each phase. The payments shall only be made against the acceptance of the deliverables in the contract. You are also requested to refer GCC clause 20 and 21.
76.	Applicable Law GCC 3.2 read with SCC 1.1 (p.186)	Given that we are a company incorporated and operating under Indian laws, we would be constrained in our abilities to agree to foreign governing laws and will normally resist any such requests. All our overseas clients agree to this because India has a well-established common law legal system - our position on this would be no different from other network firms who would also always contract on the basis of their local laws. It needs to be appreciated that there will be a cost implication associated with a change in jurisdiction, as legal advice in the relevant jurisdiction may need to be obtained, and without a full understanding of the laws of that jurisdiction there is the possibility of significant additional exposure.	This GCC clause, SCC clause and Sub-clauses are MCC standard provisions. Thus, it shall not be amended.
77.	GCC 35.1 read with SCC. The limitation of liability upon Consultant has not been documented, it is to be decided as per Applicable Law	Our overall liability (without any exceptions) shall not exceed the amount of fees paid to us. We will not be liable for indirect/consequential losses.	Please note that the Consultants' liability under this Contract shall be provided by the Applicable Law.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
78.	GCC 13.2 read with SCC (p.151). SIAC is the option for Arbitration and Dispute Resolution specified in the SCC	A dispute shall be resolved through arbitration by a mutually appointed sole arbitrator in India under applicable laws of India. We will not be required to perform services during pendency of any arbitration proceedings until such issues are resolved.	This GCC and relevant SCC clauses will not be amended.
79.	IPR / Ownership. GCC 34, 42.	<p>This has the potential risk of firm forfeiting its pre-existing proprietary knowledge to the client. We would need the Contract to clarify that subject to payment in full of the professional fees for the relevant Deliverables, the final Study Reports or other material or graphic (collectively “Deliverables”), prepared by firm for, and submitted to Client under this engagement shall belong to and remain the property of Client excluding the pre-existing intellectual property rights/ proprietary materials of firm incorporated in the Deliverables which shall continue to belong to firm.</p> <p>Specifically, with respect to our pre-existing IPR, we are agreeable to provide Client with a non-exclusive & non-transferable license to use the same (to the extent incorporated in the deliverables) for its internal use in connection with the services provided by us under this Agreement. Also, firm shall continue to retain ownership over its draft deliverables/internal working papers. Additionally, subject to its confidentiality obligations under the RFP, firm should also be allowed to use the general skills,</p>	GCC 34.1 shall not be amended.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
		knowledge, know-how etc. created during the course of this engagement for its subsequent engagements. Moreover, any third-party licenses, necessary for the performance of the services, would need to be procured by the Client.	
80.	Return/ Destruction - GCC 34.1.	While we are ok to return hard copies of confidential information made available by client and/or delete or make reasonably inaccessible any electronic copies thereof - however we need to retain our internal working papers and central IT archives as per our organizational data policies. That said, we are ok to state that any retained copies of confidential information by us shall be maintained in confidence as per the terms of this agreement	GCC 34.1 shall not be amended.
81.	Access/Inspection. GCC 37. The audit rights are widely worded	Due to client confidentiality & internal data policy reasons, we would be unable to provide such unqualified access to our systems, premises and records. That said, we are agreeable to a review by Client to the extent that it is: (i) restricted to providing access to Consultant's fees/ invoicing related records relating to the services under this project; (ii) is carried out within 6 months of the expiry or termination of the agreement. Consultant should not be expected to provide any information which may cause it to breach confidentiality vis-a-vis other parties. If an audit is contemplated to be conducted by an external/third party	This clause shall not be amended.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
		auditor, we would need such third party to sign an NDA with us (in a format suggested by us).	
82.	Third Parties/End Usage 37.2.	We would need the Contract to specify that our deliverables are meant for Client's sole use and benefit; and that there would be no third-party beneficiaries. Our deliverables should not be shared with third parties without our consent. Also, consistent with industry practice, we would look to Client to keep us protected/reimbursed from third party claims arising out of the services, say claims which arise on us due to you sharing or deliverables with third parties. This is standard consulting/ Big 4 practice.	The Request for Proposal provision shall not be amended.
83.	Confidentiality. GCC 33. Widely worded confidentiality obligations	Confidentiality obligations need to be carefully noted by the project team. All standard exclusions to confidentiality should be documented. Confidential Information needs to be shared on a strict need to know basis for the purposes relating to this project. Subject to confidentiality restrictions, Consultant should be given a one-time approval to refer to this engagement for client citation purposes. Also, definite outer boundaries for the survival of confidentiality obligations need to be documented	GCC clauses shall not be amended.
84.	Subcontractors. GCC 5, 38, 39 Consultant to obtain Client's prior written consent to engage subcontractors for doing any major portion of the work	We may take assistance from our contractors or other firms (each of which is a separate and independent) legal entity and may share confidential information with	The Consultant need to fulfill the requirement of the Conditions of the Contract, also please refer GCC clause 23.

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		<p>them in connection with this engagement. However, we remain solely liable to client for their acts; claims (if any) in relation to this engagement will be routed solely through client and us.</p>	
85.	Insurance. GCC 36.1 read with SCC p.191.	<p>Numerous insurance requirements are sought in the contract. Basis our standard policy, we would maintain appropriate professional indemnity insurance cover in respect of the professional services we provide - the other insurance requirements should be disapplied; as such, the following should be clarified: " our firm maintains appropriate professional indemnity insurance cover with underwriters to protect against all reasonable risks in respect of all professional services provided by the firm. The policies are issued on a broad form Professional Indemnity Insurance wording. Whilst the levels of cover must be kept confidential, we believe that our insurance cover is at least adequate to enable us to meet valid claims. Furthermore, although we carry insurance cover, it is the firm's policy to limit our liability in our contracts to minimise our potential exposure to a reasonable level unless we are prohibited by law or regulation from so doing. We expect the outcome of any current action or aggregate of actions to be within our insurance cover and other resources, such that our ability to continue to render services will not be impaired." Also,</p>	GCC clauses shall not be amended.

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		disclosing the amounts of insurance is again an onerous obligation on our firm- it should be clarified that due to confidentiality reasons, we do not share the policies or disclose the limits of insurance availed.	
86.	Acceptance. GCC 18.	We wish to agree objective, well-defined acceptance criteria for our work, and an agreed acceptance procedure. A structured acceptance process should be incorporated in the Contract such that our draft deliverables are evaluated in a timely manner by Client. There is a need to expressly document that the number of rounds for the procedure for attaining acceptance and iterations thereof for our's deliverables shall be limited to two rounds (the concept of deemed acceptance should also be built in). Thereafter, if the matter still remains unresolved, it shall be escalated to an empowered Steering Committee comprising of senior representatives from both sides	The Consultant is required to submit quality deliverables on time so that MCA-Nepal can review the submission on time. The timeline shall be agreed during the kick-off meeting.
87.	Termination. GCC 20.1	If the consultants do not remedy a failure in the performance of their obligations within 30 days of being notified then the agreement can be terminated by the Client. An objective and consultative process should precede before the Client chooses to exercise its termination rights under this clause. To ensure that the clause is not interpreted in a subjective manner, a mechanism should be put in place to	GCC clauses shall not be amended.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
		objectively capture service-related defaults and allocate the accountability to an appropriate party in a transparent manner. Upon termination, Consultant should be paid for the services performed by us till the date of termination. Additionally, given our audit independence requirements, we would also require the right to terminate in circumstances where continued performance under this contract would breach our legal, professional or regulatory requirements.	
88.	Scope Change / Variation. GCC 16.	The Contract needs to document an objective scope change process to address any changes to the agreed scope of work, timelines or duration of the project, in a mutual consultative manner. This would ensure that neither side is expected to assume any implied obligations.	GCC clause shall not be modified.
89.	Survival GCC21.3.	Survival of obligations post termination of contract. These should be limited to 1 year post termination or expiration	GCC clause shall not be modified.
90.	Compliances GCC 24-GCC 29. Multiple compliances with Client codes, Foreign Regulations and Policies	We comply with applicable laws of India. References to any other laws are deleted and replaced with applicable laws of India. We operate in accordance with the our firm code of conduct. We will cause our project team members performing services under this engagement to read and be aware of client's relevant policies such that to the	The Request for Proposal document shall not be amended.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
		extent applicable to them in performing services, they do not act in a manner inconsistent with the substance thereof.	
91.	General	Would MCA-Nepal consider extending the proposal submission deadline by two weeks to December 7, 2023? This extension would allow Bidders adequate time to prepare a more informed and competitive proposal response given the holidays occurring during this time.	As of now, the deadline for submission of proposals remains the same as in the Request for Proposals (RFP). However, in case MCA-Nepal decides to extend the submission deadline it will be via an addendum to the RFP, which will be notified to the registered Consultants and the same will be posted at the MCA-Nepal web page.
92.	General	Would MCA-Nepal allow Consultants to include a cover page, annex dividers, table of contents, and acronym list outside of the required page length?	Yes, there are no restrictions on the submission of such documents.
93.	Section I, Instruction to Consultants, Clause 1.5, page 10, and Section II, Proposal Data Sheet, ITC 1.5, page 40.	Can MCA-Nepal confirm that PAN/VAT registration and any other licenses and permits will only be required at the time of Contract award?	It can be obtained after Contract Award for foreign companies having no prior business presence or Permanent Establishment in Nepal.
94.	General	Would MCA-Nepal consider including tentative person-months in the RFP documents for non-key support as the quality and extent of such support will have substantial implications on the financial proposal of the bidder? This will help to ensure non-key personnel LOE are consistent across all competitor proposals	There is no level of effort (LoE) provided for non-key staff and further, non key staff will not be evaluated directly in the same way as the key-staff. The Consultant may propose non-key personnel to strengthen their team to successfully complete the assignment. The roles and responsibility of the non-key and support staff proposed by the Consultant must be explained in the

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
			consultant's approach and methodology which will be evaluated by MCA-Nepal.
95.	Section I, Instruction to Consultants, Clause 1.5, page 10, and Section II, Proposal Data Sheet, ITC 1.5, page 40.	Can MCA-Nepal clarify, apart from PAN/VAT registration, what other licenses and permits will be required to provide services under this contract?	It depends on the nature of business presence. MCA-Nepal cannot advise you on the type of incorporation that the bidder should have in Nepal.
96.	Section I, ITC 5.7, page 15.	Can MCA-Nepal clarify the difference between a Joint Venture and an Association? Further, can MCA-Nepal also clarify the basis for distinguishing an Association from a sub-consultancy relationship?	Consultants are recommended to refer to the definition in ITC A. General (b), (c) and (ll) regarding the difference among "Associate", "Association" or "association" or "Joint Venture" or "joint venture" and Sub-Consultant, to make themselves clear on these terms. Please note that there is no difference between "Association" or "association" or "Joint Venture" or "joint venture".
97.	Section III, Qualification and Evaluation Criteria, page 49-50.	Can MCA-Nepal confirm what the third key personnel's title should be?	The title is "Embedded Legal Regulatory Advisor". The omission of the name for this Advisor shall be corrected via an addendum to the RFP.
98.	Section III, Qualification and Evaluation Criteria, Clause 3.4, Mandatory Criteria A, page 45.	<ul style="list-style-type: none"> • MCA-Nepal states "...successful experience as the consulting firm in the execution of at least One Project as an Advisor or Consultant for a period of at least Six Months for the electricity/energy sector regulatory entity within the last 15 years." Can MCA-Nepal consider altering the language to read "for the electricity/energy sector regulatory entity/utility (in a 	These criteria and requirements shall not be modified.

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
		<p>regulatory function) within the last 15 years”?</p> <ul style="list-style-type: none"> • Further, can MCA-Nepal confirm that projects funded by international development agencies where the electricity/energy sector regulatory entity/utility (in a regulatory function) is the beneficiary would be considered? 	
99.	Section III, Qualification and Evaluation Criteria, ITC 24.1, (1), pages 46-47.	Can MCA-Nepal confirm if the reference of projects having aspects covered under the sub-criteria provided under 1 (i.e., 1.1 to 1.5) in general and 1.2 (i.e., a to d) can be repeated?	The requirement is clear. No further clarification is required.
100.	Section III, Qualification and Evaluation Criteria, ITC 24.1, (3) - Qualification and Experiences of the Embedded Advisors, pages 46-51.	Can MCA-Nepal confirm that working as a staff member in a regulatory institution, OR, in a utility regulatory function, OR, in the regulatory team of a consulting firm will meet the requirements for the “Regulatory Advisor” role?	<p>The requirement is clear.</p> <p>It depends upon what type of roles were assigned to him.</p>
101.	Section IV, Technical Proposal Forms, Form Tech-8, page 75.	Can MCA-Nepal clarify if Consultants should submit one Form Tech-8 for the Base Period and one Form Tech-8 for the Option Period?	Yes, however the person should remain same.
102.	Section IV A. Technical Proposal Forms, Form Tech-5, Page 72.	We note Form Tech-5 requiring a list of MCC/MCA contracts is included in the proposal but does not have an evaluation score. Can MCA Nepal confirm that this section will not be evaluated?	Please note that TECH-5 states: Each Consultant or member of a Joint Venture/Association making up the Consultant must fill 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

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
			<p>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. MCC experience is not mandatory. However, if the firm has worked on MCC funded projects (as a consultant or sub-consultant), it is mandatory to include this experience in the proposal.</p> <p>Further, please note that ITC 26.1 states “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.”</p> <p>MCA-Nepal can confirm that the information provided in Form Tech-5 will be evaluated as part of the references check that is performed during the evaluation procedures. Please refer to the ITC 26.1.</p>

SN	Reference to the Bidding Document	Questions from Bidders	Response of Millennium Challenge Account Nepal (MCA-Nepal)
103.	General	Would MCA-Nepal share the intended budget range for this assignment? This will allow Consulting Firms to ensure cost realism and budget alignment with the proposed technical approach.	The budget estimate has not been disclosed for this procurement, however please refer to Section II. Proposal Data Sheet ITC 12.4(c) , which discloses the estimated level of effort (LoE). Take note that our Procurement Guidelines only allow MCA-Nepal to disclose the estimated level of effort OR the budget but not both.
104.	Section I, Instruction to Consultants, Clause 1.5, page 10, and Section II, Proposal Data Sheet, ITC 1.5, Page 40.	<ul style="list-style-type: none"> • Can MCA-Nepal clarify if the Consulting Firms will need to obtain an office registration in Nepal on the award of the Contract? If yes, can MCA-Nepal confirm the category of office registration (i.e., branch office/ liaison office/ project office) that is required? • Further, can MCA-Nepal confirm that such cost of registrations, licenses, and permits will be separately reimbursed by MCA and should not be a part of the financial proposal? 	It depends on the nature of business presence. MCA-Nepal cannot advise you on the type of incorporation that the bidder should have in Nepal.
105.	Section I, Instruction to Consultants, Clause 1.5, page 10, and Section V – Terms of Reference, Page 127.	Can MCA-Nepal confirm that ERC will provide the necessary office space and equipment as mentioned in Section V and will also bear the expenses related to regular payments/ maintenance for these facilities?	Confirmed.
106.	Section V – Terms of Reference, page 127.	Can MCA-Nepal clarify if workshops will take place in Kathmandu and outside Kathmandu as this will have implications on the Consultant’s travel costs? Further, we suggest that all such costs, including costs for Embedded Advisors and non-key experts, should be borne by MCA Nepal.	The Workshop are mainly expected to be held in Kathmandu. However, the Consultant may be required to travel inside Nepal for workshop or other consulting related assignment. In such cases, cost related to Per diem/ accommodations and any travel approved by MCA-Nepal will be

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			<p>borne by MCA-Nepal as per MCA-Nepal rules and the consultant need not to include this cost in its total price in form FIN-2. The Per diem shall be directly paid to the individual travelling to the site as per MCA-Nepal rules.</p> <p>This is not applicable for the consultant travelling inside Kathmandu Valley.</p>
107.	Section V – Terms of Reference, External Training and Executive Tours, page 127.	<p>Can MCA-Nepal confirm if the Consultant/Advisors role will be limited to recommending/ arranging the External Training/ Executive Tours or if would they be expected to accompany the ERC personnel for this training? Further, can MCA-Nepal confirm that the cost of these, including the cost of travel for Consultants/ Advisors (if required), will be separately borne by MCA Nepal?</p>	<p>The Consultant will identify and propose External Training / Executive Tours to about 25 personnel. The objective of the additional External Training / Executive Tour needs to fulfill the objective of compact and enable the ERC staff to build capacity as identified in the scope of works TA Program to ERC. Based on the need assessment by the consultant, the location of the Training / Executive Tours could be in Nepal, home country of the consultant or in the place recommended by the Consultant. The Consultant is responsible for planning and managing such Training / Executive Tour. On the recommendation of the Consultant, MCA-Nepal will procure such Training / Executive Tour for personnel.</p> <p>Cost related to Per diem/ accommodations and any travel approved by MCA-Nepal will be borne by MCA-Nepal as per MCA-</p>

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			<p>Nepal rules and the consultant need not to include this cost in its total price in form FIN-2. The Per diem shall be directly paid to the individual travelling to the site as per MCA-Nepal rules.</p> <p>This is not applicable for the consultant travelling inside Kathmandu Valley.</p>
108.	Section V – Terms of Reference, page 127-128.	Can MCA-Nepal confirm that MCA-Nepal will be responsible for the costs (venue, lodging, travel, etc.) for this additional training (excluding consultant costs) as described in Section H paragraph 3 on page 127 regarding capacity building training, study tours, and exposure visits for ERC staff as well as for Embedded Advisors and other non-key staff?	Please note that Paragraph 3 under H. Facilities to be provided by ERC and responsibility of Consulting Firm under Section V-Terms of Reference (ToR) states “MCA-Nepal will be responsible for arranging the venue and managing the logistics (lodging, food, travel, reproduction of training material and other necessary arrangements for the participants) for the training/workshops; and will bear the cost for these arrangements.
109.	Section V – Terms of Reference, page 125.	Can MCA-Nepal confirm that one set of FIN forms that includes both base and option periods should be submitted?	In both Form FIN-2 and form FIN-3, there are specific spaces to fill the prices for Base and Option periods separately.
110.	GCC 17.1 and Form FIN-1, page 93.	Can MCA-Nepal confirm if VAT for goods and services might be reimbursed, and if so what assistance MCA-Nepal will provide to reclaim taxes paid?	Please refer to Schedule 2.8 of the Compact, read along with Schedule A. This shall be as per section 2.8 of the Compact read along with SCHEDULES under Annex VII. The Consultants are requested to go through the MCC Nepal Compact carefully and understand the

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			<p>different requirements to be eligible for Tax exemptions and refunds under Value Added Tax, Custom Duties, Excise Duties, Corporate Income and Withholding Tax and other taxes mentioned in Schedule VII of the Compact. For the purpose of exemption of customs duties and other taxes at the point of import, the tax exemption letter will be provided by MCA-Nepal for the goods imported for the purposes of the Compact.</p>
111.	Comments on the Terms of Reference Requirements	<p>For faster proposal evaluation and to ensure only the best technically qualified firm is selected, we recommend:</p> <ul style="list-style-type: none"> • MCA-Nepal consider changing the weighting of proposals to T = 90% and F = 10%, where firms must get at least 80 points on Technical to pass. • MCA-Nepal disclose a tight budget band for this RFP so that unreasonably priced low bids are rejected outright. This gives certainty on price and quality, while accelerating contract award. 	This request shall not be accepted.