MILLENNIUM CHALLENGE CORPORATION
UNITED STATES OF AMERICA

ACCOUNTABLE ENTITY PROCUREMENT POLICY & GUIDELINES

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Department of Compact Operations, Policy Owner
Millennium Challenge Corporation
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Washington, DC 20005







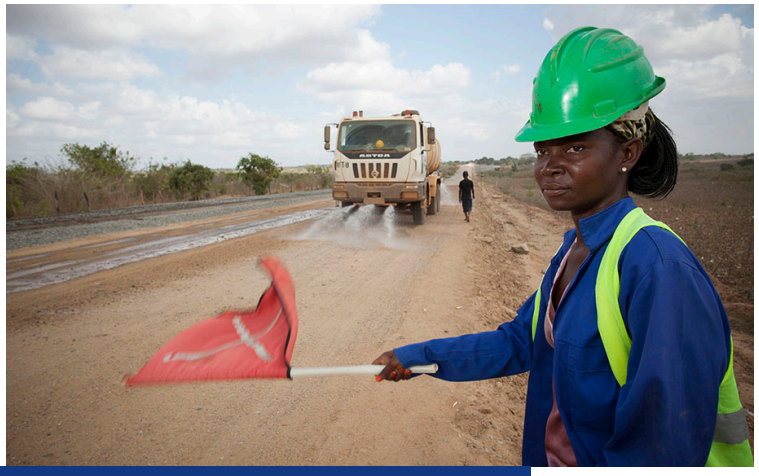



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ACCOUNTABLE ENTITY PROCUREMENT & POLICY GUIDELINES

ACTION:	APPROVER:	DATE:
APPROVAL:	Cameron S. Alford, Vice President Department of Compact Operations	November 5, 2024

PART 1. APPLICABILITY

These Accountable Entity Procurement Policy and Guidelines ("AE PPG" or "PPG") set out the principles, rules, and procedures that govern the conduct and administration of procurement for the goods, works, and consultant and non-consultant services by the Millennium Challenge Account Entity or other predecessor or successor entity ("Accountable Entity") that need to be acquired to implement the projects funded by Millennium Challenge Corporation ("MCC") ("Project" or "Projects") under Millennium Challenge Compacts, grant agreements entered into pursuant to Section 609(g) of the Millennium Challenge Act (Act), and Threshold Program Grant Agreements, funded pursuant to Section 616 of the Act, where such Threshold Program Grant Agreements expressly require the use of this PPG (all three agreements referred to as "MCC Funding Agreement"). This PPG applies to all such procurements unless MCC specifically agrees to the application of alternative procurement procedures or one of the following exceptions applies.

EXCEPTIONS:

1. This PPG does not apply to purchases defined in the MCC Program Procurement Guidance Note: Operational Expenses.
2. This PPG does not apply to grants as defined in and governed by the MCC Program Grants Guidelines ("PGG").

PART 2. AUTHORITIES

STATUTORY AUTHORITY

Section 609(b)(1)(I) of the Millennium Challenge Act of 2003, as amended (Public Law [P.L.] No. 108-199, codified at 22 United States Code [U.S.C.] 7701, et seq.

RELATED MCC POLICIES AND PROCEDURES

a. Cost Principles for Cost-Reimbursement Contracts under MCC-Financed Grants
b. Cost Principles for Government Affiliates
c. MCC Environmental Guidelines and MCC Climate Change Strategy
d. Fiscal Accountability Plan (as adapted by each Accountable Entity)
e. MCC Guidance to Accountable Entities on the Quarterly Disbursement Request Package
f. Policy for Accountable Entities and Implementation Structures
g. Policy on Preventing, Detecting, & Remediating Fraud & Corruption in MCC Operations
h. Policy on Program Closure
i. Interim/Bid Challenge System
j. MCC 2022 Inclusion and Gender Strategy

k. MCC's Counter-Trafficking in Persons Policy

l. Standard Bidding Documents (SBDs)

m. Procurement Handbook

PART 3. EFFECTIVE DATE

This PPG was approved as of November 5, 2024, and is effective as of January 8, 2025. For the avoidance of doubt, this PPG will remain in effect with respect to any successor position or office performing the functions of its predecessor until this PPG is modified, revoked, or superseded. In addition, this PPG supersedes any prior policy, guidance, and/or delegation of authority with respect to the subject matter hereof.

PART 4. MCC PRINCIPLES AND POLICIES FOR PROCURING GOODS, WORKS, AND CONSULTING AND NON-CONSULTING SERVICES

4.1 MCC PROGRAM PROCUREMENT PRINCIPLES

4.1.1 The Accountable Entity is responsible for implementing the Projects and therefore for selecting the contractors, suppliers, consultants[1] and non-consultant[2] service providers, and for awarding and subsequently administering the contracts. While in practice, the specific procurement rules and procedures to be followed in the implementation of a Project depend on the circumstances of the case, the following four principles guide the application and interpretation of this PPG:

a. Open, fair, and competitive procedures must be used in a transparent manner to solicit, award, and administer contracts and to procure goods, works, and services.

b. Solicitations for goods, works, and services must be based upon a clear and accurate description of the goods, works, and services to be acquired.

c. Contracts must be awarded only to qualified and eligible contractors that have the capability and willingness to perform the contracts in accordance with their terms on a cost effective and timely basis.

d. No more than a commercially reasonable price, as determined, for example, by a comparison of price quotations and market prices, shall be paid to procure goods, works, and services.

1 The term "consultants" applies to those providing services of an intellectual and advisory nature and those providing agency services. This includes a wide variety of entities, including consulting firms, engineering firms, construction managers, project and program managers, management firms, Procurement Agents, Fiscal Agents, inspection agents, auditors, investment and merchant banks, universities, research institutions, nongovernmental organizations, and individuals. Consultants and agents may assist in a wide range of activities such as policy advice, institutional reforms, management, engineering services, construction supervision, financial services, procurement services, and social and environmental studies.

2 These providers perform the type of services in which the physical aspects of the activity predominate. Examples include operation and maintenance of facilities or plants, surveys, exploratory drilling, aerial photography, satellite imagery, and services contracted based on performance of measurable physical output. All of these are non-consultant services.

4.1.2 The Accountable Entity shall ensure that all goods, works, consultant and non-consultant services, undertaken in furtherance of the MCC Funding Agreement and funded in whole or in part with MCC funding, either directly or indirectly, are procured in a manner consistent with these MCC Program Procurement Principles.

4.1.3 Open competition is the basis for efficient public procurement. Therefore, in most cases, MCC requires that MCC-funded goods, works, and consulting and non-consulting services be obtained through a competitive process open to eligible contractors, suppliers, and consultant and non-consultant service providers.

4.1.4 Only specific and limited exceptions to open and competitive solicitations are permitted. These exceptions are defined in this PPG and are the only permitted exceptions without a formal waiver of this PPG.

4.2 BEST VALUE FOR MONEY

MCC requires the Accountable Entity to follow the principle of achieving best value for money, which should be based on both price-related and non-price criteria. Non-price criteria, such as quality, sustainability, and efficiency, should be explicitly stated in the solicitation documents to ensure transparency and objectivity in evaluation.

4.3 FIT FOR PURPOSE

MCC requires that the Accountable Entity seeks to procure goods, services, and works that are aligned with the specific objectives of the MCC Funding Agreement. The procurement strategy should be customized to the relevant Project's scope, technical needs, and budget limitations.

4.4 ENVIRONMENTAL POLICY

MCC promotes sustainable development. To that end, MCC allows and encourages the Accountable Entity to consider environmental and social sustainability in the context of procuring goods, works and services.

While no MCC investment may create a significant environmental or social hazard or violate national laws or standards, MCC's approach is not limited to avoiding harm. MCC-funded procurements can promote environmental and social sustainability[3]. The Accountable Entity should consider purchasing goods, works and services that promote environmental and social sustainability whenever possible, even when a lower cost alternative is available. These considerations are guided by the *MCC Environmental Guidelines*, *MCC Climate Strategy*, and the *International Finance Corporation's Environmental and Social Performance Standards*.

3 Examples include developing technical specifications that promote efficient use of energy and other natural resources, reduction of imbedded energy and the emission of greenhouse gases, purchase of materials from sustainable sources (including sources certified under recognized systems), resilience from the impacts of climate change, and inclusive development.

4.5 GENDER AND SOCIAL INCLUSION

MCC recognizes that growth alone may not be sufficient to reduce poverty, and that poverty reduction requires investments to be carefully designed to reach the intended populations. MCC also recognizes that many countries with high levels of gender inequality also experience high levels of poverty and that gender inequality can be a significant constraint to economic growth and poverty reduction. *MCC's Gender and Inclusion Policy*'s overall goal is to routinely and systematically expand opportunities for structurally disadvantaged groups to access, participate in, and benefit from MCC investments. It sets out requirements for MCC and partner country governments to advance gender-equitable inclusive processes and outcomes through all phases of program development and implementation.

MCC-funded procurements play an important role in supporting these commitments, with objectives including (1) development of requirement documents, such as terms of reference and bills of quantity, that achieve the gender and social inclusion (GSI) outcomes needed with allocation of adequate budget; (2) identification and selection of well-qualified entities offering high quality gender and inclusion analytical and operational experience in the appropriate sector(s); (3) motivating offerors to prioritize gender and inclusion in scope and staffing; and (4) compliance with GSI-related contract and grant agreement provisions. MCC and Accountable Entities may consider how outreach and engagement approaches can be leveraged to encourage a more diverse set of participants -- including women-led and women-owned businesses -- to participate in employment and business opportunities through MCC-funded program procurements and related supply chains. MCC's considerations for inclusion and gender equity and equality are further addressed in the solicitation documents.

MCC's gender-related commitments and practices also include risk reduction related to trafficking in persons; sexual exploitation, abuse, and harassment; gender-based violence; and disability-and gender-related impacts of resettlement in the context of MCC programs. MCC's practice is guided by MCC's own policies, including the *MCC Counter-Trafficking in Persons Policy* and *MCC's Guidance Note to MCAs on Sexual Harassment*.

4.6 COUNTER-TRAFFICKING IN PERSONS POLICY

MCC maintains a zero-tolerance policy against Trafficking in Persons ("TIP"), which also applies to MCC partner countries, Accountable Entities, and all MCC and Accountable Entity employees, consultants, contractors, subcontractors, or other agents. MCC's *Counter-Trafficking in Persons Policy* provides a framework to ensure that MCC assistance complies with the Victims of Trafficking and Violence Protection Act of 2000, as amended ("TVPA") and aligns with US Government approaches to counter trafficking in persons.

Trafficking in persons is the crime of using force, fraud and/or coercion to exploit another person. TIP can take the form of bonded labor, debt bondage, domestic servitude, forced labor, sex trafficking, and the use of child soldiers. MCC uses the following definition of severe forms of trafficking in persons from the TVPA:

a. "Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

b. The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."

Further definitions are provided in MCC's *C-TIP Policy*.

MCC and MCC partner countries are responsible for monitoring MCC-funded programs to verify compliance with the C-TIP Policy and the Counter-Trafficking in Persons Minimum Compliance Requirements. The policy reiterates the prohibition against engaging in any form of TIP and specifies the minimum responsibilities of entities and their sub-entities and employees.

4.7 FRAUD AND CORRUPTION

4.7.1 MCC requires that all beneficiaries of MCC funding, including the Accountable Entity and any Offerors, suppliers, contractors, subcontractors, consultants and non-consultant service providers under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts. MCC's *Policy on Preventing, Detecting, and Remediating Fraud and Corruption in MCC Operations* is applicable to all procurements involving MCC funding and can be found on the MCC website. In pursuance of this policy, the following provisions shall apply:

a. For the purposes of these provisions, the terms coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, and prohibited practice have the meaning set forth in MCC's *Policy on Preventing, Detecting, and Remediating Fraud and Corruption in MCC Operations*.

b. The Accountable Entity will reject an Offer (and MCC will deny approval of a proposed contract award) if it determines that the Offeror recommended for award has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for the contract in question.

c. MCC and the Accountable Entity have the right to sanction an Offeror, supplier, contractor, sub-contractor, consultant, sub-consultants or non-consultant service provider, including declaring such party ineligible, either indefinitely or for a stated period of time, to be awarded an MCC-funded contract if at any time either the Accountable Entity or MCC determines that the Offeror, supplier, contractor, subcontractor, consultant, sub-consultant or non-consultant service provider has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in executing, such a contract.

d. MCC and the Accountable Entity have the right to require that an Offeror, supplier, contractor, sub-contractor, consultant, sub-consultant, or non-consultant services provider permit the Accountable Entity, MCC, or any designee of MCC, to inspect its accounts, records, and other documents relating to the submission of an Offer or performance of an MCC-funded contract, and to have them audited by auditors appointed by MCC or the Accountable Entity with the approval of MCC.

e. MCC has the right to cancel any portion or all of the MCC funds allocated to a contract if it determines at any time that representatives of a beneficiary of the MCC funding engaged in coercion,

collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the selection process or the execution of an MCC-funded contract, without the Accountable Entity having taken timely and appropriate action satisfactory to MCC to remedy the situation.

4.7.2 With the specific approval of MCC, the Accountable Entity may introduce into bid or proposal forms for contracts funded by MCC an undertaking of the Offeror to observe, in competing for and executing a contract, the country's laws against fraud and corruption (including bribery), as listed in the solicitation documents. MCC will accept the introduction of such requirements at the request of the Accountable Entity, provided the arrangements governing such requirements are satisfactory to MCC.

4.8 CONFLICT OF INTEREST

4.8.1 Firms and individuals shall not have any conflicts with other assignments and their own corporate interests. Consultants shall provide professional, objective, and impartial advice and always hold the interests of the Accountable Entity paramount, without any consideration for future work. Firms and individuals shall not be hired for any assignment that would conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Accountable Entity. Without limiting the generality of the foregoing, firms or individuals shall not be hired under the circumstances set forth below.

a. Conflict between consultant activities and procurement of goods, works or non-consulting services: A firm or individual that has been engaged by MCC, the Accountable Entity or another donor to provide goods, works, or non-consulting services for a Project (including the firm's personnel, subcontractors, and affiliates), shall be disqualified from competing in a contract to provide consulting services related to those goods, works or non-consulting services. Similarly, a firm or individual hired to provide consulting services for the preparation or implementation of a Project (including the firm's personnel, subcontractors, and affiliates), shall be disqualified from subsequently providing goods, works, or non-consulting services resulting from or directly related to the firm's consulting services for such preparation or implementation except under the circumstances set out in clauses 6.15.1(c) and (d) of this PPG.

b. Conflict among consultant assignments: Neither consultants (including their personnel and sub-consultants) nor any of their affiliates shall be hired for any assignment that, by its nature, may conflict with another assignment of the consultants.

c. Relationships with the Accountable Entity staff: If a firm or individual has been engaged by the Accountable Entity to provide goods, works or services (including the firm's personnel, subcontractors, and affiliates) and are themselves or have a business or family relationship with (i) a member of the Accountable Entity board of directors or staff, (ii) the Accountable Entity staff, or (iii) the Procurement Agent or Fiscal Agent hired by the Accountable Entity in connection with the MCC Funding Agreement, any of whom are directly or indirectly involved in any part of the following: (a) the preparation of the solicitation documents related to the procurement, including the contract; (b) the selection process for such procurement; or (c) the supervision of any contract awarded in the procurement, then this aforementioned firm or individual may not be awarded the contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to

MCC throughout the process of preparing the documents related to the procurement, the selection process, and the award and execution of the contract.

d. The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and each of their personnel, sub-consultants, and affiliates shall not engage in consultancy or other activities that conflict with the interest of the Accountable Entity under the contract. The contract shall include provisions limiting future engagement of the consultant or other services resulting from or directly related to the firm's consulting services.

e. Mitigating conflict of interest and unfair competitive advantage: If a firm or individual has gained an unfair competitive advantage because of its access to information in the context of another assignment, that firm or individual may not be disqualified from participation in subsequent procurement if the unfair competitive advantage can be adequately mitigated. For example, if the Accountable Entity shall make available to all potential participants, together with the solicitation documents, all information that would give a firm or individual an unfair competitive advantage, the Accountable Entity might determine that the disclosure mitigates the conflict of interest. If the Accountable Entity, in consultation with MCC, determines that it is inappropriate or impractical to release information sufficient to cure a potential unfair advantage, the firm or individual with the potentially unfair advantage should be disqualified from participating in the procurement.

4.9 CONFIDENTIALITY

4.9.1 To protect the public's interest in a fair procurement process and the Offeror's interest in protecting commercially sensitive information and intellectual property, the Accountable Entity has a duty to ensure that the confidentiality of information is protected with utmost care throughout the entire lifecycle of the procurement process. Pursuant to this duty, the Accountable Entity should safeguard the premises of the procurement operations from uncontrolled access. There should also be clear guidance on who can access procurement documents; how the documents may be copied; where documents can be viewed and how information contained in procurement documents can be disseminated. The Accountable Entity should also ensure that its governing body, its management and staff, and its contractors have been trained and made aware of the importance of maintaining confidentiality of procurement information, both written and oral.

4.9.2 The Accountable Entity must take particular care to protect confidential information in the context of the evaluation and award process. During this stage, the procurement process is particularly sensitive and especially vulnerable to unauthorized disclosure. Specifically, the information and documents shall be in the control of the Procurement Agent and shall not be disclosed to anyone outside of the evaluation panel except as may be approved by the Accountable Entity Procurement Director in consultation with MCC. Anyone with access to an Offer or any part thereof, or is witness to any discussion of these documents must sign a statement of impartiality and confidentiality[4].

4.9.3 Any attempt by an Offeror to access confidential information, either directly or indirectly, will result in the immediate rejection of its Offer.

4 A template for this agreement is in the *MCC Program Procurement Handbook.*

4.10 INELIGIBLE FIRMS AND INDIVIDUALS

4.10.1 During the evaluation of Offers, the Accountable Entity must perform eligibility verification procedures and collect ultimate beneficiary ownership ("UBO") information – for Accountable Entity program procurements with an estimated value at or above the applicable threshold recorded in Attachment B: PPG Dollar Threshold Matrix. In addition, the Accountable Entity must perform periodic checks of eligibility as required in the Accountable Entity's Fiscal Accountability Plan ("FAP").

4.10.2 Under no circumstance shall the Accountable Entity award a contract prior to verifying the eligibility of a listed firm or individual. Under no circumstance shall the Accountable Entity award a contract prior to verifying the eligibility of the ultimate beneficial owners of a firm that submitted an offer for a procurement with an estimated value at or above the applicable threshold recorded in Attachment B: PPG Dollar Threshold Matrix. Accountable Entities are allowed to use 3rd party tools or systems – authorized by MCC – to verify the eligibility of Offerors.

4.10.3 Firms and individuals shall be disqualified from participation in a procurement for goods, works, and consulting and non-consulting services for MCC-funded Projects, that (i) are suspended or debarred by the World Bank for any reason, during the period of time that the firm or individual is suspended and/or debarred by the World Bank; (ii) are debarred or suspended from participation in procurements funded by the United States Federal Government or otherwise prohibited by applicable United States law or executive order or United States policies, including under any then-existing anti-terrorist policies.

4.10.4 Firms of a country or goods manufactured in a country must be excluded if (i) the country of the Accountable Entity as a matter of law or official regulation and with approval of MCC, prohibits commercial relations with that country; or, (ii) the country of the Accountable Entity prohibits any import of goods from or payments to a particular country, person, or entity in compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

4.10.5 A firm or individual that is disqualified because of a conflict of interest as defined in this PPG in paragraph 4.8.1.

4.10.6 A firm is disqualified from participation in procurement for consulting services, goods and works for MCC-funded Projects if determined to be a Government-Owned Enterprises in accordance with Part 8 of this PPG.

4.10.7 A firm or individual identified as ineligible when conducting the eligibility verification procedures shall be ineligible for award of an MCC-funded contract. This would also disqualify any firm, individual or other entity that is organized in or has its principal place of business or a significant portion of its operations in any country that is subject to sanction or restriction by law or policy of the United States.

4.10.8 Government officials and civil servants are ineligible to participate as individuals or as employees or subcontractor of an Offeror in any procurement unless they: (i) are on leave of absence without pay at the time of the submission of the Offer, and will remain on leave of absence without pay throughout the contract implementation; and (ii) their employment with the Government would not create a conflict of interest in the contract implementation.

4.10.9 A current employee (or an individual employed within the past 12 months) of any Accountable Entity in any country is not eligible to participate, as an employee, consultant, team member, or sub-contractor of an Offeror in a procurement if the individual is or has been responsible for managing or

administering any contract, grant, or other agreement between the Offeror and such Accountable Entity unless the Accountable Entity provided written approval of the engagement of the individual prior to the Offeror's submission. The Offeror must receive approval prior to the submission of the Offer, and submit the prior approval along with their Offer. This clause does not apply to employees of any Accountable Entity that has legally ceased to exist for more than three months.

4.10.10 An Offer that includes an ineligible individual may be rejected at the discretion of the Accountable Entity.

4.11 ADVANCE CONTRACTING AND RETROACTIVE FINANCING

4.11.1 An Accountable Entity may initiate a procurement process before signing, or entry into force, of the MCC Funding Agreement that will fund procurements as long as the Accountable Entity does not sign the contract. This is called Advance Contracting. The Accountable Entity undertakes Advance Contracting at its own risk, and any concurrence by MCC with the procedures, documentation, or proposal for award does not commit MCC to fund the contract in question if MCC finds that the procurement process was not conducted in accordance with this PPG.

4.11.2 MCC will not entertain any request for payment or request for reimbursement for any payments made under a contract signed prior to the signing and entry into force of the applicable MCC Funding Agreement. Such payments or reimbursements are referred to as Retroactive Financing, which is strictly prohibited.

4.12 MCC REVIEW

To ensure that the Accountable Entity adheres to the MCC Program Procurement Principles and follows the policies and procedures set out in this PPG, MCC has the right to review the Accountable Entity's administration and management of all procurements, from procurement planning to contract award and administration. Moreover, the Accountable Entity must request and obtain MCC prior approval for specific actions and decisions, which are set forth in this PPG and in *Attachment A, PPG Approval Matrix*, and *Attachment C, PPG Other Requirements Matrix*.

Approvals from MCC and, depending upon the terms of the Accountable Entity's governing document, the Accountable Entity's Governing Body will be required for any modifications to Material Agreements as noted under the specific MCC Funding Agreement. Material Agreements typically include Fiscal and Procurement Agent Agreements, Banking Services Agreement and the Auditor's contract.

4.13 MIS-PROCUREMENT

MCC may declare a mis-procurement for goods, works, or consultant or non-consultant services that have not been procured in accordance with the agreed provisions as detailed in the MCC Funding Agreement and this PPG. A mis-procurement is usually declared before contract award; however, MCC may declare a mis-procurement after contract award, even if it was awarded with MCC approval, if MCC concludes that its approval was issued based on incomplete, inaccurate, or misleading information furnished by the Accountable Entity or that the terms and conditions of the contract were modified without MCC approval.

If MCC declares a mis-procurement, it may cancel disbursement of the MCC funds that were allocated to the contract that was mis-procured unless corrective measures satisfactory to MCC are taken. MCC may, in addition, exercise other remedies as provided in the MCC Funding Agreement.

4.14 MARGIN OF PREFERENCE

In all procurement actions, without exception, the Accountable Entity is prohibited from applying preferences of any type or form including a margin of preference for domestic entities or entities from any other nation.

4.15 CONTRACTING WITH MULTILATERAL ORGANIZATIONS AND OTHER PUBLIC SECTOR ORGANIZATIONS

MCC may consider special arrangements for contracting with any multilateral organization including an entity of the United Nations Organization, The World Bank Group, or other multilateral or public sector organization.

4.16 AMENDMENTS AND WAIVERS OF THIS PPG

4.16.1 The body of this PPG may be modified or amended at any time in writing with the written approval of the Vice President for the Department of Compact Operations (following clearance by MCC's Office of General Counsel) if the modification or amendment is limited to a procedural change and is not a change that would be inconsistent with legislation, delegation of authority or binding policy.

4.16.2 The Attachments to this PPG may be updated from time to time with the written approval of the Vice President for the Department of Compact Operations.

4.16.3 Any and all modifications and amendments to the PPG will be announced in a notice posted on MCC's website and will take effect on the date specified in the notice.

4.16.4 At the request of an Accountable Entity, MCC may grant a waiver of specific provision or provisions of this PPG in exceptional circumstances applicable to a specific procurement or procurements. Each waiver shall be in writing and shall be applicable only to the extent specifically set forth in the waiver. A waiver does not permanently change this PPG, but rather serves as a one-time exception granted to support one or more procurements; it applies only to the specific Accountable Entity requesting the waiver[5].

4.16.5 The following documents are associated with this policy:

- Procurement Handbook
- Standard Bidding Documents (SBDs)
- Bid Challenge System (BCS)

5 Procedures for requesting a waiver are set out in the *MCC Program Procurement Handbook*.

The Procurement Handbook may be amended at any time with the approval of MCC's Practice Lead Senior Director for Program Acquisitions and Assistance following consultation with other relevant stakeholders as appropriate.

The SBDs may be amended at any time with the approval of MCC's Practice Lead Senior Director for Program Acquisitions and Assistance with prior clearance from MCC's Office of General Counsel and prior review of other relevant stakeholders.

The BCS may be amended at any time with the approval of MCC's Practice Lead Senior Director for Program Acquisitions and Assistance with prior clearance from MCC's Office of General Counsel

PART 5. GENERAL REQUIREMENTS AND CONDITIONS

5.1 ACCOUNTABLE ENTITY PROCUREMENT OPERATIONS MANUAL AND MCC PROGRAM PROCUREMENT HANDBOOK

5.1.1 The following two documents are not policy documents, instead they are part of the implementation framework that instructs the Accountable Entity on how to apply procurement procedures in a manner consistent with this PPG.

5.1.2 Accountable Entity Procurement Operations Manual ("POM"): The Accountable Entity will establish a Procurement Operations Manual (POM)[6] and commit to the operational procedures it adopts in the POM. The POM provides guidance and procedures for implementing this PPG within the Accountable Entity and identifies the activities to be performed or initiated by each responsible party in the Accountable Entity procurement system. If there is a conflict between the POM and the PPG, the PPG takes precedence.

5.1.3 MCC Program Procurement Handbook ("Handbook"): The MCC Program Procurement Handbook provides guidance to assist Accountable Entities in implementing this PPG. If there is a conflict between the Handbook and the PPG, the PPG takes precedence.

5.2 PROCUREMENT & GRANTS PLAN PACKAGE ("PGPP")

5.2.1 The Accountable Entity is required to prepare a Procurement & Grants Plan Package ("PGPP"), which shall be approved by MCC. No procurement action can be initiated by the Accountable Entity unless the procurement line item is approved within the PGPP, including procurements through Direct Contracting and Sole Source Selection processes. The PGPP should be based on project work plans and must list all planned procurements and identify the planned procurement methodology and the estimated value for each procurement. The Accountable Entity must forecast in its PGPP the procurements for at least twelve (12) months ahead and must update its PGPP at least quarterly. The PGPP may be amended more frequently, if needed, to meet the emerging requirements of the Accountable Entity. The PGPP, its quarterly updates, and any amendments, require approval as set out in *Attachment A, PPG Approval Matrix*. New procurements added to the PGPP by update or amendment below the thresholds set out in *Attachment A, PPG Approval Matrix* and the *Material Changes* section of *Attachment B, PPG Dollar Threshold Matrix* are within the approval authority of the Accountable Entity Procurement Director and

6 A template for developing a *Procurement Operations Manual* is in the *MCC Program Procurement Handbook*.

are approved upon submission to MCC of the update or amendment in which they are included. The addition of procurements with estimated values above the thresholds set out in *Attachment A, PPG Approval Matrix* and the *Material Changes* section of *Attachment B, PPG Dollar Threshold Matrix* require approval of the procurement line item or the PGPP update or amendment in which they are added prior to commencement of the procurement. In the case of certain material changes to procurements already approved in the PGPP ("Material Changes"[7]), prior approval may be required as set out in the *Material Changes* section of *Attachment B, PPG Dollar Threshold Matrix*.

5.2.2 The Accountable Entity should conduct market research and analysis to ensure that the procurement strategy is consistent with the market realities. If additional information is needed and the procurement is particularly unique or complex, the Accountable Entity may seek feedback from the market by issuing a Request for Information ("RFI").

5.2.3 The Accountable Entity shall develop a Procurement Implementation Plan ("PIP") for procurements approved in the PGPP. The PIP shall identify milestones and timelines for conducting the procurement from the date of inviting Offers to the date of signing the contract[8].

5.3 LANGUAGE

5.3.1 All procurement related notices and documents must be in English unless the use of French or Spanish has been agreed to by MCC. The English language (or French or Spanish, if authorized by MCC) shall govern contractual relations between the Accountable Entity and its contractors, suppliers, and consultants and non-consultant service providers unless the following exception applies.

5.3.2 Procurement related notices, documents[9], and contracts for low-value[10] procurements may be published and issued in the local language, as well as in English, at the discretion of the Accountable Entity. Notices for procurements that are expected to attract foreign participants must be published in English, or French or Spanish if authorized as above. If a foreign participant is awarded a contract, the documents and the contract also must be in English, or in French or Spanish if authorized by MCC.

5.3.3 When published or issued in any language other than English, French or Spanish, there must be an English language version. The English language version will prevail in the event of discrepancies between the English version and the local language version. If the contract is prepared in two or more languages, the English version will govern.

5.4 CURRENCY

5.4.1 Allowable Currencies for Offers

a. The Accountable Entity may allow the Offeror to submit Offers using United States dollars (USD), the local currency of the country of the Accountable Entity, or, if justified by sound business reasons, a combination of these two. No other currency or combinations of currencies are allowed.

7 Material Changes are defined in a special section of *Attachment B, PPG Dollar Threshold Matrix*.

8 Procurement implementation is tracked in the PGPP, see section 7.4 of this PPG.

9 These notices and documents include, but are not limited to, advertisements, the solicitation documents, the documents responding to solicitations (including bids and proposals), the notices of contract award and the contract documents.

10 Dollar Thresholds for low-value procurements are defined in *Attachment B, PPG Dollar Threshold Matrix*.

b. Solicitation documents shall state the currency or currencies with which Offerors must state their prices. Offerors must comply with the currency restrictions as set out in the solicitation documents. Any Offer that deviates from the currency requirement as stated in the solicitation documents may be rejected at the discretion of the Accountable Entity.

5.4.2 Currency Conversion for Evaluation of Offers

If the solicitation documents permit Offers in more than one currency, the Offers must be converted to a single currency to make a fair comparison of prices. The currency to be used for evaluation is at the discretion of the Accountable Entity but must be stated in the solicitation documents along with the method for conversion. The Accountable Entity must specify that it will make the conversion by using the selling (exchange) rates for those currencies quoted by an official source[11] for similar transactions on a date specified in the solicitation documents. The Accountable Entity may choose the source and date it specifies, provided that the date shall not be earlier than four (4) weeks prior to the deadline for the receipt of Offers.

5.4.3 Allowable Currencies for Contract Denomination and Payment

a. Contract Denomination: In solicitation documents, the Accountable Entity may state that contracts can be denominated either in USD, the local currency of the country of the Accountable Entity, or, if justified for sound business reasons, a combination of the two. No other currencies are permitted.

b. Contract Payment: Payments will be made in the currency denominated in the solicitation documents. The solicitation document can provide that the contracts can be payable either in USD, the local currency of the country of the Accountable Entity, or, if justified for sound business reasons, a combination of the two. If the solicitation documents permit the combination of two currencies, then the contract must require the payment in the same proportion that was proposed in the Offer by the Offeror. However, the Accountable Entity may not require in the solicitation documents foreign contractors, suppliers, or consultants and non-consultant service providers to be paid in the local currency of the country of the Accountable Entity.

c. In all cases where the currency denominated in the Offers and then listed in the contract payment schedule differs from the currency for payment, a specific exchange rate and conversion methodology must be fixed in the terms of the contract as of the date of contract signing.

5.5 NOTIFICATION AND ADVERTISING

The MCC Program Procurement Principles demand transparency, especially in the solicitation, award, and administration of contracts. Accordingly, the Accountable Entity must give timely, complete, and clear notice of procurement opportunities and requirements. While the Accountable Entity should reach into the marketplace and actively seek to make potential participants aware of procurement opportunities, at a minimum, it must comply with the following notice and advertising requirements.

11 For example: The Central Bank of the country of the Accountable Entity or the OANDA website: *http://www.oanda.com/convert/classic*) or by a commercial bank or by an internationally circulated financial newspaper.

5.5.1 General Procurement Notice ("GPN")

The GPN is based upon the PGPP but when publishing the GPN, the Accountable Entity may provide the total estimated value of the entire PGPP, instead of providing the estimated value for each procurement as set out in the PGPP. The GPN is intended to inform potential Offerors of planned procurements so that they might begin to prepare and be ready to respond when invitations to submit Offers are issued. The Accountable Entity shall publish the GPN quarterly, and promptly whenever updated, at the following locations and in compliance with the language requirements at section 5.3 of this PPG: (i) Accountable Entity's website that was approved by MCC; (ii) any one or more of the following sites: *http://www.dgmarket.com/*, or *www.developmentaid.org*; (iii) a newspaper or a website of wide usage in the country of the Accountable Entity; and, (iv) in such other media outlets as appropriate or as may be requested by MCC. In addition, MCC may post such notices on *https://sam.gov/* and/or any other United States government publication.

5.5.2 Specific Procurement Notices ("SPN")

The Accountable Entity shall issue an SPN when inviting Offers. SPN is also issued if the Accountable Entity is inviting Offerors to pre-qualify, including shortlisting procedures. Except for low-value procurements[12] that are not expected to attract foreign participants, the Accountable Entity shall publish the SPN at the same locations where the GPN was published. In addition, MCC may post such notices on *https://sam.gov/* and/or any other United States government publication. The Accountable Entity is also encouraged to post notices with national and local print and broadcast media. In addition, the Accountable Entity shall also send the published SPNs to the local United States Embassy for wider distribution.

For procurements exempt from these requirements, the Accountable Entity shall publish the notice in local, regional, and/or international media at its discretion. To promote fairness, the Accountable Entity shall use its best efforts to publish notices at all locations simultaneously. Moreover, the Accountable Entity must publish an SPN in sufficient time to enable prospective participants to obtain the solicitation documents, and prepare and submit their responses, taking into consideration the estimated value of the contract.

5.5.3 Publication of Award of Contracts

To promote transparency, the Accountable Entity shall publish notice of contract awards. A notice must be published at least monthly on the Accountable Entity website. On the Accountable Entity's website, contracts signed within the last 30 days must be listed, including contracts awarded by Limited Bidding, Direct Contracting, and Sole Source Selection procedures. For each contract, the Accountable Entity shall identify and describe the procurement, and disclose the name of the winning Offeror, the base price, the base period, and the duration and price of the option periods, if fixed in the contract. If the option periods and price are not fixed, then the fact that the contract has option periods in addition to the base period should be noted. The notice may be in a table format or other format at the discretion of the Accountable Entity. The language of the notices shall follow the language requirements of this PPG.

12 Dollar Thresholds are defined in *Attachment B, PPG Dollar Threshold Matrix.*

5.6 SOLICITATION DOCUMENTS: GENERAL REQUIREMENTS

5.6.1 The Accountable Entity shall use the appropriate MCC Standard Bidding Document[13] ("SBD") when inviting Offers. If none of the MCC SBDs are appropriate to meet specific circumstances of a particular procurement, the Accountable Entity may use other solicitation documents with approval from MCC. Instructions for converting an SBD into solicitation documents for a specific procurement are set out within the text of each SBD. Certain sections of the SBDs cannot not be modified without a written approval of MCC as specified in *Attachment A, PPG Approval Matrix.* However, each SBD provides variable sections to insert project specific requirements, conditions, and terms. These sections must be completed before issuing the solicitation documents.

5.6.2 To promote competition, transparency, and fairness, the solicitation documents shall furnish all information necessary for a prospective participant to establish its qualifications; to prepare a responsive Offer; to understand the procedures, rules, evaluation and award procedures; and, to understand the terms and conditions of the anticipated contract. The procedures, requirements, terms and conditions must not only permit broad international competition but should encourage it.

5.6.3 The Accountable Entity is not permitted to charge a fee for solicitation documents.

5.6.4 The Accountable Entity shall use an electronic system to distribute solicitation documents, which must be secure to avoid modifications to the documents and shall not unfairly restrict the access of potential Offerors to the documents.

5.6.5 Before beginning the procurement process, the Accountable Entity must obtain MCC approval as specified in *Attachment A, PPG Approval Matrix* of the procurement package stating the description of requirements, for example the Terms of Reference ("TOR") or specifications.

5.7 SOLICITATION DOCUMENTS: DESCRIPTION OF REQUIREMENTS

5.7.1 Standards and Technical Specifications

Standards and technical specifications are used to define requirements for procuring goods, works, or non-consulting services in solicitation documents. The Accountable Entity shall use standards and technical specifications that promote the broadest possible competition, while assuring critical performance, and not use these to unnecessarily restrict competition or discriminate. The Accountable Entity shall specify internationally accepted standards, with which the equipment or materials or workmanship shall comply. References to specific standards, developers, or catalogue numbers should be avoided. Moreover, standards should not be based on location of the standards, their developer, or the status of a standard within a non-governmental or inter-governmental standard developing body. When such references are unavoidable, specifications should not preclude acceptance of international standards which promise equivalent performance. Where such international standards are unavailable or inappropriate, national standards may be specified. In all cases, the solicitation documents shall state that equipment, material, or workmanship meeting the industry standards, which substantially demonstrate similar or better performance, will also be accepted.

13 *MCC SBDs* are posted at mcc.gov. MCC adds new documents and updates existing documents periodically.

5.7.2 Describing Requirements for Procuring Non-Consulting Services, Works, and Goods

The Accountable Entity should include: (i) clear and precise description of the work to be carried out; (ii) the location of the work; (iii) the goods to be supplied; (iv) the place of delivery or installation of the goods, (v) the schedule for delivery of goods or completion of works; (vi) minimum performance requirements; (vii) warranty and maintenance requirements; and, (viii) the description of the tests, standards and methods that will be employed to determine the conformity of goods delivered or the works performed with the requirements.

If drawings are used in the description of requirements, these must be consistent with the text of the specifications and an order of precedence between the two shall be specified. The Accountable Entity is encouraged to publish an estimated budget for goods, works, and non-consulting services (which include information technology services), when this information would enhance the description of the requirements.

5.7.3 Describing Requirements for Procuring Consultant Services

The Accountable Entity should include: (i) the scope and tasks of services to be delivered; (ii) the performance standards for services and deliverables; (iii) the schedule of deliverables; and (iv) the location of performance. The Accountable Entity is required to publish the estimated budget for consulting services unless MCC has approved a specific exception.

5.7.4 Use of Brand Names in Procuring Goods, Works, and Non-Consulting Services

Specifications shall be based on relevant characteristics and/or performance requirements. References to brand names, catalogue numbers, or similar classifications shall be avoided. If it is necessary to quote a brand name or catalogue number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equivalent" shall be added after such reference. The specification shall permit the acceptance of Offers for goods that have similar characteristics and that provide performance at least substantially equivalent to those specified.

5.7.5 Terms of Reference ("TOR") for Procuring Consulting Services

The TOR describes the requirements for the consultant services to be procured. The Accountable Entity shall ensure that TORs are well-prepared and provide a clear, complete, detailed, and unambiguous statement of requirements in the form of design or performance standards or a combination of both. The TOR should also clearly define the respective responsibilities of the Accountable Entity, the implementing entity (if relevant), and the Offeror. Additionally, the Accountable Entity shall ensure that the requirements for the services are consistent with the estimated budget as set forth in the solicitation documents.

5.7.6 Performance-Based Requirements

The Accountable Entity may state its requirements in terms of performance. Performance specifications may be used in procurements for goods, works, and consulting and non-consulting services in a wide

range of circumstances from large and complex procurements from the construction and operation of thermal power plants to small value procurements like janitorial services.

Performance specifications describe requirements in terms of the required results with criteria for verifying compliance but without stating the methods for achieving the required results. A performance specification will define the functional requirements, the operating environment and, in the context of services, the standard of acceptable performance. When expressing requirements in terms of performance, the Accountable Entity should not use design specifications except as it relates to physical or operational interface[14]. The Offeror must be free to propose its most appropriate solution or approach to achieve the performance standards specified. Performance specifications are usually tied to an output or outcome-based payment schedule. Payment is made in accordance with the acceptance of the performance.

5.7.7 Over-Specification

The Accountable Entity must avoid over-specifying its requirements. Over-specification occurs when the description of requirements exceeds the minimum standards necessary to accomplish the procurement objective. Unessential frills and unnecessary features must be avoided. This restriction applies to overstating consultant and non-consultant service requirements as well as in procurements for works and goods.

Meeting the minimum standards necessary does not mean requirements of the lowest possible quality but rather requirements that meet the minimum design, functional, and/or performance characteristics required to complete the intended objective of the procurement in an effective and efficient manner. The consequences of over-specification can be significant. Over-specification usually leads to unnecessary increases in cost which is a waste of MCC funds and could restrict competition.

5.7.8 Lots

The Accountable Entity may entertain Offers for discrete portions of its entire requirements, but this must be fully explained in the solicitation documents.

a. The description of requirements must be defined in distinct bundles/lots.

b. Qualification requirements must be defined for each bundle/lot.

c. There must be clear instructions for submitting an Offer for each bundle/lot.

d. The criteria and method for evaluating each bundle/lot must be explained.

e. Any restrictions on submitting Offers for more than one lot must be explained.

Defining Lots might be particularly useful: (i) to increase competition when there is concern that there might be few participants qualified to perform the entire requirement; and, (ii) to accelerate performance by dividing the contract among several contractors.

14 For example: Performance specifications for a car could specify that the car must use diesel fuel, but it cannot specify the design or material of the engine.

5.7.9 Options

The Accountable Entity may include option periods in its description of requirements. An option means a unilateral right in a contract by which, for a specified period of time, the Accountable Entity may elect to purchase additional works, goods or services called for by the contract, or it may elect to extend the term of the contract ("Option"). The additional services are pre-agreed tasks related to the original scope of work, and the term is the period of performance for the same tasks or a combination of both. Options bind the Offeror to accept the tasks if the Option is exercised by the Accountable Entity but do not bind the Accountable Entity to exercise the Option. A priced Option which was evaluated as a basis of award may be exercised without further justification even if the price differs from the amount evaluated as the basis of award. However, if the price of the Option substantially differs from the evaluated price of the Option, MCC approval is required and MCC may require justification as a Direct Contract or Sole Source Selection before it can be exercised. An unpriced Option which was not evaluated and not considered in the award decision requires justification as a Direct Contract or Sole Source Selection before it can be exercised.

5.8 SOLICITATION DOCUMENTS: QUALIFICATION REQUIREMENTS

The MCC Program Procurement Principles require that procurement contracts be awarded only to qualified, willing, and capable Offerors. The Accountable Entity must define in the solicitation documents the requirements an Offeror must satisfy to demonstrate that it is qualified. These qualification requirements are in addition to the eligibility requirements that trigger immediate rejection of ineligible Offerors. These qualification requirements focus on the legal, financial, and technical qualifications of the Offeror and not on the quality of its Offer.

The qualification requirements may be stated in absolute or general terms as appropriate for the circumstances of the procurement. Because these requirements focus on the Offeror and not on the substance of the Offer itself, the Accountable Entity may request and receive, after the submission deadline, additional documents as evidence to demonstrate qualifications as long as it relates to the status of that Offeror as required in the solicitation documents. The solicitation documents must also inform the Offerors that the Accountable Entity reserves the right to request additional information or request an update of the information before signing a contract to ensure that the proposed successful Offeror continues to have the qualifications to effectively carry out the contract.

5.9 SOLICITATION DOCUMENTS: EVALUATION CRITERIA

In order to create transparency and fairness in the process, the Accountable Entity should identify in the solicitation documents the evaluation criteria, including purchase price, price-related and non-price related factors, and explain how these criteria will be applied in the evaluation of the Offers. These criteria are the factors of competition between Offerors and the basis for determining the winner. If the Accountable Entity fails to make the evaluation criteria and process clear in solicitation documents or fails to strictly follow the evaluation process as described, MCC may call this procurement a mis-procurement. In defining the evaluation criteria and their relative importance, the Accountable Entity should consider the following principles:

a. The evaluation criteria informs Offerors of the significance and degree of importance that the Accountable Entity places on certain aspects or features of the procurement. For every criterion not related to price, the Accountable Entity must be willing to pay more for an Offer that ranks better in that criterion.

b. The Accountable Entity should not be paying more for non-price related factors if there is no added value. This is particularly significant if the description of requirements is so specific that the only real difference among responsive Offers would be price.

c. The Accountable Entity is encouraged to consider evaluating price-related criteria in addition to the purchase price[15].

5.10 SOLICITATION DOCUMENTS: PAYMENT REQUIREMENTS

5.10.1 Terms and Methods of Payment

The Accountable Entity must specify the terms and methods of payment in the solicitation documents. The terms of payment should not be used as an evaluation criterion.

5.10.1.1.Progress Payments: In general, the payment terms shall be in accordance with the international commercial practices applicable to the specific works, goods, or consultant or non-consultant services. Notwithstanding this general principle, progress payments are the preferred form of payment for MCC-funded contracts for works, and consulting and non-consultant services while full payment upon delivery and inspection is preferred when procuring goods. Progress payments are multiple payments, each payable upon acceptable partial performance of the contract. Progress payments are not a method of contract financing but rather payments for partial performance that provide contractors, suppliers, and consultant and non-consultant service providers with needed liquidity to perform the contract.

5.10.1.2.Progress Payments for Works: In appropriate cases, contracts for works may provide for partial payments for work done in furtherance of contract performance. The payment schedule shall be related to the estimated value of performance as specified in the solicitation documents. Amounts and timing of other payments to be made, such as for materials delivered to the site for later incorporation in the works, may also be specified. The Accountable Entity shall retain a reasonable amount to be released upon full performance of the contractor's obligations under the contract.

5.10.1.3.Progress Payments for Goods: For goods, full payment upon delivery and inspection is preferred; however, a schedule of partial payments is permitted if the contract for goods includes installation, commissioning, and testing associated services. In major contracts for goods and plants, provision may be made for partial payments for work done and, in contracts of long duration, for partial payments during the period of manufacture or assembly.

5.10.1.4.Progress Payments for Consulting Services: Whenever appropriate, the contract payment schedule and deliverables schedule should be aligned to provide for payment for deliverables as soon as accepted. During the early stages of contract performance, payments may be scheduled for deliverables of such

15 For example, when developing evaluation criteria for purchasing goods and equipment, the Accountable Entity might consider the economic benefit of delivery time, operating costs, efficiency and compatibility of the equipment, availability of service, spare parts and related training, safety, and environmental benefits.

tasks or items of service as (i) a work plan or inception report, (ii) achievement of defined milestones, such as orders placed or staff mobilized, (iii) establishment of an office, and (iv) deposits on goods or services required for contract performance. Once the consultant has mobilized, the payments should be tied to performance of the scheduled services, accomplishment of defined milestones, or other quantifiable measures of performance or results.

5.10.1.5.Progress Payments for Costs Incurred: A payment schedule tied to costs incurred is appropriate only in the case of cost-reimbursement type of contracts. Progress payments based on costs would be based on the documentation supporting the costs incurred by the contractor, supplier or consultant or non-consultant service provider as performance progresses under the contract. When progress payments are based on costs, the Accountable Entity must ensure that all costs under such contracts are allowable and appropriately recorded and justified in accordance with the relevant MCC Cost Principles.

5.10.2 Advance Payments

The Accountable Entity must specify in the solicitation documents (i) if an advance payment could be made, (ii) the maximum amount of an advanced payment (usually stated as a percentage of contract value), (iii) the form of security required, and (iv) the manner in which an advance payment will be liquidated.

5.10.2.1.Definition: Advance payments are advances of funds to an Offeror before, in anticipation of, and for the purpose of supporting performance under the contract. Advance payments in all cases must be supported by an advance payment guarantee. MCC approval below will require evidence of exceptional circumstances.

a. Advance payments of up to 15% are allowed for goods, works, and non-consulting services (which include information technology services) contracts that are supported by an advance payment guarantee by the contractor. Advance payment in excess of this limit must be approved by MCC.

b. Advance payments are discouraged for consultant services; however, the Accountable Entity may allow advance payment for consulting services for up to 10% of the base period contract value, if MCC has approved an advance payment per *Attachment C, PPG Other Requirements Matrix*. Advance payments above this limit are not permitted.

5.10.2.2.Liquidation: The solicitation documents must specify the manner in which such advance payment will be liquidated against future invoice payments. Generally, advance payments are liquidated from payments made to the contractor during performance of the contract, usually by deducting a percentage from each invoice of the contractor as specified in the solicitation documents.

5.10.2.3.Advance Payment Guarantee: An advance payment security is required in all cases unless MCC issues a waiver of this PPG. This guarantee shall be provided in an appropriate form and amount, as specified by the Accountable Entity in the solicitation documents and shall be valid until the advance payment has been fully recovered.

5.10.2.4.Payments as subscriptions for the use of productivity application software for word and spreadsheet processing, cloud storage, eligibility checks, electronic signatures, video conferencing, etc. shall

not be considered advance payments, regardless of the payment mode (online, electronic, funds transfer, checks, etc.) utilized.

5.10.3 Price Adjustment:

In general, price adjustment provisions are usually not necessary in simple, short-term contracts of any kind but may be allowed in complex, multi-year contracts for goods, construction, non-consulting (which include information technology) services with MCC prior approval. If the contract will provide for price adjustment, the terms and method of price adjustment should be defined in the solicitation documents.

a. Clauses may provide for price adjustment, (upward and/or downward). In general, the adjustment clause will apply only to major cost components of a contract, such as labor, equipment, materials, and fuel.

b. Price Adjustment Method: The price adjustment clause in the solicitation documents must define the method to be used for adjusting prices. In general, there are two methods: using a prescribed formula or actual cost. The formula method breaks down the total price into components that are adjusted by price indices specified for each component. The use of the formula method of price adjustment is preferred. The formula and the base date for application reference must be defined in the solicitation documents. If the payment currency is different from the source of the input and corresponding index, a correction factor shall be applied in the formula, to avoid incorrect adjustment.

5.11 SOLICITATION DOCUMENTS: BID AND PERFORMANCE SECURITY, PROFESSIONAL LIABILITY INSURANCE

The Accountable Entity must define the type and terms of insurance and security to be provided and restrictions on sources, if any. In defining the insurance and security requirements, the Accountable Entity should adhere to the following guidelines.

5.11.1 Bid Security and Validity of Offers

The Accountable Entity may request bid security for procurements for works, goods, and non-consultant services. In certain circumstances, MCC requires the Accountable Entity to request a bid security, and this is set out in the solicitation documents. Bid security is not requested for consultant services.

5.11.2 Description of Bid Security Requirements and Conditions

A requirement for bid security must be requested in the solicitation documents. When describing the bid security requirements, the description must specify the amount in a stated sum or in a percentage of the offered price and the term of the security. The term must provide sufficient time beyond the validity period of the Offers to provide reasonable time for the Accountable Entity to act if the security is to be claimed. Every bid security must be issued by a reputable bank or financial institution selected by the Offeror. Acceptable forms of bid securities are demand guarantees and standby letters of credit. Bonds are not acceptable forms of securities. If the institution issuing the security is located outside the country

of the Accountable Entity, the institution shall have a corresponding financial institution located in the country of the Accountable Entity unless MCC approves an exception.

The bid security form in the solicitation documents must identify the circumstances for the Accountable Entity cashing in or returning the security. The Accountable Entity will claim the security: (i) when an Offeror withdraws its Offer during the period of bid validity, (ii) when an Offeror does not accept certain corrections to its Offer, or (iii) when an otherwise successful Offeror fails to sign the contract or to provide the performance security within the time specified. The Accountable Entity will release the security to unsuccessful Offerors once a procurement contract has been signed with the winning Offeror.

5.11.2.1.Bid Validity Period: The Accountable Entity must set a period of time during which the Offeror will be held bound by its Offer. This is referred to as the bid validity period. The period must be sufficient to enable the Accountable Entity to complete the evaluation of Offers, review the recommendation of award, and obtain all the necessary approvals, so that the contract can be awarded within the validity period. The Accountable Entity must also describe in the solicitation documents any special conditions for extension of the bid validity period.

5.11.2.2.Rejection of Offer: Any Offer that fails to comply with the requirements for bid security as described in the solicitation documents may be rejected.

5.11.2.3.Offer Validity Period: In procurements for consultant services, the Accountable Entity must state in the solicitation documents the period of time that the Offeror will be considered bound by its Offer and also must make clear that any changes in the proposed individual personnel to be evaluated as a basis of award during the validity period may be reason to reject the Offer. In a two-step procurement process, the proposal validity period may begin with the submission of the technical Offer or begin with the submission of the financial Offer. This is at the discretion of the Accountable Entity but must be stated clearly in the solicitation documents. However, if the quality of individual personnel is a significant factor in the evaluation process, the Accountable Entity should state that the proposal validity period begins with submission of the technical Offer. The Accountable Entity must also describe in the solicitation documents any special conditions for extension of the proposal validity period.

5.11.3 Shipment of Goods

The Accountable Entity should specify the International Commercial Terms ("INCOTERMS") are terms for shipment of goods in the solicitation documents.

5.11.4 Performance Security

The Accountable Entity must define performance security requirements in the solicitation documents.

5.11.4.1.Works Procurements: Performance security shall be required in all procurements for works. It must be set at an amount sufficient to protect the Accountable Entity in case of breach of contract by the contractor. The amount of performance security must be no less than 10% of the contract value, unless MCC approves otherwise. If a performance security is provided by a foreign institution, that institution

must have a correspondent financial institution located in the country of the Accountable Entity unless MCC has agreed to an exception to this requirement.

5.11.4.2.Goods Procurements: Performance security is not required when procuring goods but can be required if the procurement involves installation and commissioning. Goods must be covered by a warranty for the period specified in the solicitation documents.

5.11.4.3.Consulting Services Procurement: The Accountable Entity must not request performance security when procuring consulting services.

5.11.5 Professional Liability Insurance

The Accountable Entity must define professional liability insurance requirements in the solicitation documents, which should not be less than 100% of the contract value. In procurements for consultant services, the consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. While the amount of insurance will depend on each specific case, any limitation of liability (i) shall be subject to applicable law; (ii) cannot limit the consultant's liability for gross negligence or willful misconduct; (iii) cannot be less than the total value of the contract; and (iv) can apply only to the consultant's liability toward the Accountable Entity and cannot limit the consultant's liability toward third parties. All such requirements including the amounts will be listed in the solicitation documents.

5.11.5.1.The Accountable Entity may require professional liability insurance from a design-build contractor for the design part of the contract.

5.11.5.2.The Accountable Entity may consider adding other insurance requirements in the solicitation documents if required by local law.

5.12 SOLICITATION DOCUMENTS: JOINT VENTURES AND ASSOCIATIONS

5.12.1 The Accountable Entity must make clear that entities may participate in procurements independently, in association with other entities or as a joint venture and that all entities participating in an association or in a joint venture will be held jointly and severally liable unless exceptions are specifically stated in the solicitation documents. If participating as an association or as a joint venture, all entities in the association or joint venture form the contractor, supplier, or consultant or non-consultant service provider whether or not the association or joint venture has a legal status distinct from its members.

5.12.2 The Accountable Entity may not require mandatory joint ventures or other forms of mandatory association between firms as a condition of participating in procurement. Accordingly, the Accountable Entity cannot require a foreign entity to associate with a local entity.

5.12.3 Consultants may associate with each other in the form of a joint venture or an association arrangement or may include sub-contracting arrangements unless specifically prohibited in the solicitation documents. In the evaluation of proposals, these arrangements will be evaluated as described in the solicitation documents. If the winning consultant has won on the strength of its arrangements, it will not be permitted to change its arrangement unless the Accountable Entity finds there are exceptional circumstances that justify the change and MCC concurs and approves the change. Failure to seek and receive

approval may result in the rejection of the proposal or rescinding of a contract award at the discretion of the Accountable Entity.

5.12.4 The Accountable Entity may limit the number of joint venture or association partners with MCC's approval.

5.13 SOLICITATION DOCUMENTS: SUBCONTRACTING

5.13.1 The Accountable Entity must explain in the solicitation documents that all planned subcontracting arrangements must be disclosed in response to the solicitation documents. These subcontracting arrangements cannot be modified without prior permission of the Accountable Entity. After the contract award, the Accountable Entity must approve any subcontracting changes.

5.13.2 The Accountable Entity must also ensure that its procurement contracts require the Offeror to adhere to the procurement principles for promoting transparency, openness, competition, and fairness to the maximum extent possible, when procuring goods, works or consulting or non-consulting services under, related to or in furtherance of the contract.

5.14 SOLICITATION DOCUMENTS: TYPES OF CONTRACT

The Accountable Entity must enclose in the solicitation documents a draft contract that the successful Offeror will be expected to sign. The MCC SBDs[16] offer various types of contracts according to payment type and terms and conditions and the Accountable Entity should choose the contract types appropriate for the circumstances of the procurement. The Accountable Entity must not use percentage of cost type contracts. The Accountable Entity is permitted to use any of the following types of contracts but only in accordance with the conditions of use:

5.14.1 Fixed-Price Contract

Fixed-Price Contracts refer to the payment provisions of a contract and may provide for either a lump sum or unit price. MCC encourages the use of Fixed-Price Contracts primarily because Fixed-Price Contracts are easier to administer and more effective since these contracts allow the Accountable Entity to focus on performance and results. Payments are linked to work done in performance of the contract and to outputs (deliverables) such as reports, drawings, bills of quantities, and software programs.

5.14.2 Time-Based (also called Time & Materials) Contract

Time-Based Contracts refer to the payment provisions of a contract and would be used in contracts for consultant services. In this type of contract, the Accountable Entity pays for input rather than for results or deliverables. Payments are based on agreed hourly, daily, weekly, or monthly rates for personnel according to identified labor categories. Additionally, these types of contracts also provide for reimbursement for certain direct costs and expenses, such as travel or office equipment. Every Time-Based Contract must provide for a ceiling price which limits the total cost of the contract. This type of contract is most appropriate when the Accountable Entity needs to have a consultant available either as a constant presence or on an intermittent basis versus when a consultant is required to work on specific deliverable(s). This type

16 MCC SBDs are posted at mcc.gov. MCC adds new documents and updates existing documents periodically.

of contract may also be appropriate when the Accountable Entity expects that it will need the consultant's support long term, but the level of need is expected to vary over the duration of the contract. Time-Based Contracts require diligent monitoring to ensure that the Accountable Entity realizes a value equivalent to the time and the level of effort as claimed by the consultant and that the ceiling price is not exceeded before the need for the services ends. Any reimbursement for costs incurred, such as for defined expenses or materials, is subject to limits defined in the MCC Cost Principles and to audit as defined in the MCC Funding Agreement.

5.14.3 Cost-Reimbursement Contract

Cost-Reimbursement Contracts refer to the payment provisions of a contract and may be used by the Accountable Entity only in exceptional circumstances. Using Cost-Reimbursement Contracts cannot be justified merely because costs are difficult to determine. Cost-Reimbursement contracts shall include appropriate incentives to limit costs, subject to the limits defined in the MCC Cost Principles and to audit as defined in the MCC Funding Agreement.

5.14.4 Requirements Contract

Requirements Contracts establish a commitment between the seller and the Accountable Entity in which the seller agrees to provide designated requirements at an agreed price and the Accountable Entity agrees to purchase the designated requirements exclusively from that seller for the term of the contract. Because there is a promise of exclusivity, there is no need to establish a minimum purchase amount, but rather the contract should set a ceiling price. This type of contract is frequently used for supplies and other goods, but it can be used for works and services when appropriate. This type of contract is best used when the Accountable Entity will have a continuous need for the requirement over a period of time and enables the Accountable Entity simply to place an order when a requirement is needed. It is an efficient form of contracting as it saves the effort and the time it takes to do a new procurement every time the Accountable Entity needs the requirement.

5.14.5 Indefinite Delivery and Indefinite Quantity Contract ("IDIQ")

IDIQ Contracts, like Requirements Contracts, are another form of contracting that can streamline the procurement process and speed delivery of requirements. An IDIQ Contract establishes a commitment between an Offeror, or ideally a group of Offerors, to provide certain requirements but the Accountable Entity does not make an exclusive commitment to procure from any of the Offerors. Since there is no promise of exclusivity, each IDIQ Contract must set out a minimum amount to be paid to the Offeror simply for its commitment even if the seller never provides any of the Accountable Entity requirements. Setting a ceiling price is not required. IDIQ Contracts provide the Accountable Entity with an established group of qualified Offerors who have committed to certain pricing mechanisms. When the Accountable Entity is ready to procure, it issues a task order to one or more Offerors that have been pre-qualified to deliver the type of requirement needed. After participants submit Offers, these are evaluated according to announced criteria, and a contract for performance is signed with the winner following the same procedures as in all procurements.

5.14.6 Blanket Purchase Agreement ("BPA")

BPAs are not contracts but agreements to contract. The contract occurs when an order is placed. Thus, there are no binding terms on either party. The Accountable Entity does not make an exclusive commitment to buy any of its needs nor a binding commitment to a minimum value of orders. Similarly, the seller is not required to supply any order requested and is not bound by price. Rather, the BPA is made with a qualified seller and includes a price list[17] and terms for ordering and invoicing. It is similar to setting up a credit account with a vendor who will invoice the Accountable Entity periodically for the orders placed and filled (the contracts) over a period of time, such as during the past month. The BPA arrangement can be used only for filling anticipated repetitive needs for supplies, commodities or services.

5.14.7 Agency Agreement

Agency Agreements are contracts that create a special relationship between the Accountable Entity and the agent that empowers the agent to act on behalf of the Accountable Entity (the principal). The Accountable Entity can set up agency relationships for certain types of professional services: Procurement Agent, Fiscal Agent[18], Outside Project Managers, Inspection Agent professional services commonly engaged as agents.

5.14.8 Bank Agreement

If MCC funding is held in the country of the Accountable Entity, the Accountable Entity is required to secure banking and financial services of a local bank. To secure these services, the Accountable Entity must use the Bank Agreement template provided by MCC. This Bank Agreement provides the terms and conditions for opening accounts approved for holding MCC funding. When selecting a bank, the Accountable Entity must follow the special procedures defined in sub-paragraphs 6.1.2.1 and paragraph 6.4.1 of this PPG.

5.14.9 Turnkey Contract, Concession Agreement, other Public-Private Sector Transactions

The Accountable Entity may enter into complex transactions with the private sector such as a Turnkey Contract, Concession Agreement, and Operation & Maintenance Contract with the approval of MCC. Since these transactions are unique, the MCC does not provide SBDs for these transactions. Accordingly, the solicitation documents must be developed by the Accountable Entity and must follow the principles, policies, requirements and procedures set out in this PPG unless a provision is clearly not applicable. These procurements will often require the services of a transaction advisor as well as special expertise to monitor and manage the performance of the contract.

17 The price list indicates the range of items that might be ordered and indicative prices at the time of the BPA, but the price paid is generally the Offeror's market price, often advertised, at the time the order is placed and a contract is made.

18 MCC develops and maintains model solicitation documents for procuring Procurement Agents and Fiscal Agents. MCC provides these model documents to th4e Accountable Entity who works with a procurement professional to finalize these documents and conduct these two procurements for each Compact.

5.15 SOLICITATION DOCUMENTS: CONDITIONS OF CONTRACT

The Accountable Entity must provide notice of the proposed contract terms in the solicitation documents. Contracts clauses allocate risks between the parties. Potential Offerors need to know the risk allocation to determine if they wish to accept the risks and to price their Offers accordingly. The following provides guidelines regarding a few key clauses in the proposed contract. This is not an exclusive list.

5.15.1 Liquidated Damages

The Accountable Entity may include provisions for liquidated damages or similar provisions of an appropriate amount in the conditions of contract. This might be considered when delays in the delivery of goods or completion of works, or failure to meet performance requirements would result in extra cost or loss of revenue or loss of other benefits to the Accountable Entity.

5.15.2 Bonus Clause

The Accountable Entity may include a bonus clause in the special conditions of the contract, but only with prior approval of MCC. A bonus clause provides additional payment to a contractor, supplier, or consultant or non-consultant service provider for exceeding requirements that will provide additional benefit to the Accountable Entity, such as early completion of works, or early delivery of goods. The clause must be well defined and justified only if the additional benefit merits the additional cost[19].

5.15.3 Final Payment

The Accountable Entity must confirm that the conditions of contract in the solicitation documents state clearly that the final payment is made only after all contract performance is completed and accepted, and must include retention requirements. For procurements for works and goods, a percentage of the contract amount may be retained for a period after physical completion of the works or delivery of goods. Retentions are prohibited in contracts for consultant and non-consultant services.

5.15.4 Interest on Late Payments

The Accountable Entity must ensure the contract conditions in the solicitation documents provide for payment of interest for late payment. The defined number of days to deem a payment late and the rate of interest must be specified in the solicitation documents. The right to interest will apply when payment is delayed beyond the time allowed in the contract for payment due to the fault of the Accountable Entity or its agents.

5.15.5 Substitution of Professional Personnel

MCC requires that contractors be held responsible to comply with the terms of their Offers. This requirement is particularly important regarding the proposed professional personnel and especially in the context of procurements for consultant services. The Accountable Entity must include strict provisions in the

19 For example, early delivery of goods provides no benefit if the goods are not usable until other elements of the project are completed.

solicitation documents limiting the substitution of professional personnel and setting the requirements of substitution if necessary. The procurement contract must provide that: (i) substitution will be permitted only if necessary, such as for reasons of health or poor performance, (ii) the substitution will be permitted only with Accountable Entity approval; (iii) Accountable Entity must accept and approve proposed professional personnel replacement who must meet or exceed the qualifications of the staff member being replaced. The contract provision also must be clear that the failure to provide an acceptable replacement within a reasonable time after departure of the individual being replaced may lead to termination of the contract.

5.15.6 Contractor Past Performance Reporting System ("CPPRS")

The Accountable Entity must include in the solicitation documents the contract condition that explains the CPPRS reporting system and requirements. In particular, the condition must advise the contractor that its performance of the contract will be formally assessed and recorded and considered in award decisions for future MCC-funded contracts.

5.15.7 Applicable Law

The Accountable Entity must disclose in the solicitation documents the applicable law that will govern the contract. Generally, the applicable law will be the law of the country of the Accountable Entity.

5.15.8 Settlement of Disputes

The Accountable Entity must state in the solicitation documents the jurisdiction for settlement of disputes. For domestic entities, settlement of disputes shall take place in the country of the Accountable Entity. For foreign entities, the Accountable Entity may identify a foreign arbitration body. In procurement for major works, or for supply and installation, the dispute settlement provision might include dispute review boards or adjudicators, or other mechanism designed to provide rapid dispute resolution.

5.16 SOLICITATION DOCUMENTS: CLARIFICATION AND AMENDMENT AFTER ISSUED

5.16.1 General

All prospective Offerors must be provided with the same information and must be assured of equal opportunities to obtain additional information on a timely basis.

5.16.2 Site visits

The Accountable Entity shall provide reasonable access to Project sites for visits by prospective Offerors.

5.16.3 Pre-Offer Conference

Pre-Offer conferences are encouraged to avoid misunderstanding and mistakes in Offers which can be difficult to cure after submission of the Offer. These can be arranged in person or online, but attendance

must not be made mandatory. Minutes of the pre-Offer conference shall be provided to all prospective Offerors and posted on the Accountable Entity website. A copy must be maintained in the procurement file maintained by the Procurement Agent.

5.16.4 Clarification and Amendment of Solicitation Documents

The Accountable Entity must send any additional information, clarification, correction of errors, or modifications of solicitation documents to each recipient of the original solicitation documents with sufficient time before the submission deadline to enable Offerors to take appropriate action. If necessary, the deadline shall be extended.

5.17 SOLICITATION DOCUMENTS: SUBMISSION DEADLINE AND PUBLIC OPENING

The Accountable Entity must clearly state in the solicitation documents the precise deadline for the submission of Offers, the method and place for submission, and the opening procedures. These requirements must be fair and transparent.

5.17.1 Submission Deadline

In setting the submission deadline, the Accountable Entity must consider the total circumstances of the particular procurement including the: (i) complexity of the procurement and the estimated effort needed to develop a comprehensive and thoughtful Offer; (ii) risk allocation in the proposed contract; (iii) need for site visits and pre-Offer conferences, especially important in large works procurements; (iv) period of advance notice provided by the General Procurement Notice; and (v) time for clarification of the solicitation documents especially taking into account the quality and complexity of the description of requirements.

When possible, the Accountable Entity should require electronic Offers. If hard copies are required, the Accountable Entity must consider the delivery time and ensure not to discriminate against foreign participants.

5.17.2 Public Opening

The Accountable Entity must describe in the solicitation documents the procedures for opening Offers taking into consideration the following requirements: (i) the opening must immediately follow submission of Offers considering any necessary brief delay for logistical reasons; (ii) the Accountable Entity must conduct openings in public and shall not set up openings in a place or manner that would restrict access of interested partied to witness the opening either in person or virtually; (iii) the name of the Offerors submitting Offers shall be read aloud; (iv) the price of Offers for Fixed-Price Contracts must be announced in one step procurement method and when financial Offers for Fixed Price Contracts are opened in the second step of a two-step procurement method; and (v) the Accountable Entity must make a record of each opening and post the record on the Accountable Entity website.

5.17.3 Rejection of Late Offers

The Accountable Entity must reject any Offer received after the deadline for submission. However, a late Offer might not be rejected if the Offer was late due to the direct and clear fault of the Accountable Entity, and the participant can prove that its Offer would have been on time but for the action of the Accountable Entity or a failure in the Accountable Entity's submission method.

5.18 EXAMINATION AND EVALUATION OF OFFERS

5.18.1 Examination

Before evaluating any Offers, the Accountable Entity must determine that the Offeror(s) meet(s) the eligibility requirements specified in this PPG, and that the Offer satisfies all the administrative requirements including proper signature, required securities, and all required forms, schedules, and certifications.

5.18.2 Alterations and Clarifications of Offers

As a general rule, the Accountable Entity must not permit, accept, or consider any alteration of an Offer after the deadline for submission of Offers. Any exception to this requirement is strictly limited to the following circumstances: (i) there is a potentially failed procurement as described in section 5.24 of this PPG; (ii) there is a need for additional information related to the qualifications of the Offeror, such as information related to the Offeror's financial capacity; (iii) there is a need to clarify some element of the Offer; or (iv) it is specifically permitted in the procedures for the method of procurement such as in QBS and Competitive Discussions, (v) arithmetic correction made to an Offer which requires the Offeror's approval.

An unsolicited Offer by an Offeror to clarify its earlier Offer shall not be accepted and reviewed by the Accountable Entity. However, the Accountable Entity may request clarification provided that the clarification does not change the substance or price of the Offer. Clarifications must be fully documented in writing and the record must be maintained in the procurement file.

5.19 PRICE-REASONABLENESS ANALYSIS

One of the MCC Program Procurement Principles states: "No more than a commercially reasonable price, as [affirmatively] determined shall be paid to procure goods, works, and services." The Accountable Entity must not make any award or sign a procurement contract without making a positive determination that the price is reasonable[20]. Although the Accountable Entity cannot make an award if the price is not commercially reasonable, it may not reject an Offer merely because the Offer price is below or above the estimated budget.

20 Guidance for determining reasonableness is set out in the *MCC Procurement Guidance Note: Price-Reasonableness Analysis.*

5.20 NOTICE OF INTENT TO AWARD

When required, the Accountable Entity shall send the Notice of Intent to Award ("NOITA") with an invitation to negotiate a contract or agreement to the successful Offeror. Delivery of the NOITA shall not constitute the formation of a contract between the Accountable Entity and the successful Offeror and no legal or equitable rights will be created through the delivery of the NOITA.

5.21 NEGOTIATIONS

5.21.1 General

At the conclusion of the selection process, the Accountable Entity should invite the successful Offeror to negotiate the final terms of the contract. The scope of negotiations depends upon the content and nature of the solicitation documents, especially the scope of the evaluation criteria. In most cases negotiations will be limited and in no circumstance shall the Accountable Entity require the Offeror to undertake responsibilities, tasks, or deliverables that were not set out in the solicitation documents unless it has been agreed with MCC prior to the start of negotiations.

Significant change in technical or financial terms that formed the bases of award would invalidate the procurement and be a basis for MCC to declare a mis-procurement. Similarly, the Accountable Entity must not agree to a significant change in the risk allocation of the contract terms proposed in the solicitation documents. If price was a criterion in the evaluation for award, negotiation of price is strictly limited to clarifications and to issues regarding tax liability or reduction of an unreasonably high price. However, if price or price-related terms were not an evaluation criterion and therefore not a competition factor that determined the selection of the winner, the proposed price can be negotiated. Likewise, if an Offer was evaluated on the strength of named individuals that will support performance of the contract, the Accountable Entity should not agree in the negotiations to the substitution of any of these individuals because it undermines the basis for selection. In extraordinary circumstance, such as death, substitution may be allowed but only if the qualifications of the proposed individual are at least equal to those of the original individual. However, during negotiations, the Accountable Entity may request the Offeror to replace an individual who was rated less than acceptable scores in the evaluation process and/or due to education, experience and/or past performance as evidenced by references or poor ratings documented by an Accountable Entity, with a more qualified individual applying the same criteria and weights as stated in the solicitation documents. Since the Offeror won with the low score for that individual, replacing the individual with a more qualified person does not compromise the award process and seeking replacement at this stage should lower the risk of poor performance of the contract.

The Accountable Entity might also require replacement of an individual the Accountable Entity determines to have a conflict of interest in the assignment with an individual of equal or better qualifications, applying the same criteria as stated in the solicitation documents.

5.21.2 Failed Negotiations

If the negotiations fail to result in an acceptable contract within a reasonable time, the Accountable Entity may terminate the negotiations upon notice to the Offeror of the reasons for the termination.

The Accountable Entity shall seek MCC's approval for all termination of negotiations where MCC approved the Procurement Package and the Technical Evaluation Report. Following the termination, the Accountable Entity at its discretion may issue a NOITA to the next ranked Offeror along with an invitation to negotiate a contract. Once negotiations are commenced with the next ranked Offeror, the Accountable Entity must not reopen the earlier negotiations.

5.21.3 Return of Unopened Offers

The Accountable Entity shall return all unopened Offers that were submitted as a hard copy at the request and cost of the Offeror.

5.22 DEBRIEFING

To promote transparency and fairness, to foster confidence in the Accountable Entity program procurement system, and to help unsuccessful Offerors improve their future proposals, the Accountable Entity must promptly provide a debriefing if so requested in writing by an unsuccessful Offeror. In the debriefing, the Accountable Entity shall provide an explanation of why the Offeror was disqualified and/or why the Offeror's Offer was not selected. The debriefing may be in writing or via an in-person or online meeting, at the option of the Accountable Entity. However, the Accountable Entity must provide either a written or online debriefing if the Offeror is foreign as forced travel expenses could effectively undermine a foreign Offeror's right to a debriefing.

5.23 BID CHALLENGE SYSTEM

5.23.1 To promote fairness and encourage the Accountable Entity to award procurement contracts in a manner consistent with the principles, policies, and requirements set forth in this PPG, the Accountable Entity must give unsuccessful Offerors the right to challenge the procurement process. The Accountable Entity shall not issue an invitation to participate in any procurement unless it has adopted and published a Bid Challenge System ("BCS") or an Interim Bid Challenge System ("IBCS"). The Accountable Entity shall ensure that all timely filed Bid Challenges from Offerors that allege harm are accepted, reviewed, and processed in accordance with the rules and procedures of the Accountable Entity's IBCS or BCS. The Accountable Entity must notify MCC of Bid Challenge decisions as specified in *Attachment A, PPG Approval Matrix.*

5.23.2 The Accountable Entity will require that an unsuccessful Offeror request a debriefing prior to submitting a Bid Challenge.

5.23.3 MCC shall approve all Bid Challenge System and Interim Bid Challenge System documents.

5.24 FAILED PROCUREMENT

5.24.1 The Accountable Entity will have a failed procurement when it fails to receive at least one responsive Offer from a qualified Offeror that is willing to perform the procurement contract at a reasonable price. If none of the Offerors are deemed qualified, the procurement fails. However, if one or more Offerors were deemed qualified, the Accountable Entity may, at its discretion, attempt to negotiate a satis-

factory contract with the qualified Offeror that submitted the highest ranked Offer. If negotiations fail, the Accountable Entity may invite the next ranked qualified Offeror and so forth at its discretion. However, in no circumstance can the negotiations result in any major deviation from requirements, substantial reduction in scope, or major change in contract terms as set out in the solicitation documents.

5.24.2 Once the Accountable Entity declares a failed procurement, it must notify each Offeror that the procurement failed and provide the reason(s) for rejecting their Offer. At its discretion, the Accountable Entity may seek suggestions from the Offerors for improving the solicitation documents.

5.24.3 After a failed procurement and before initiating another procurement action, the Accountable Entity must determine that the procurement is still needed even if it finds that it is necessary to reduce the scope or quality of the requirements. If an affirmative determination is made, the Accountable Entity must review the causes for the failed procurement and consider revising the solicitation documents before inviting new Offers. The Accountable Entity must also consider advertising the procurement opportunity more broadly, if possible.

5.24.4 The Accountable Entity must not declare a failed procurement solely for the purpose of obtaining lower prices. If the lowest evaluated responsive Offer exceeds the Accountable Entity's cost estimates by a substantial margin, the Accountable Entity shall investigate causes for the excessive cost before relaunching the procurement or may negotiate the technical and financial terms of a contract with the highest-ranking Offeror if this option is specifically permitted in the solicitation documents.

5.25 CANCELLATION OF PROCUREMENT

The Accountable Entity may cancel procurements when contracting for the requirement is no longer in the best interest of the Accountable Entity in implementing the MCC Funding Agreement or when the Accountable Entity determines that it is necessary to make substantial changes to the requirements. MCC prior approval is only required to cancel a procurement above the thresholds that require MCC approval of the Procurement Package as set in Attachment A. PPG Approval Matrix. After the Accountable Entity determines to cancel the procurement and receives approval as specified in *Attachment A, PPG Approval Matrix*, the Accountable Entity will post a notification of the cancellation on the same sites that had hosted the SPN. The notification shall identify the procurement and state briefly the reason for canceling the procurement. The language requirements in section 5.3 of this PPG apply to these notices. If the procurement is canceled after the Offers are received and opened, the Accountable Entity must also send notice to all Offerors of its determination to cancel the procurement.

5.26 REJECTION OF OFFERS

5.26.1 The Accountable Entity will be justified in rejecting all Offers only if all Offers are nonresponsive, when prices are unreasonable or are substantially higher than the original estimate, or if contracting for the services, goods or works are no longer in the best interest of implementation of the MCC Funding Agreement.

5.26.2 **Lack of competition** shall not be determined solely on the basis of the number of Offerors. Even when only one Offer is submitted, the procurement process may be considered valid if the Offer was satisfactorily advertised and prices are reasonable in comparison to market values. The Accountable Entity

may, after approval by MCC (if required under *Attachment A, PPG Approval Matrix*), reject all Offers. If all Offers are rejected, the Accountable Entity shall review the causes justifying the rejection and consider making revisions to the conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new Offers. If the rejection of all Offers is due to lack of competition, wider advertising shall be considered. If the rejection is due to most or all of the Offers being non-responsive, new Offers may be invited from the initially pre-qualified firms, or with approval of MCC from only those that submitted Offers in the first instance.

5.26.3 **Offers substantially exceeding cost estimates**: The Accountable Entity shall not reject all Offers and invite new ones on the same procurement and contract documents solely for the purpose of obtaining lower prices. If the lowest evaluated responsive Offer exceeds the Accountable Entity pre-Offer cost estimates by a substantial margin, the Accountable Entity shall investigate causes for the excessive cost and consider requesting new Offers. Alternatively, with prior approval of MCC, the Accountable Entity may negotiate with the lowest evaluated Offeror to try to obtain a satisfactory contract through a reduction in the scope and/or a reallocation of risk and responsibility, which can be reflected in a reduction of the contract price. However, a substantial reduction in the scope or modification to the contract documents generally will require a re-procurement process. These reductions in scope shall be agreed upon with MCC.

5.26.4 **Notification of Rejection**: If all Offers are rejected, the Accountable Entity shall post a notice within two (2) weeks at the same sites and other locations that had hosted the SPN. The notification shall identify the procurement and state briefly the reasons for rejection. The same information shall be sent to all those who have submitted proposals. All such postings shall be in the language used in the original solicitation documents. At the discretion of the Accountable Entity, posting on the Accountable Entity's website (or such other appropriate website designated by the Accountable Entity and approved by MCC) may also be in the local language of the country of the Accountable Entity.

PART 6. METHODS OF PROCUREMENT AND PROCUREMENT PROCEDURES

The Accountable Entity must consider the "fit for purpose" of the procurement process and the contract when deciding how to award procurement contracts. In choosing the best method of procurement and procedures to apply, the Accountable Entity must consider the full circumstances of the procurement, in particular: (i) the category of the requirement: works, goods, consultant services, non-consultant services or a combination of two or more of these; (ii) the total estimated value of the contract; (iii) the scope of competition; (iv) the evaluation criteria and selection process; and, (v) the Procurement Action Lead Time (PALT). The Accountable Entity must also consider the conditions for use of the following procedures in deciding which best fits its purpose. If the circumstances of the procurement are so unique that an alternative procedure would better fit the purpose of the procurement, the Accountable Entity may use an alternative procedure if approved by MCC. If the procurement method requires the Accountable Entity to organize a Panel, MCC may require the Panel to include at least one independent expert if the value of the procurement exceeds the threshold stated in *Attachment B, PPG Dollar Threshold Matrix*.

MCC may also require an Observer and/or Adviser to participate in the evaluation process, as defined in the Handbook.

6.1 PRE-QUALIFICATION AND SHORTLISTING

These are formal procedures used to determine qualified participants before inviting Offers. The Accountable Entity is not required to use these procedures. In some circumstances, using these procedures can extend the procurement timeline unnecessarily, but in other circumstances these procedures could result in greater efficiency and reduced total PALT. Consistent with the principle of open competition, the Accountable Entity must publish an open invitation to pre-qualify or be shortlisted unless, in exceptional circumstances, limited competition can be justified. When using these procedures, the Accountable Entity must define the qualifications requirements in the solicitation documents. These requirements must relate only to the capability and resources of prospective Offerors to perform the particular contract satisfactorily. The method to determine which Offerors satisfy the qualification requirements must be fair. Additionally, the requirements must adhere to the requirements and standards defined in the solicitation documents. The Accountable Entity must extend an invitation to submit an Offer to all Offerors that satisfy the qualification requirements set out in the solicitation documents and may not set a limit on the number of Offerors it will invite. The Accountable Entity shall describe the basis for its determination in an evaluation report, and obtain all the approvals required in *Attachment A, PPG Approval Matrix* before inviting Offers.

6.1.1 Pre-Qualification

This procedure begins with an open Invitation to Pre-Qualify and can be used for any procurement category except consultant services. It is best used for large or complex works, or when the high costs of preparing detailed Offers could discourage competition[21].

6.1.2 Shortlisting

This procedure begins with a Request for Expression of Interest ("REOI") and is used when procuring services. This procedure may be effective when the burden of Offer preparation might have a chilling effect on participation[22].

6.1.2.1.Shortlisting for Banking and Financial Services: If the Accountable Entity is required to secure banking and financial services of a bank, the Accountable Entity can invite Offers from banks that are on a shortlist that has been developed following a due diligence process by MCC in coordination with the Accountable Entity. Once the shortlist is identified, the Accountable Entity will select the bank using the appropriate consulting services procedure.

6.1.2.2.Shortlisting for Audit Services: The Accountable Entity is required to secure auditing services from an independent public accountant firm to ensure that the required audits of its books and records are performed in accordance with applicable auditing standards. The Accountable Entity can invite Offers only from MCC's *Recommended List of IPAs*, which is a shortlist that has been developed by MCC through a vetting process. Once the *Recommended List of IPAs* is provided, the Accountable Entity will select an independent public accountant firm through a competitive method using the shortlist provided.

21 For example: Custom-designed equipment, industrial plants, specialized services, complex information and technology, turnkey contracts, design and build contracts, and operation and maintenance contracts.

22 For example, very large and complex consultancies based on performance requirements usually require a substantial investment to develop a responsive and competitive Offer.

6.1.2.3.If the Accountable Entity is required to procure consulting services from a select group of consultants, for instance in a case where a re-procurement is being done following a failed procurement or contract termination, the Accountable Entity can only invite Offers from firms that are on a shortlist approved by MCC. Once the shortlist is identified and approved, the Accountable Entity will select the consultant using the appropriate consulting services procedure.

6.2 COMPETITIVE BIDDING ("CB")

6.2.1 General Requirements and Use

Competitive Bidding is a method of procurement used for procuring works, goods, and non-consultant services above the threshold for Shopping[23]. When using this method, the Accountable Entity must submit an open invitation to participate, unless this has been preceded by a Pre-qualification. The procurement is conducted in one stage; the selection and award is based solely upon price and price-related factors. Since this method of procurement does not weigh quality against price, it should be used when the requirements would result in responsive Offers that are so similar that competition should be based only on price and price-related factors because these are the most significant features distinguishing the Offers. However, when price and price-related factors are the sole basis of award, it is extremely important to set appropriate and well-defined qualification requirements to avoid contracting with poor performing suppliers and contractors.

After opening the Offers, the Accountable Entity shall determine the best way to proceed. It may conduct a review of all Offerors and Offers and then proceed to the review of price. Alternatively, the Accountable Entity can conduct a review of price and then review the Offerors and Offers starting from the lowest evaluated price until it identifies the eligible, qualified Offeror with the lowest evaluated responsive Offer. Once this is identified, the Accountable Entity is not required to review the remaining Offerors or Offers.

6.2.2 Review of Offerors and Responsiveness of Offers

When price is the deciding factor, the key steps in this procedure are the determinations that the Offeror is eligible and qualified and that the Offer is responsive. The Accountable Entity must organize a technically qualified Offer Review Panel ("Panel"). Following the administrative review and determination of qualifications, the Panel then reviews Offers to determine if an Offer is responsive to the description of requirements in the solicitation documents. If an Offer deviates materially from or takes reservations to the terms, conditions, and specifications in the solicitation documents, it is determined non-responsive and must be rejected.

6.2.3 Review of Price

The offered price as read at the opening of Offers shall be adjusted to correct any arithmetical errors.

23 Dollar Thresholds for use of Shopping are set out in *Attachment B, PPG Dollar Threshold Matrix*.

6.2.4 Offer Review Report and Negotiations

The Accountable Entity shall prepare the Offer Review Report that explains the award and includes information supporting its determination that the Offer was the lowest evaluated responsive Offer from an eligible Offeror that satisfied the qualification requirements. Once the selection process is complete, the Accountable Entity should issue a NOITA to the successful Offeror and send a notice to all Offerors that submitted an Offer. After allowing time for the Bid Challenge period, the Accountable Entity should proceed to award the contract. When using this method of procurement, negotiation of both technical and financial terms are limited and the focus is on clarification of the Offeror's submission and the contract clauses.

6.3 QUALITY AND PRICE BASED SELECTION ("QPBS")

6.3.1 General Requirements and Use

QPBS is a method of procurement used for procuring works, goods and non-consultant services above the threshold for Shopping[24]. When using this method, the Accountable Entity must submit an open invitation to participate, unless this has been preceded by a Pre-qualification. The procurement is conducted in two stages and selection and award are based on price, price-related factors, and non-price criteria. Since this method of procurement weighs quality against price, it should be used when the Accountable Entity is seeking to procure the best value and is willing to pay more for additional quality.

Unlike Competitive Bidding, the evaluation of Offers is based on differences in price and the features that distinguish the Offers and the Offerors. Before issuing the solicitation documents, the Accountable Entity must identify the non-price evaluation criteria, and the value or weight placed upon distinguishable criteria as related to price. This determination is based upon the Accountable Entity's analysis the features that might distinguish Offers and Offerors, and their willingness to pay for the added value.

6.3.2 Review of Offerors and Review and Evaluation of Offers

At the deadline for submission of Offers, Offerors must submit their technical Offer and financial Offer separately. The financial Offers will remain sealed until the review and the evaluation of the technical Offers are complete. The Accountable Entity shall organize a technically qualified Offer Review and Evaluation Panel ("Panel"). Following the administrative review and determination of qualifications, the Panel will determine which Offers are responsive to the requirements in the solicitation documents. Then the Panel will evaluate and score the Offers applying the non-price related criteria. If an Offer materially deviates from or takes reservations to the terms, conditions, and specifications in the solicitation documents, it is determined non-responsive and must be rejected. The Accountable Entity shall also reject, without further review or evaluation, technical Offers that include financial Offer information.

24 Dollar Thresholds for use of Shopping are set out in *Attachment B, PPG Dollar Threshold Matrix.*

6.3.3 Offer Review and Evaluation Report

The Accountable Entity shall prepare a detailed Offer Review and Evaluation Report. The report must describe the determinations to qualify or disqualify Offerors, the review of Offers presenting the reasons that Offers were determined responsive or non-responsive and the evaluation and scoring of Offers according to the non-price related criteria. Before proceeding with the procurement, the Accountable Entity shall obtain all the approvals as required in *Attachment A, PPG Approval Matrix*.

6.3.4 Review of Price and Best Value Determination

Before opening the financial Offers, the Accountable Entity must notify all participants of the results of the technical review. The period of filing a Bid Challenge to the technical review begins with this notification. The price of each financial Offer is read aloud at the opening. These prices may be adjusted only to correct any arithmetical errors. The determination of the best value will be made by the combination of technical and financial score according to the weighting set out in the solicitation documents.

6.3.5 Combined Review and Evaluation Report and Negotiations

The Accountable Entity shall prepare a detailed Combined Review and Evaluation Report recommending award with supporting information and send a NOITA to the successful Offeror. When using this method of procurement, negotiation of both technical and financial terms is limited and focuses mostly on clarifications of the Offer and certain conditions of the contract.

6.4 LIMITED BIDDING ("LB")

6.4.1 General Requirements and Use

In this method of procurement for goods, works and non-consulting services, the invitation to participate is not openly advertised, but rather is a closed process exclusive to those directly invited by the Accountable Entity. Since this procedure is contrary to the MCC principle of promoting open procurement, this method of procurement is permitted only in exceptional circumstances.

In addition, the Accountable Entity can use this method when there is substantial evidence that the invitation list includes all probable Offerors and that issuing an open invitation to confirm the market would be inefficient and cause unnecessary delay in the procurement process. It might also use direct invitations under certain exceptional circumstances following an open invitation. In such circumstances, the Accountable Entity must invite all Offerors that responded to the original open invitation. This situation might occur when the Accountable Entity is attempting to avoid a failed procurement or following the termination of a contract.

6.4.2 Procedures

Issuing a direct invitation is an exception; under all other circumstances, the Accountable Entity shall follow the procedures for the method of procurement most appropriate for selecting and awarding the procurement contract. The direct invitation action shall include solicitation documents that satisfy the

requirements set out in the General Requirements of this PPG according to the procedures for the method of procurement chosen. Additionally, at the conclusion of the process, the notice of award shall be published as required in paragraph 5.5.3 of this PPG.

6.5 SHOPPING

6.5.1 General Requirements and Use

Shopping is a method of procurement used for low-value purchases of works, goods, and non-consulting services[25]. It is particularly effective when procuring readily available off-the-shelf goods, simple works and standard non-consulting services and should be completed expeditiously. Unreasonable delays in realizing these procurements are not acceptable and the Accountable Entity must take action to address the causes of delay. The thresholds as set out in *Attachment B, PPG Dollar Threshold Matrix* apply uniformly to all Accountable Entities, unless MCC has granted a waiver to a particular Accountable Entity for a particular procurement. The Accountable Entity may not divide requirements into smaller value units to bring the procurement package within the threshold for Shopping.

6.5.2 Developing the Solicitation Document Request for Quotations ("RFQ")

The Accountable Entity must set out in the RFQ a clear and complete description of the purchase requirements and provide unambiguous instructions for submitting Offers and the logistics for submission including the method, the place and the deadline. In most cases, the purchase price is the only award criterion, however non-price related criteria also may be used with the knowledge that subjective and complex scoring procedures should be avoided. When appropriate, the Accountable Entity may establish qualification requirements to screen for trustworthy and dependable sellers.

6.5.3 Issuing the RFQ

The Accountable Entity shall advertise the RFQ as required in section 5.5 of this PPG. The Accountable Entity may also issue the RFQ by direct invitation if it can identify at least three potential sources to establish a competitive group. However, the RFQ should be sent to as many sources as is administratively reasonable. The goal is to receive at least three responsive quotations to ensure that the quotations received are competitive and commercially reasonable. However, the Accountable Entity may proceed with the review and award with less than three Offers provided the RFQ is sent to three or more providers.

6.5.4 Receipt of Quotations, Review and Award

If the Accountable Entity receives fewer than three quotations the procurement process may still be considered valid if the RFQ was advertised or sent to at least three viable Offerors and the successful quotation is commercially reasonable.

25 Dollar Thresholds for low-value purchases are defined in *Attachment B, PPG Dollar Threshold Matrix.*

Following the receipt of quotations, a Panel reviews these to determine responsiveness to the requirements in the RFQ. If a quotation deviates materially from or takes reservations to the terms, conditions, and specifications in the solicitation documents, it is determined non-responsive and must be rejected.

The Accountable Entity shall prepare the Quotation Review Report recommending an award to the lowest evaluated responsive quotation.

Once the selection process is complete, the Accountable Entity should issue a NOITA to the successful Offeror and send a notice to all Offerors that submitted quotations. After allowing time for the Bid Challenge period, the Accountable Entity should proceed to conclude the contract.

6.5.5 Alternative Shopping Procedures

For procurements of goods under the threshold as set out in *Attachment B, PPG Dollar Threshold Matrix*, the Accountable Entity may use simple Micro-Shopping procedures[26]. The Accountable Entity may also use purchase cards for Shopping or may use a reverse auction procedure for simple Shopping[27].

6.6 DIRECT CONTRACTING ("DC")

6.6.1 General Requirements and Use

Direct Contracting is a method of procurement used for purchases of works, goods and non-consulting services. This method of procurement does not select a contractor or supplier through a competitive process, therefore the use of Direct Contracts requires MCC approval as specified in *Attachment A, PPG Approval Matrix*. Since this directly conflicts with the principle of competition, the Accountable Entity may use this method on a limited basis as described below:

a. Purchase of additional goods, works, or non-consulting services under an existing contract, but only if: (i) the additional goods, works, or non-consulting services are within the scope of the existing contract; (ii) the original contract was competitively procured; and (iii) the price is reasonable.

b. Purchase of additional goods, such as spare parts, from original supplier when standardization or compatibility are absolutely necessary, but only if: (i) the original equipment remains in use; (ii) the total cost of the additional goods is more cost effective than purchasing new equipment; and (iii) the price is reasonable.

c. There is only one qualified and eligible source to provide a requirement that is necessary.

d. The conditions of a performance guarantee require the purchase of critical items from a particular supplier.

e. In exceptional cases of urgency, such as in response to natural disasters. However, lack of time to conduct a competitive procurement is not a case of urgency and not an acceptable justification for Direct Contracting.

26 Micro-Shopping procedures are defined in the *MCC Program Procurement Handbook*.

27 Guidance for using these alternative Shopping procedures is set out in the *MCC Program Procurement Handbook*.

f. When there is a need to complete unfinished performance of a contract that was terminated. In this circumstance, the Accountable Entity may negotiate a technical and financial Offer with the next ranked Offeror to complete performance of the contract, but only if: (i) the original contract was competitively procured and signed within the prior three years; (ii) the proposed Offeror had participated in the original procurement; (iii) the proposed Offeror was the next highest ranked competitor[28]; and, (iv) the price to continue and complete the performance requirements by the next ranked Offeror is reasonable.

g. Service Providers approved in the MCC Funding Agreement shall be included in the PGPP and procured without competition.

6.6.2 Procedures

Although several of the formal procedures of competitive procurement do not apply to Direct Contracting, there are important procedures that need to be followed before signing a contract:

a. The Accountable Entity must document in writing[29] the justification for use of Direct Contracting and secure MCC's approval. The Accountable Entity shall not approach the potential Offeror before receiving MCC's approval of the Direct Contracting justification.

b. If the proposed justification for using Direct Contracting is based upon condition 6.6.1(c) above, MCC may require the Accountable Entity to publish at its website a notice to procure the goods, works or non-consulting services, under Direct Contracting.

c. The Accountable Entity must obtain all approvals as required in *Attachment A, PPG Approval Matrix*.

d. Once approved, the Accountable Entity shall prepare the solicitation documents that must include a description of the requirements, the terms and conditions of the proposed contract, and the submission forms using the appropriate SBD forms and contract.

e. Upon submission of the Offer by the Offeror, the Accountable Entity must establish an Offer Review Panel (Panel) to review the Offer and prepare an Offer Review Report documenting issues for negotiation including administrative and technical issues and price reasonableness.

f. The Accountable Entity will conduct negotiations with the Offeror to resolve issues identified in the Offer Review Report. Since there was no element of competition for the selection, all aspects of the Offer and the terms of contract are negotiable.

g. Following negotiations and resolution of issues, the Accountable Entity will prepare the contract based upon the results of the negotiations.

h. The Accountable Entity must submit the proposed contract with supporting documentation, including the Offer Review Report for approval as required in *Attachment A, PPG Approval Matrix*.

i. After obtaining all required approvals, the Accountable Entity will execute the contract with the Offeror.

28 The Accountable Entity may go down the list of ranked competitors until they can conclude a contract.

29 The template, *Direct Contracting Justification Form*, is found in *MCC Program Procurement Handbook*.

j. The Accountable Entity shall publish notice of award of all Direct Contracts as required in paragraph 5.5.3 of this PPG.

6.7 PROCUREMENT OF COMMODITIES

This procedure applies to the purchase of tangible, everyday goods that are usually a product of agriculture or mining and commonly referred to as commodities[30]. If the Accountable Entity has a continuing, recurring need for a certain commodity or commodities, the Accountable Entity should enter into a Blanket Purchase Agreement (BPA) for such purchases. BPAs should be established with a sufficient number of qualified suppliers in order to take advantage of the seller's competitive market pricing when the Accountable Entity is placing orders.

6.8 COMPETITIVE DISCUSSIONS ("CD")

6.8.1 General Requirements and Use

Competitive Discussions is a method of procurement that can be used for procuring works, goods, and consultant and non-consultant services above the threshold for Shopping[31]. This method should only be used when the Accountable Entity is seeking innovation in design or approach and is asking each Offeror to propose their own ideas and solutions, which is usually in the context of large, complex, or highly specialized procurements. It is expected that Offers received would present in substantially different ways to realize the requirements. When using this procurement method, the Accountable Entity must submit an open invitation to participate, unless this has been preceded by a Pre-qualification or Shortlisting. The procurement is conducted in two or more stages and selection and award are based on price and price-related factors and non-price criteria. This is similar to QPBS and QCBS procurement methods. However, this method of procurement begins with a description of requirements which focuses more on what the Accountable Entity wants to achieve with the procurement than how to achieve that result. In the solicitation documents the Accountable Entity is asking the participants to develop their own strategy or approach for how to achieve the objectives of the procurement. The solicitation documents will describe the objectives of the procurement, any specific design requirements that are mandatory and the technical evaluation criteria.

6.8.2 Review of Offerors and Review of Technical Offers

By the deadline for submission of Offers, Offerors will submit only a technical Offer. The Accountable Entity shall organize a technically qualified Technical Evaluation Panel ("Panel"). Following the administrative review and determination of qualifications, the Panel reviews and analyzes the technical Offers. At any point in this analysis, the Panel may determine to reject any Offer that it deems not feasible and has no chance of competing against the strengths of the other technical Offers[32]. The Panel then identifies the strengths and the weaknesses it finds in each of the remaining Offers and any questions that need to be asked to clarify any element of any Offer but it does not score the Offers. All of the activity of the Panel

30 For example: grain, animal feed, cooking oil, fuel, fertilizer, and metals.

31 Dollar Thresholds for use of Shopping are set out in *Attachment B, PPG Dollar Threshold Matrix*

32 Since these Offers are usually long and complex, it is not efficient for the Accountable Entity or the participant to invest more time in an Offer that has no chance of selection even after discussions.

is documented in a Technical Review Report. Before proceeding to negotiations, the Accountable Entity shall obtain all approvals as required in *Attachment A, PPG Approval Matrix*.

6.8.3 Discussions

Upon completion of the Technical Review Report and receipt of all required approvals, the Accountable Entity shall invite each of the remaining Offerors for discussions. The sequence of the discussions shall be determined by random selection. Discussions shall be privately conducted with each Offeror and the Accountable Entity must not share any information among Offerors. This confidentiality is important, and any violation could be the basis for a mis-procurement. During the discussions, the Accountable Entity can ask questions and request clarification of the Offers. In addition, the Accountable Entity will provide feedback on the particular Offer, based upon its assessment of the strengths and weaknesses.

At the conclusion of the discussions[33], the Accountable Entity will request each Offeror to submit a final technical Offer as revised based upon the discussions plus a financial Offer. The Accountable Entity does not issue a new or revised solicitation document with this invitation. Changing the solicitation documents at this stage is not fair to the Offerors as it could be used to favor or disfavor an Offeror or share confidential information among Offerors. The deadline for submission of the final technical and financial Offers must provide enough time for all Offerors to prepare their submissions and neutralize the advantage of those who were early in the sequence of discussions.

6.8.4 Technical Evaluation Report

By the deadline for submission, Offerors must submit their technical Offers and financial Offers separately. The financial Offers will remain sealed until the review and evaluation of the technical Offers are completed. At this stage the Panel will evaluate and score the technical Offers, applying the non-price related criteria according to the method as set out in the solicitation documents, and then prepare a final Technical Evaluation Report describing the strengths and weaknesses of each according to the evaluation criteria and the final technical score. The Accountable Entity shall reject, without further review or evaluation, technical Offers that include financial Offer information. Before proceeding with the procurement, the Accountable Entity shall obtain all approvals as required in *Attachment A, PPG Approval Matrix*.

6.8.5 Review of Price and Best Value Determination

Before opening the financial Offers, the Accountable Entity must notify all Offerors of the results of the technical evaluation. The period for filing a Bid Challenge to the technical evaluation begins with this notification. If it is a Fixed-Price Contract, the financial Offers are read aloud at the opening in compliance with paragraph 5.17.2 in this PPG. These prices may be adjusted only to correct arithmetical errors. After full analysis of the financial Offer and any adjustments in price, the price is weighed against the score of the non-priced criteria at the ratio announced in the solicitation documents. Depending upon the calculation methodology, the successful Offer is the one with the highest combined technical and financial score

33 In exception circumstances the Accountable Entity can determine to conduct a second round of technical submissions and discussions before requesting the final Offers.

or the lowest evaluated price. This should offer the Accountable Entity the best value considering the tradeoff of quality and price.

6.8.6 Combined Review and Evaluation Report and Negotiations

The Accountable Entity shall prepare a detailed Combined Review and Evaluation Report recommending an award with supporting information. The report must include the Technical Evaluation Report plus the review of the financial Offers and the calculation of the tradeoff of price and non-price criteria. Before sending a NOITA to the successful Offeror, the Accountable Entity must obtain all approvals as required in *Attachment A, PPG Approval Matrix*. When using this method of procurement, negotiation of both technical and financial terms at this stage in the procurement is limited and focuses mostly on clarifications and development of the exhibits of the contract.

6.9 QUALITY COST BASED SELECTION ("QCBS")

6.9.1 General Requirements and Use

QCBS is a method of procurement used for procuring consultant services. While it is the most frequently used method for procuring consultant services it should NOT be considered the preferred method. The principle of "fit for purpose" requires the Accountable Entity to use this method thoughtfully and employ other selection methods when they are more efficient and appropriate.

When using this method, the Accountable Entity must submit an open invitation to participate, unless this has been preceded by a Shortlisting. The procurement is conducted in two stages and the selection and award is based on the designated balance of price and price related factors against non-price criteria. The non-price criteria are especially important in the context of consultant services because acceptable performance of the contract is directly related to the skill set, competence, commitment, and attitudes of the consultant. Therefore, the non-price criteria serve as a risk assessment or risk management tool.

When the Accountable Entity uses this method of procurement, it has decided that it would realize a better value to accept a greater risk for a lower price. Before issuing the solicitation documents, the Accountable Entity must identify the non-price criteria with relative weights, a possible threshold score for acceptance, and the weight of these criteria against price taking into consideration the complexity of task and the main risks to acceptable performance.

6.9.2 Administrative Review and Evaluation of Technical Offers

By the deadline for submission of Offers, Offerors must submit their technical Offers and financial Offers separately. The financial Offers will remain sealed until the review and evaluation of the technical Offers are completed. The Accountable Entity must organize a technically qualified Technical Evaluation Panel (Panel). Following the administrative review and determination of qualifications, the Panel will evaluate and score each technical Offer according to the evaluation criteria and method in the solicitation documents. If the solicitation documents state that the standards in the evaluation criteria are minimum requirements and not merely indicative measures, an Offer may be rejected if it does not meet any of the

minimum requirements. The Accountable Entity shall reject, without further review or evaluation, technical Offers that include financial Offer information.

6.9.3 Technical Evaluation Report

The Accountable Entity shall prepare a detailed Technical Evaluation Report of its technical review and evaluation of Offers. The report must describe the determinations to qualify or disqualify Offerors, the administrative review of Offers and the evaluation and scoring of Offers according to the non-price-related criteria.

6.9.4 Review of Price and Best Value Determination

Before opening the financial Offers, the Accountable Entity must notify all Offerors of the results of the technical evaluation. The period for filing a Bid Challenge to the technical evaluation begins with this notification. In the case of a procurement for a Fixed-Price Contract, the Offers are read aloud at the opening. These prices may be adjusted only to correct any arithmetical errors. After full analysis of the financial Offer and any adjustments in price, the price is weighed against the score of the non-priced criteria at the ratio announced in the solicitation documents. Depending upon the calculation method, the successful Offer is the Offer with the highest combined technical and financial score or the lowest evaluated price. This should provide the Accountable Entity with the best value at an acceptable risk.

6.9.5 Combined Review and Evaluation Report and Negotiations

The Accountable Entity shall prepare a detailed Combined Review and Evaluation Report recommending an award with supporting information and send a NOITA to the successful Offeror. When using this method of procurement, negotiation of both technical and financial terms is limited and focuses mostly on clarifications and development of the exhibits of the contract.

6.10 QUALITY BASED SELECTION ("QBS")

6.10.1 General Requirements and Use

QBS is a method of procurement used for procuring consultant services. The award is based upon non-price criteria only. Price is not a factor of competition. Thus, the award is to the firm that the Accountable Entity deems best suited to perform the contract based upon an evaluation of quality, capability and approach, including staffing. There are two key conditions for using this method. First, the Accountable Entity should use this method when the competence, commitment and attitudes of the consultant are so critical to the success of the procurement that taking on an increased risk for a lower price is not a good outcome. Second, the terms of reference should permit some flexibility in the performance and delivery of services because this will be a non-price criterion in the competition for best quality. However, before using this procurement method the Accountable Entity should confirm that it has adequate information to analyze and negotiate the price and make a price reasonableness determination.

6.10.2 Submission of Proposals

In the solicitation documents the Accountable Entity may request submission of both technical and financial Offers at the same time, but separately (two-envelope system). The financial Offers will remain sealed until the review and evaluation of the technical Offers are completed and will be opened only for the top-ranked Offer.

6.10.3 Administrative Review and Evaluation of Technical Offers

At this stage, the review and evaluation procedures are very similar to those applied in the QCBS. The Accountable Entity must organize a technically qualified Technical Evaluation Panel ("Panel"). Following the administrative review and determination of qualifications, the Panel will evaluate and score each Offer according to the evaluation criteria and method in the solicitation documents. For administrative efficiency, the Accountable Entity may set a minimum score and reject clearly unacceptable Offers without further review. The Accountable Entity shall also reject, without further review or evaluation, technical Offers that include financial Offer information.

6.10.4 Technical Evaluation Report

The Accountable Entity shall prepare a detailed Technical Evaluation Report of its technical review and evaluation of Offers. The report must describe the determinations to qualify or disqualify Offerors, the administrative review of the Offeror, and the evaluation and scoring of Offers according to the non-price-related criteria. Since this procurement method should not be used unless quality is extremely important, this report should identify if the top ranked and any other Offer is considered of high quality. If no Offer is considered of high quality, the report may recommend cancelling the procurement. Before issuing an invitation to negotiate a contract, the Accountable Entity must obtain all the approvals as required in *Attachment A, PPG Approval Matrix*. Upon receipt of all required approvals, the Accountable Entity must notify all participants of the results of the technical review. The period for filing a Bid Challenge to the technical evaluations begins with this notification.

6.10.5 Negotiations

The highest rated Offeror will be requested to submit a financial Offer if not already submitted with the technical Offer. In addition, the Accountable Entity may request additional technical elements or forms that were not requested and evaluated in the technical Offer. Since the award is based upon the quality of the technical Offer, the Accountable Entity must not ask or permit an Offeror to change its technical Offer as requested, submitted and evaluated. However, the Accountable Entity may negotiate the financial Offer plus any additional technical elements that were requested and submitted after selection. If negotiations fail with a higher-ranked Offeror, the Accountable Entity may invite the next ranked Offeror for negotiations as long as that Offer was also determined to be of high quality. However, the Accountable Entity must not reopen the earlier negotiations. Once the terms of a proposed contract have been negotiated and agreed, the Accountable Entity must obtain all the approvals as required in *Attachment A, PPG Approval Matrix*. A notice of award will be published after the contract is signed.

6.11 FIXED BUDGET SELECTION ("FBS")

6.11.1 General Requirements and Use

FBS is a method of procurement used for procuring consultant and non-consultant services. An award is based upon non-price criteria only. Although price is not a factor of competition, it is a fixed amount that is determined by the Accountable Entity before inviting Offers. When using this procurement method, the Accountable Entity is seeking to award a contract to a service provider that offers the most and best service for the money available. Because the award criteria are heavily weighted toward measuring the quantity, scope or breadth of services offered, it is not a strong risk assessment tool. Thus, this method of procurement is best used when the scope of services can be well defined and quantified to some degree and when the quality of the Offeror is less important because of the nature of the services. The Accountable Entity should also thoughtfully consider the qualification requirements to ensure that high-risk Offerors are disqualified.

6.11.2 Submission of Offers

The Accountable Entity must state the fixed budget amount in the solicitation documents and will request both technical and financial Offers to be submitted separately. In the solicitation documents, the Accountable Entity must explain clearly that the financial Offers will not be considered in the selection decision but that an Offer will be rejected if the financial Offer exceeds the fixed budget amount. The financial Offers will remain sealed until the review and the evaluation of the technical Offers are completed.

6.11.3 Administrative Review and Evaluation of Technical Offers

At this stage, the review and evaluation procedures are very similar to those applied in the QBS. The Accountable Entity must organize a Technical Evaluation Panel ("Panel"). Following the administrative review and determination of qualifications, the Panel will evaluate and score each Offer according to the evaluation criteria and method in the solicitation documents.

6.11.4 Technical Evaluation Report

The Accountable Entity shall prepare a detailed Technical Evaluation Report of its technical review and evaluation of Offers. After receiving the necessary approvals, the Accountable Entity must notify all of the Offerors of the results of the technical evaluation. The period for filing a Bid Challenge to the technical evaluation begins with this notice.

6.11.5 Opening Financial Offers and Negotiations

After the period for filing a Bid Challenge, the Accountable Entity must issue an invitation to the formal opening of all financial Offers to the Offerors who attained the technical threshold score. The Accountable Entity will open all financial Offers that achieved the technical threshold score. If the financial Offer of the Offeror who achieved the highest technical score, as adjusted for mathematical errors, is equal to or less than the fixed budget amount as set out in the solicitation documents, the Accountable Entity shall issue an NOITA and invite the Offeror to negotiate a contract. If that financial Offer exceeds the fixed

budget amount, the Offer is rejected and the Accountable Entity may, at its discretion, proceed to invite to negotiations the next ranked Offer, who attained the technical threshold score, and so on. When using this method of procurement, negotiation of both technical and financial terms is limited and focuses mostly on clarifications and development of the exhibits of the contract.

6.12 LEAST COST SELECTION ("LCS")

6.12.1 General Requirements and Use

Least-Cost Selection is a method of procurement used for procuring consulting and non-consulting services. An award is based upon the lowest price among the qualified Offerors and acceptable Offers as defined in the solicitation documents. When using this procurement method, the Accountable Entity is seeking to award a contract to a qualified service provider that is offering acceptable services at the best price.

The challenge when using this method of procurement is defining the standard for "acceptable." This must be defined in the solicitation documents. The criteria to determine "acceptable" is usually similar to non-price award criteria, but the Offers are not ranked. Rather every Offer that is scored at or above a certain threshold as set out in the solicitation documents is deemed "acceptable" and the award goes to the one with the lowest price. Thus, this method of procurement is best used when the Accountable Entity can expect little difference in the quality of "acceptable" Offers given the nature of the services. When used appropriately this can be a cost-effective method of making both large and small purchases.

6.12.2 Submission of Offers

The Accountable Entity will request both technical and financial Offers to be submitted separately. The financial Offers will remain sealed until the review and evaluation of the technical Offers are completed.

6.12.3 Administrative Review and Evaluation of Technical Offers

At this stage, the review and evaluation procedures are very similar to those applied in the QCBS. The Accountable Entity must organize a technically qualified Technical Evaluation Panel ("Panel"). Following the administrative review and determination of qualifications, the Panel will evaluate and score each technical Offer according to the evaluation criteria and method in the solicitation documents. All Offers that are ranked at or above the threshold are deemed "acceptable". It is recommended that thresholds be set for each criterion, but the Accountable Entity is permitted to set just one over-all threshold for "acceptable".

6.12.4 Technical Evaluation Report

The Accountable Entity shall prepare a detailed Technical Evaluation Report of its technical review and evaluation of Offers. The report must describe the determinations to qualify or disqualify Offerors, the administrative review of Offers, and the evaluation and determination of Offers deemed acceptable and not acceptable. After receiving the necessary approvals, the Accountable Entity must notify all of the Offerors

of the results of the technical evaluation. The period for filing a Bid Challenge to the technical evaluation begins with this notification.

6.12.5 Opening Financial Offer and Negotiations

The Accountable Entity will open publicly and announce the financial Offer of all the Offerors deemed "acceptable" because they scored at or above the threshold(s). These financial Offers may be adjusted only to correct any arithmetical errors. After full analysis of the financial Offer and any adjustments in price, and receipt of all approvals as required by *Attachment A, PPG Approval Matrix*, the Accountable Entity will issue a NOITA with an invitation to negotiate a contract to the eligible and qualified Offeror that submitted the lowest price "acceptable" Offer. When using this method of procurement, negotiation of both technical and financial terms is limited and focuses mostly on clarifications and development of the exhibits of the contract.

6.13 CONSULTANT QUALIFICATIONS SELECTION ("CQS")

6.13.1 General Requirements and Use

CQS is a method of procurement used for procuring consultant services from a firm. An award is based upon non-price criteria focused only on the qualifications of the Offeror. Neither price nor technical approach is a factor of competition. Thus, the award is to the firm that the Accountable Entity deems best suited to fulfil the contract. There are two key conditions for using this method. First, the Accountable Entity may use this method when the competence, commitment and attitudes of the consultant, including its staff, are so critical to the success of the procurement that taking on an increased risk for a lower price is not a good outcome. Second, a TOR, that is so well-defined that there is little flexibility in the manner of performing or delivering the services and, therefore, making a request for and evaluation of methodology and approach is of little value and inefficient in time and administration burden. However, before using this procurement method the Accountable Entity should confirm that it has adequate information to analyze and negotiate the price and make a price reasonableness determination.

6.13.2 Submission of Offers

In the solicitation documents, the Accountable Entity must identify the qualification requirements and describe the criteria and method for evaluation. It must also describe the documents required to establish that the Offeror satisfies the qualification requirements.

6.13.3 Administrative Review and Evaluation of Qualification Requirements

The Accountable Entity must organize a technically qualified Technical Evaluation Panel (Panel). Following the administrative review, the Panel will evaluate and score the qualification requirements according to the evaluation criteria and method in the solicitation documents. Since the selection is based only on qualifications requirements, the Accountable Entity may request additional information to clarify or support the consultants' qualification requirements.

6.13.4 Technical Evaluation Report

The Accountable Entity shall prepare a detailed Technical Evaluation Report of its review and evaluation of the qualification requirements. The report must describe the determinations to qualify or disqualify Offerors, the administrative review of Offerors and the evaluation and scoring of each Offeror's qualifications according to the qualification requirements. If no participant is considered highly qualified, the report should recommend cancelling the procurement. Before inviting the successful Offeror to submit a technical and financial Offer, the Accountable Entity must notify all Offerors of the results of the technical evaluation. The period for filing a Bid Challenge to the technical evaluation begins with this notice.

6.13.5 Negotiations

If the highest rated Offeror is highly qualified, the Accountable Entity must invite the Offeror for negotiations and request a technical and financial Offer. The Accountable Entity and the consultant shall then negotiate the technical and financial terms of a contract, including the staffing assignments and the reasonableness of proposed fees and prices. If negotiations fail with a higher ranked Offeror, the Accountable Entity may invite the next ranked Offeror for negotiations if that Offeror was also determined to be highly qualified. However, the Accountable Entity must not reopen the earlier negotiations.

6.14 INDIVIDUAL CONSULTANT SELECTION ("ICS")

6.14.1 General Requirements and Use

This is a method of procurement used for procuring consultant services from an individual. An award is based upon non-price criteria focused only on the qualifications of the individual participant. The Accountable Entity should use this method of procurement when qualifications of the individual are the paramount requirements. This method of procurement should not be used when the Accountable Entity requires (i) a team of experts, and/or (ii) the individual consultant to be supported by its home office such as a Home Office Project Director or additional experts to support the individual consultant's work. (iii) individual consultant selected from a master list provided by MCC. Individual consultants may also be needed to serve as technical advisors to support the Accountable Entity over a period.

6.14.2 Submission of Applications

In the solicitation documents, the Accountable Entity must identify the qualification requirements and describe the criteria and method for evaluation, and set the technical threshold score. It must also describe the documents required to establish the individual's qualification requirements, provide an option for the submission of approach and methodology – if applicable and required – and a form for individuals to submit their daily or monthly remuneration rate, which may be submitted as a separate document.

6.14.3 Administrative Review and Evaluation of Applications

The Accountable Entity must organize a Technical Evaluation Panel ("Panel") to evaluate the qualifications but should not procure independent experts for the Panel, except in very exceptional circumstances. Following the administrative review, the Panel will evaluate and score the qualification requirements

according to the evaluation criteria and method in the solicitation documents. Since the selection is based only on qualifications requirements, the Accountable Entity may request additional information to clarify or support the qualification requirements.

6.14.4 Technical Evaluation Report

The Accountable Entity shall prepare a detailed Technical Evaluation Report of its review and evaluation of the qualification requirements. The report must describe the administrative review of individuals and the evaluation and scoring of qualification requirements. If no individual is considered highly qualified, the report should recommend rejecting all Offers. Before inviting the successful individual using a NOITA, the Accountable Entity must notify all of the Offerors of the results of the technical evaluation, using a Notification of Technical Evaluation Results ("NOTER"). The period for filing a Bid Challenge to the technical evaluation begins with this notification.

6.14.5 Negotiations

The Accountable Entity and the individual shall negotiate the approach and methodology (if applicable), and duration for each and all tasks pertaining to the assignment. In addition, the individual's fees submitted with its Application shall be negotiated. If negotiations fail with the highest ranked individual, the Accountable Entity may invite the next ranked individual for negotiations who also attained the technical threshold score. However, the Accountable Entity must not reopen the earlier negotiations.

6.15 SOLE SOURCE SELECTION ("SSS")

6.15.1 General Requirements and Use

SSS is a method of procurement used for purchases of consultant services from an individual or a firm. This method of procurement does not select an Offeror through a competitive process. Since this directly conflicts with the principle of open competition, the Accountable Entity must receive MCC approval as specified in *Attachment A, PPG Approval Matrix* before using this method of procurement and may use this method only in the specific and limited circumstances described below:

a. For tasks that represent a natural continuation of a current or previous contract carried out by the firm or individual but only if: (i) the continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition; (ii) the consultant's performance is satisfactory or better on its current or previous contract; (iii) the original contract was competitively procured; and (iv) the price is reasonable and comparable to the fees in the current or previous contract.

b. When only one firm or individual is qualified or has experience of exceptional worth for the assignment.

c. When the Interim Procurement Agent procured by MCC in a competitive process has delivered high quality services in the performance of procurement agency services during the development of the Program, the Accountable Entity for that Program may contract with the firm to continue

performing procurement agency services for implementation of the entire Program provided that the competition for the MCC contract provided notice of the opportunity to provide related and continuing services for the Accountable Entity. The Accountable Entity Procurement Agency Agreement may include a base period plus annual Option periods.

d. When a consultant procured by MCC in a competitive process has delivered high quality services in the performance of due diligence during the development of an MCC Funding Agreement, the Accountable Entity for that country may contract with the firm to continue performing related consulting services for implementation of the MCC Funding Agreement, provided that the competition for the MCC contract provided notice of the opportunity to provide related and continuing services for the Accountable Entity.

e. In exceptional cases of urgency, such as in response to disasters and for consulting services required during the period immediately following the emergency. Lack of time to conduct a competitive procurement is not considered a case of urgency and is not an acceptable justification to use SSS.

f. When the Accountable Entity selects one or more individuals to serve as members of a Panel that reviews and/or evaluates Offers or supports the review of the qualifications of Offerors from a Master List provided by MCC, only sub-paragraph 6.15.2 (f) of procedures set out in paragraph 6.15.2 will apply.

g. When a multilateral public sector organization has an established presence and record of successful performance in the partner country, is acceptable to MCC, and can provide services needed by the Accountable Entity more efficiently, effectively, and at a price below the commercial market price for procuring the same or similar services through a competitive process. When awarding contracts under these circumstances the Accountable Entity may apply special arrangements for contracting as referenced in section 4.15 of this PPG.

h. When there is a need to complete unfinished performance of a contract that was terminated. In this circumstance, the Accountable Entity may negotiate a technical and financial Offer with the next ranked Offeror to complete performance of the contract, but only if: (i) the original contract was competitively procured and signed within the prior three years; (ii) the proposed Offeror had participated in the original procurement; (iii) the proposed Offeror was the next highest ranked competitor[34]; and, (iv) the price to complete the performance requirements by the next ranked Offeror is reasonable.

i. When the Accountable Entity selects one or more individuals to serve as short-term technical surge support from that Master List provided by MCC, the Accountable Entity shall ensure the inclusion of this activity in the PGPP, and only sub-paragraph 6.15.2 (f) of procedures set out in paragraph 6.15.2 will apply.

j. Service Providers approved in the MCC Funding Agreement shall be included in the PGPP and procured without competition.

34 The Accountable Entity may go down the list of ranked competitors until they can conclude a contract.

6.15.2 Procedures

Although several of the formal procedures of competitive procurement do not apply to SSS, there are important procedures that need to be followed before signing a contract:

a. The Accountable Entity must document in writing the justification for use of SSS and seek approval to use SSS, along with approval of the PGPP. The Accountable Entity shall not approach the potential Offeror before receiving the corresponding approval of the SSS justification.

b. If the proposed justification for using SSS is based upon condition 6.15.1(b) above, MCC may require the Accountable Entity to publish at its website a notice to procure the services under SSS.

c. Once approved, the Accountable Entity shall prepare the solicitation documents that must include a description of the requirements, the terms and conditions of the proposed contract, and the submission forms using the appropriate SBD forms and contract.

d. Upon submission of the Offer by the Offeror, the Accountable Entity must establish an Offer Review Panel (Panel) to review the Offer and prepare an Offer Review Report documenting issues for negotiation including administrative and technical issues and price reasonableness.

e. After obtaining approvals as specified in *Attachment A, PPG Approval Matrix*, the Accountable Entity will conduct negotiations with the Offeror to resolve issues identified in the Offer Review Report.

f. Following negotiations and resolution of issues, the Accountable Entity will prepare the contract based upon the results of the negotiations.

g. After obtaining all applicable approvals as specified in *Attachment A, PPG Approval Matrix*, the Accountable Entity will execute the contract with the Offeror.

h. The Accountable Entity shall publish notice of award of all SSS per the requirements set out in paragraph 5.5.3 of this PPG.

PART 7. CONTRACT ADMINISTRATION

7.1 GENERAL REQUIREMENTS

7.1.1 The terms contract management and contract administration are often confused and used interchangeably, but in the context of MCC program procurement, each term refers to different aspects and roles for managing a procurement contract after it is signed. The contract managers are sector experts who monitor and enforce the programmatic requirements of the contract, such as accepting deliverables. The contract administrators are procedural experts who monitor and enforce the administrative or procedural requirements of the contract in co-ordination with the contract managers.

7.1.2 The Accountable Entity must ensure that MCC-funded procurements are managed and administered in compliance with the terms of the contract. Before signing a contract, the Accountable Entity must have in place sufficient and qualified resources to manage and to administer the contract.

7.1.3 The Accountable Entity office of program procurement, led by the Accountable Entity Procurement Director and supported by the Accountable Entity Procurement Agent, must support the program offices

in enforcing the administrative requirements of procurement contracts. These administrative requirements include contract provisions governing contract amendments, contract suspension and termination, administration of contract securities, guarantees and warranties, exercising options, providing timely notices, monitoring timely progress of performance and timely submission of deliverables and reports, monitoring disbursements in accordance with payment schedules, monitoring the contract end date and maintaining records of contract performance and closeout.

7.2 MCC REVIEW AND MONITORING OF CONTRACT PERFORMANCE

7.2.1 The Accountable Entity must monitor and ensure the performance of MCC-funded contracts for goods, works and consulting and non-consulting services. Without assuming the responsibilities of the Accountable Entity, MCC oversees the Accountable Entity's monitoring activity as necessary to ensure that the Accountable Entity is properly performing its duty.

7.2.2 In its oversight role, the MCC may review deliverables approved by the Accountable Entity, attend discussions with suppliers, contractors or consultants or undertake site visits to sites of contract performance including home offices or facilities of suppliers, contractors, or consultants.

7.2.3 MCC must approve the termination of contracts where they approved the Procurement & Grants Plan Package and the TER.

7.3 CONTRACT ADMINISTRATION MANUAL

7.3.1 The Accountable Entity shall prepare and adopt a Contract Administration Manual ("CAM") as approved by MCC that identifies the person or entity responsible for performing contract administration tasks for all contracts for goods, works, and consulting and non-consulting services[35].

7.3.2 The Accountable Entity shall perform, report, and document all contract administration actions as required under the CAM.

7.4 PROCUREMENT PERFORMANCE INFORMATION

7.4.1 The Accountable Entity must include performance information in the PGPP for every procurement over the threshold set out in *Attachment B, PPG Dollar Threshold Matrix*. The performance information in the PGPP records key dates in the procurement process as well as the cumulative value of contract modifications.

7.4.2 The Accountable Entity must submit the PGPP in conjunction with each Disbursement Request and should highlight in the Explanatory Notes if changes in procurement timelines may result in impacts to the overall program timeline.

7.5 REPORTING TO THE CONTRACTOR PAST PERFORMANCE REPORTING SYSTEM

7.5.1 Information about a contractor's actions under previous contracts, also known as past performance, is an indicator of future performance and is important information to consider when awarding a contract.

35 MCC provides a template for developing the CAM. Generally, the CAM is developed by the Accountable Entity Procurement Agent and approved by the Accountable Entity Procurement Director and MCC.

Accordingly, the MCC maintains a database of contractor performance on Accountable Entity contracts funded by MCC in the Contractor Past Performance Reporting System ("CPPRS").

7.5.2 Since Accountable Entities provide MCC with the information in the database, each Accountable Entity must file periodic reports of contractor performance with the MCC on all contracts valued over the thresholds set forth in *Attachment B, PPG Dollar Threshold Matrix*. The value of all Options should be included in the total value of the contract to determine if a contract is valued above the threshold. The reports must be filed at least annually if the contractor is performing at a satisfactory level and quarterly if a contractor is not performing at a satisfactory level.

7.6 PROCUREMENT RECORDS

7.6.1 The Accountable Entity shall establish and maintain a complete and uniform digital record of each procurement from commencement of the procurement action through contract closeout in a format approved by MCC[36]. The procurement records will be retained by the Accountable Entity for at least 5 years after the expiration or termination of the MCC Funding Agreement.

7.6.2 The Accountable Entity shall provide procurement records to MCC upon request. MCC may review the records itself or it may delegate the review to its agents or consultants. If MCC determines that the goods, works, or consulting or non-consulting services were procured in violation of applicable requirements, MCC may call a mis-procurement even after the contract is signed. Similarly, if MCC finds serious issues in the performance and/or management of a contract, MCC may take action as appropriate, including requesting the Accountable Entity to suspend or terminate the contract.

7.7 LIQUIDATION OF ADVANCED PAYMENTS

The Accountable Entity must liquidate advanced payments according to the terms of liquidation set out in the contract. Generally, advance payments are liquidated from payments made to the contractor during performance of the contract, usually by deducting a percentage from each scheduled payment. A record of the liquidation of advanced payments shall be maintained by the Accountable Entity.

7.8 NOTICES

Procurement contracts include provisions for providing timely notice before taking certain action, for example, before exercising an Option, or before suspending or terminating a contract. The Accountable Entity must provide timely notices as required by the contract. Generally, the contract administrator sends the notice and should coordinate with the contract manager to ensure that notices as required by the contract or for diligent enforcement of the contract are sent and are timely.

7.9 CONTRACT CLAIMS AND DISPUTE

Procurement contracts provide for managing claims and disputes that may arise during contract performance. The Accountable Entity is responsible for resolution of disputes efficiently and effectively. The contract administrator must support the contract manager in resolving claims and disputes.

36 A template for developing procurement records is set out in the *MCC Program Procurement Handbook*.

7.10 CONTRACT AMENDMENTS AND CHANGE ORDERS

The Accountable Entity has discretion to modify an existing contract by issuing a contract amendment that changes, adds or deletes a term of the contract if needed to address a change of circumstances since the contract was signed. However, the Accountable Entity may not issue a contract amendment that would have an impact on the results of the award process or that so changes the existing contract that it would be considered a new contract. The contract administrator should determine if a proposed contract amendment is within the discretion of the Accountable Entity and will support the contract manager in preparing and executing the contract amendment.

Contracts amendments shall be written, signed, and dated by both parties and attached as an amendment to the original contract. The amendment should restate the entire section or paragraph that is changed.

Contract amendments and change orders are subject to approval requirements as specified in *Attachment A, PPG Approval Matrix.*

7.11 PROCUREMENT CLOSEOUT

MCC's *Policy on Program Closure* sets forth the guidelines to assist governments and accountable entities with the closure of programs. Per that policy, the Accountable Entity must develop a program closure plan that describes the schedule and steps it will take to close each Project and activity of a MCC Funding Agreement. The program closure plan must include provision for the closeout of all contracts to ensure that all performance and administrative actions have been completed, all disputes settled, and final payment has been made. The contract administrator has a lead role in working with the contract manager to ensure that the Accountable Entity complies with the program closure plan including fully documenting the closure in the procurement files. For detailed information on program closeout and additional guidance on the development of a program closure plan, please consult the *Policy on Program Closure*.

PART 8. GOVERNMENT-OWNED ENTERPRISES

8.1 DEFINED TERMS

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

8.1.1 "Government-Owned Enterprise" or "GOE" is any enterprise established for a commercial or business purpose that is owned and/or controlled by a Government (whether directly or indirectly).

8.1.2 "Government" means one or more governments, including any agency, instrumentality, subdivision or other unit of government at any level of jurisdiction (national or subnational).

8.1.3 "Owned" means a majority or controlling interest (whether by value or voting interest) of the shares or other ownership interest of the entity is owned (whether directly or indirectly and whether through fiduciaries, agents, or other means).

8.1.4 "Controlled by" necessarily is determined on a case-by-case basis but means material support for or the power by any means to control an enterprise (regardless of (i) the level of ownership, or (ii) whether

the power is exercised). Indicative criteria relevant to determining whether an enterprise is controlled by a Government include, but are not limited to, the following:

a. Whether a Government holds a direct or indirect controlling interest in the enterprise's capital or voting rights.

b. The extent to which the enterprise receives subsidies and other support from a Government.

c. Whether a Government has granted to the enterprise any special or exclusive legal or economic rights or benefits that may alter the competitiveness of the enterprise's goods, works, or services (including information systems) in a commercial market or otherwise influence the enterprise's business decisions.

d. The extent to which a Government has the power to direct or decide significant matters affecting the enterprise including, but not limited to, the following matters:

    i. The reorganization, merger, or dissolution of the enterprise or the formation or acquisition of a subsidiary or other affiliate of the enterprise.

    ii. Any sale, lease, mortgage, pledge, or other transfer of any of the principal assets of the enterprise, whether tangible or intangible, and whether or not in the ordinary course of business.

    iii. The closing, relocation, or substantial alteration of the production, operational, or other material activities of the enterprise.

    iv. The execution, termination, or non-fulfillment by the enterprise of material contracts.

    v. The appointment or dismissal of managers, directors, officers, or senior personnel, or other participation in the management or control of the enterprise.

8.1.5 Additional evidence of control may be found in the organizational history of the enterprise regardless of its current status. In some cases, a GOE may be privatized or otherwise reorganized in such a manner that it loses its status as a GOE. In other cases, a GOE may purportedly have been privatized, but continue to receive subsidies or other forms of support from a Government to such a degree that it can effectively be considered to be controlled by the Government[37].

8.1.6 "Force Account" and the units that carry out Force Account activities means a government-owned construction unit that is not legally, operationally, and financially autonomous. For purposes of this PPG, Force Account and the units that carry out Force Account activities will be defined solely as the Force Account units of the government of the Accountable Entity's country.

8.1.7 "Local Public Utility Operator" is generally a business that furnishes everyday necessary public utility services to the Accountable Entity, for example electricity, water, and waste removal. This exemption applies only to the extent that the entity provides public utility services as that term is commonly understood and does not apply to or exempt the provision of consulting services by any public utility including a Local Public Utility.

37 Evidence of control may also be assumed by MCC for enterprises from countries that have been deemed nonmarket economies by either the US Department of Commerce or the World Trade Organization.

8.2 ELIGIBILITY OF GOVERNMENT-OWNED ENTERPRISES

8.2.1 GOEs are not eligible to compete for MCC-funded contracts for goods, works or consulting services. Accordingly, GOEs (i) may not be party to any MCC-funded contract for goods (which includes contracts for the supply and installation of information systems), works or consulting services procured through an open solicitation process, Limited Bidding, or Sole Source Selection Direct Contracting; and (ii) may not be pre-qualified or shortlisted for any MCC-funded contract for goods, works or consulting services anticipated to be procured through these means.

8.2.2 This prohibition does not apply to Government-owned Force Account units, Local Public Utility Operators, educational institutions, and research centers, or any statistical, mapping, or other technical entities not formed primarily for a commercial or business purpose, or where a waiver is granted by MCC in accordance with section 4.16 Amendments and Waivers of this PPG.

8.2.3 Notwithstanding the usual procedures for amending or waiving provisions of this PPG, any waiver of the provisions as described in Section 8 herein requires the approval of the Vice President for Compact Operations with the concurrence of the Vice President and General Counsel and the Vice President for Policy and Evaluation and following notice to the Office of the Chief Executive Officer of MCC.

8.3 COMPLIANCE AND PENALTIES

8.3.1 Each Offeror submitting an Offer, or participating in any pre-qualification process, for any MCC-funded contract for goods, works or consulting services must make, as part of its Offer, a certification, in form and substance satisfactory to MCC, that it is not a GOE. This certification will include the completion of a checklist or questionnaire based on the definition of owned and the criteria set out in the definition of controlled by in clause 8.1.4 above and will include any supporting documentation as MCC may, from time to time, require.

8.3.2 As part of an Accountable Entity's obligation to confirm eligibility of Offerors in connection with the examination of Offers for any MCC-funded contract for goods, works or consulting services, the Accountable Entity will review the certification, and any supporting material submitted by each Offeror submitting an Offer in accordance with the immediately preceding clause 8.3.1. If the procurement begins with a pre-qualification of Offerors, the Accountable Entity will have the same obligation to confirm eligibility of each entity qualified.

8.3.3 Prior to announcing the winning Offeror in a procurement related to any MCC-funded contract for goods, works or consulting services, or any list of pre-qualified or shortlisted Offerors in respect of a contemplated procurement related to any MCC-funded contract for goods, works or consulting services, the Accountable Entity will verify the eligibility of such Offerors with MCC. MCC will maintain a database (internally, through subscription services, or both) of known GOEs and each winning, pre-qualified or shortlisted Offeror will be compared against the database and subject to such further due diligence as MCC may determine necessary under the circumstances, prior to the winning Offeror being announced.

8.3.4 Any violation of the provisions of this Part 8 by any Offeror submitting an Offer, or participating in any pre-qualification or shortlisting process, for any MCC-funded contract may be deemed to be fraud for purposes of this PPG and any other applicable MCC policy or guidance, including MCC's Policy on Preventing, Detecting, and Remediating Fraud and Corruption in MCC Operations.

8.3.5 The GOE policy shall not apply to subcontractors, and sub-consultants. Furthermore, any Offeror that is determined by MCC to have organized itself, subcontracted any part of its MCC-funded contract, or otherwise associated itself with any other entity for the purpose of, or with the actual or potential effect of, avoiding or otherwise subverting the provisions of this Part 8, may be deemed to be a GOE for all purposes of these and other provisions of this PPG.

8.3.6 Any reasonable allegation that any Offeror submitting an Offer for any MCC-funded contract has violated the provisions of this Part 8 shall be subject to review in a bid challenge in accordance with this PPG and the Accountable Entity's BCS.

ATTACHMENT A. PPG APPROVAL MATRIX

This Approval Matrix identifies the approval and clearance requirements for conducting procurements. There are numerous steps in conducting procurements and the required approval or clearance must be obtained before moving the procurement process forward.

The Accountable Entity Procurement Director must approve every document before it is submitted to the Procurement and Grants Committee of the Governing Body, the Governing Body, and MCC for Information or Approval. In addition, the Accountable Entity Procurement Director must approve all procurement related documents before they are finalized and issued. Notwithstanding the requirements for MCC approval in this Approval Matrix, MCC may exercise its authority to review and approve any procurement documents or decisions with prior notice to the principal officer of the Accountable Entity.

Notation:

A = Approval

Accountable Entity A = Governing Body and Committee of Governing Body Approval means that the Accountable Entity will take the action approved by the Governing Body/Committee. The action approved by the Governing Body/Committee must be identical to the action approved by MCC.

MCC A = Approval means that the submitted request meets MCC's policies, standards, and practices, and that MCC Funding can be used in the action contemplated. The action approved by MCC must be identical to the action approved by the Board/Committee.

I = Information Only

N = None

PLANNING, SOLICITATION, EVALUATION AND AWARD

Procurement Method/Actions	Procurement And Grants Committee of Governing Body	Accountable Entity Governing Body	MCC
Procurement & Grants Plan Package (PGPP) [par 5.2.1]	N	A	A
Amendments to PGPP [par 5.2.1]	A *Only if:* a Material Change to the PGPP	N	A *Only if:* a Material Change to the PGPP
Use of Direct Contracting [section 6.6] and Sole Source Selection [section 6.15]	A *Only if:* a Material Change to the PGPP approved by the governing body	A *Only if:* set out and approved with approval of PGPP	A *Only if:* a Material Change to the PGPP

Procurement Method/Actions	Procurement And Grants Committee of Governing Body	Accountable Entity Governing Body	MCC
Certificates of Offerors Government Owned Enterprise (GOE) [part 8]	N	N	A
Bid Challenge Decision [section 5.23]	I	I *Only if:* Bid Challenge is sustained	I
Cancellation of Procurement [section 5.25]	N	N	A
Procurement Package	N	N	A *Only when more than the following thresholds:* **Goods:** Above USD 1,500,000 **Non-consulting Services:** Above USD 300,000 **Works:** Above USD 7,500,000 Shopping, DC: None **Consultant:** Above USD 750,000 For CQS: USD 300,000 For SSS, IC: None
Solicitation Document (Including RFA) [section 5.6]	N	N	A Only when there are substantial changes to template for the particular Solicitation Documents.
Composition of a Panel [part 6]	N	N	A *Only for* CD
Proposed Contract (All except QBS, SSS, DC and Shopping)	I Monthly report including instances of budget variations A *Only when* substantial change in: (a) Requirements stated in the solicitation document and/or (b) For proposed award up to USD 10 million if the proposed award is higher than the estimated budget by USD 1 million (c) For proposed award above USD 10 million if the proposed award is higher than the estimated budget by 10 percent.	N	A *Only when* substantial change in: (a) Contract legal clauses and/or (b) Requirements stated in the solicitation document.

Procurement Method/Actions	Procurement And Grants Committee of Governing Body	Accountable Entity Governing Body	MCC
Short-Listing Report (Consultant) [section 6.1] (except CQS)	N	N	A *Only if:* More than USD 750,000
For QPBS Technical Evaluation Report [section 6.3], and For CB [section 6.2] and LB [section 6.4] Bid Review Report	N	N	A *Only if:* **Goods:** More than USD 1,500,000 **Non-consulting Services:** More than USD 300,000 **Works:** More than USD 7,500,000
Competitive Discussions [section 6.8] -Technical Review Report -Technical Evaluation Report -Combined Review and Evaluation Report	N	N	A Each report in turn as procurement progresses
Technical Evaluation Report for Quality and Cost- Based Selection (QCBS) [section 6.9] Quality- Based Selection (QBS) [section 6.10] Least Cost Selection (LCS) [section 6.12] Consultant Qualification Selection (CQS) [section 6.13] Fixed Budget Selection (FBS) [section 6.11] Individual Consultant Selection (ICS) [section 6.14]	N	N	A *Only if:* (a) More than USD 750,000 for QCBS, QBS, FBS and LCS or (b) More than USD 300,000 for CQS/ICS
Combined Evaluation Report (QPBS section 6.3 and QCBS section 6.9)	N	N	I
Proposed contract for Quality Based Selection (QBS) [section 6.10]	A *Only if:* value of Contract is more than 10 percent over the estimated budget in the approved PGPP	N	I *Only for* QBS
Proposed contract for over USD 5,000 for Direct Contracting (DC) [section 6.6] and Sole Source Selection (SSS) [section 6.15]	A *Only if:* value of Contract is more than 10 percent over the estimated budget in the approved PGPP	N	I

CONTRACT ADMINISTRATION, AMENDMENTS AND CHANGE ORDERS

Contract Action	Accountable Entity PD	Procurement and Grants Committee	MCC
Contract modifications and change orders for Contracts valued equal to or less than USD 2 million.	A *Unless:* Works – Change Orders: If approval authority is delegated to the Engineer as defined in the BD and Contract Notice of modification or change order shall be sent to the Accountable Entity Director of Procurement for information purpose only	A *Only if:* (a) Raises the value of a contract that did not require approval above an approval threshold (b) Increases the original contract value by USD 200,000 or more; or (c) Increases the original combined Base and Options value of a contract by 10 percent	A *Only if:* (a) Raises the value of a contract that did not re- quire approval above an approval threshold (b) Increases the original contract value by USD 200,000 or more; or (c) Increases the original combined Base and Option value of a contract by 10 percent. Once the 10 percent threshold for modifications or change orders has been reached for the combined Base and Options value of a contract, any subsequent contract modification or change order that individually or collectively exceeds 3 percent of the original combined Base and Options value of a contract also requires MCC approval
Contract modifications and change orders for Contracts valued more than USD 2 million.	A *Unless:* Works – Change Orders**:** If approval authority is delegated to the Engineer as defined in the BD and Contract Notice of modification or change order shall be sent to the Accountable Entity Director of Procurement for information purpose only	A *Only if:* (a) Raises the value of a contract that did not require approval above an approval threshold (b) Extends the original contract duration by 25 percent or more. Any subsequent contract modification or change order that individually **or** (c) Collectively exceeds 10 percent of the new contract duration (d) Increases the original contract value by 10 percent or USD 1,500,000 or more (whichever may apply); **or** Increases the original combined Base and Options value of a contract by 10 percent or USD 1,500,000 or more (which- ever may apply)	A *Only if:* (a) Raises the value of a contract that did not require approval above an approval threshold (b) Extend the original contract duration by 25 percent or more. Any subsequent contract modification or change order that individually or collectively exceeds 10 percent of the new contract duration (c) Increase the original contract value or the original combined Base and Options value of a contract either by 10 per-cent or by more than USD 1,500,000. Once the 10 percent contract (or USD 1,500,000) 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 percent of the original contract value also requires MCC approval.

ATTACHMENT B. PPG DOLLAR THRESHOLD MATRIX

Component	Threshold
Section 4.10.1 & 4.10.2: Dollar Threshold to collect UBO information	*Equal to or more than* USD 750,000.
Section 5.5: Dollar Thresholds for low-value procurements	*Less than:* USD 200,000 (Goods/Non-consultant Services) USD 1 million (Works) USD 100,000 (Consultant Services)
Section 5.3: Dollar Thresholds for low-value procurement for use of local Language	*Less than:* USD100,000
Part 6: Dollar Threshold to include at least one independent expert as a member of a Panel as may be required by MCC	*Equal to or more than:* USD 250,000
Section 6.5: Dollar Threshold for using Shopping	*Less than:* USD 300,000 (goods, works, and non-consulting services) USD 1 million (office rehabilitation) USD 400,000 (vehicles)
Par 6.5.5: Dollar Threshold for Micro-Shopping	*Less than:* USD 10,000 (goods, works, non-consulting services)[38]
Section 7.4: Dollar Threshold for preparing Procurement Performance Information	*Equal to or more than:* USD 25,000
Section 7.5: Dollar Threshold for reporting a contractor's performance in CPPRS	*Equal to or more than:* USD 5 million (works) USD 500,000 (goods, and consulting and non-consulting services)

Material Change Section 5.2 Procurement & Grants Plan Package
1. **Add** procurement with estimated value equal to or greater than USD 200,000 using a method of procurement other than Direct Contracting or Sole Source Selection.
2. **Increase** to USD 200,000 or more the estimated value of a procurement previously entered into the PGPP with an estimated value less than USD 200,000 using a method of procurement other than Direct Contracting or Sole Source Selection.
3. **Add** procurement with an estimated value equal to or greater than USD 5,000 using Direct Contracting or Sole Source Selection

38 To be determined in the Procurement Operations Manual (POM) of the Accountable Entity as agreed between MCC and the Accountable Entity.

Material Change Section 5.2 Procurement & Grants Plan Package
4. **Increase** to USD 5,000 or more the estimated value of a procurement previously entered into the PGPP with an estimated value less than USD 5,000 using Direct Contracting or Sole Source Selection.
5. **Change** the estimated value of a particular procurement over USD 1 million up or down by 25 percent or more.
6. **Change** the estimated value of a particular procurement under USD 1 million to value of USD 1 million or above
7. **Change** the method of procurement or selection procedure to a less open or more subjective procedure. Changing from Competitive Bidding to Limited Bidding or Shopping is an example of a change to a less open procedure. Changing from QCBS to QBS or from a CQS to individual consultant selection are examples of a change to a more subjective procedure.

ATTACHMENT C. PPG OTHER REQUIREMENTS MATRIX

Notation: A = Approval; C = Clearance; I = Information purpose only; N = None

Topics	Other Requirements That Need Approvals	Accountable Entity Procurement Director	MCC
Applicability [part 1]	Application of alternative procurement procedures.	N	A
Fraud and corruption [par. 4.7.1 (d) and 4.7.2]	Auditors appointed by the Accountable Entity to inspect offeror's accounts, records, and other documents relating to the submission of a bid or performance of an MCC-funded contract.	N	A
	Accountable Entity may introduce into bid or proposal forms for contracts funded by MCC an undertaking of the bidder or consultant to observe, in competing for and executing a contract, the country's laws against fraud and corruption (including bribery), as listed in the solicitation documents	N	A
Conflict of Interest [par. 4.8.1.c]	Firm or individual may not be awarded the contract, unless the conflict of interest has been resolved in a manner acceptable to MCC.	N	A
Confidentiality [par. 4.9.2]	Information and documents shall not be disclosed to anyone outside the evaluation panel except as may be approved by the Accountable Entity Procurement Director in consultation with MCC.	A	A
Ineligible Firms and Individuals [par. 4.10.4]	Firms of a country or goods manufactured in a country must be excluded if (i) the country of the Accountable Entity as a matter of law or official regulation and with approval of MCC, prohibits commercial relations with that country.	N	A
MCC Review [par 4.12]	Approvals from MCC and, depending upon the terms of the Accountable Entity's governing document, the Accountable Entity Governing Body will be required for any modifications to material agreements as noted under the relevant MCC Funding Agreement. Material agreements typically include Fiscal and Procurement Agent Agreements, Banking Services Agreement and the Auditor's contract.	I	A

Topics	Other Requirements That Need Approvals	Accountable Entity Procurement Director	MCC
Procurement Operations Manual (POM) [par. 5.1.2]	Adoption of Accountable Entity POM using MCC template.	A	A
Solicitation Document [par. 5.6.1]	Use a non-MCC solicitation document (template).	A	A
Accountable Entity Website [par. 5.5.1]	Website for advertising procurement notices.	A	A
Estimated budget publication [par. 5.7.3]	Approval for not to publish estimated budget for consulting services.	A	A
Advance Payment [par. 5.10.2.1 (a) and (b)]	Goods, works, non-consultant services: more than 15% Consultant: up to 10%.	A	A
Evaluated Options [par. 5.7.9]	Price of the Option substantially differs from the evaluated price of the Option. (MCC may require justification as a Direct Contract or Sole Source Selection).	A	A
Price Adjustment [par. 5.10.3]	Price Adjustment clause in contract.	A	A
Banks issuing securities [par. 5.11.2]	International Institution issuing a Bid or Performance security (not located inside the country of the Accountable Entity) is not required to have a corresponding financial institution inside the country of the Accountable Entity.	A	A
Performance Security for Works [par. 5.11.4.1]	Performance Security for Works of less than 10%.	A	A
Joint Ventures and Associations [par. 5.12.3 and .4]	Not permitted to change its arrangement unless there are exceptional circumstances.	A	A
	Limit the number joint venture or association partners.	A	A

Topics	Other Requirements That Need Approvals	Accountable Entity Procurement Director	MCC
Turnkey Contract, Concession Agreements, other Public-Private Sector Transactions [par. 5.14.9]	Accountable Entity to enter complex transactions with the private sector such as turnkey contracts, concession agreements, and operation & maintenance.	A	A
Bonus Clauses [par. 5.15.2]	To include a bonus clause in the special conditions of contract.	A	A
Contract Negotiation [par. 5.21.1 and .2]	Accountable Entity to require the Offeror to undertake responsibilities, tasks or deliverables that were not set out in the solicitation documents.	A	A
	Contract negotiations termination.	A	A
Bid Challenge System [par 5.23.3]	BCS and IBCS	A	A
Alternative procurement procedures [part 6]	Use of an alternative procedure If the circumstances of the procurement are so unique that an alternative procedure would better fit the purpose of the procurement.	A	A
Shopping dollar value threshold [par. 6.5.1]	Waiver of PPG to modify the dollar value threshold for shopping methodology.	A	A
Contract Administration Manual [par. 7.3.1]	Adoption of Accountable Entity CAM using MCC template.	A	A

ATTACHMENT D. GLOSSARY OF TERMS

Accountable Entity Procurement Operations Manual or **POM** has the meaning set forth in paragraph 5.1.2.

Agency Agreement has the meaning set forth in paragraph 5.14.7.

Bank Agreement has the meaning set forth in paragraph 5.14.8.

Bid Challenge and **Bid Challenge System** or **BCS** have the meaning set forth in section 5.23.

Blanket Purchase Agreement or **BPA** has the meaning set forth in paragraph 5.14.6.

Concession Agreement has the meaning set forth in paragraph 5.14.9.

Contract Administration Manual or **CAM** has the meaning set forth in section 7.3.

Consultant Qualifications Selection or **CQS** has the meaning set forth in section 6.13.

Contractors Past Performance Reporting System or **CPPRS** has the meaning set forth in section 7.5.

Combined Review and Evaluation Report has the meaning set forth in paragraphs 6.3.5, 6.8.6 or 6.9.5.

Compact means the Millennium Challenge Compact entered into between the United States of America, acting through the Millennium Challenge Corporation, and the government of the country receiving assistance from the Millennium Challenge Account.

Compact Development Funds or **CDF** means the funds granted by MCC to facilitate compact development by funding post-Opportunity Memo (OM) or Project Proposal Assessment Memorandum (PPAM) studies, designs, etc.

Compact Facilitation Fund or CFF or CFF means the funds granted by MCC to facilitate compact implementation by funding post-compact signing mobilization and start-up expenses, including additional designs / studies as needed.

Competitive Bidding has the meaning set forth in section 6.2.

Competitive Discussions has the meaning set forth in section 6.8.

Cost-Reimbursement Contract has the meaning set forth in paragraph 5.14.3.

Direct Contracting has the meaning set forth in section 6.6.

Disbursement Request means a request for disbursement of the proceeds of an MCC Funding Agreement made in accordance with the terms of the MCC Funding Agreement.

Dollar Threshold has the meaning set forth in Attachment B., PPG Dollar Threshold Matrix.

Explanatory Note has the meaning set forth in paragraph 7.4.2.

Fiscal Accountability Plan or FAP means the document adopted by an Accountable Entity, subject to No Objection by MCC, which encompasses the appropriate tracking and use of program financial resources and intended to define and document the key processes and procedures necessary for good internal control.

Fiscal Agent means the firm that provides fiscal agency services for the Accountable Entity.

Fixed Budget Selection or **FBS** has the meaning set forth in section 6.11.

Fixed-Price Contract has the meaning set forth in paragraph 5.14.1.

Force Account has the meaning set forth in paragraph 8.1.6.

General Procurement Notice (GPN) has the meaning set forth in paragraph 5.5.1.

General Requirements has the meaning set forth in part 5.

Indefinite Delivery and Indefinite Quantity Contract or **IDIQ** has the meaning set forth in paragraph 5.14.5.

Individual Consultant Selection has the meaning set forth in section 6.14.

Interim Bid Challenge System or **IBCS** has the meaning set forth in section 5.23.

International Commercial Terms or **INCOTERMS** means the series of pre-defined commercial terms published by the International Chamber of Commerce relating to international commercial law.

Invitation to Pre-Qualify has the meaning set forth in paragraph 6.1.1.

Least-Cost Selection or **LCS** has the meaning set forth in section 6.12.

Limited Bidding has the meaning set forth in section 6.4.

Master List means a list maintained by MCC of panel experts in multiple sectors who have proven expertise in the subject matter in the projects funded by MCC in different countries.

Material Change has the meaning set forth in Attachment B, PPG Dollar Threshold Matrix.

Micro-Shopping has the meaning set forth in paragraph 6.5.5.

Millennium Challenge Account (MCA) Entity or **Accountable Entity** means the entity designated by the government of the country receiving assistance from the Millennium Challenge Account as responsible for the oversight and management of implementation of the Compact on behalf of the government. Reference to Accountable Entity includes any predecessor or successor entity.

MCC has the meaning set forth in part 1.

MCC Cost Principles means MCC's *Cost Principles for Cost-Reimbursement Contracts under MCC-Financed Grants and Cost Principles for Government Affiliates*, both located on MCC's website at *https://www.mcc.gov/resources/doc/guidance-cost-principles-for-government-affiliates*.

MCC Funding Agreement has the meaning set forth in part 1.

MCC Program Procurement Handbook or **Handbook** has the meaning set forth in paragraph 5.1.3.

MCC Program Procurement Principles has the meaning set forth in section 4.1.

Notice of Intent to Award or **NOITA** has the meaning set forth in Section 5.20.

Notification of Technical Evaluation Results or **NOTER** has the meaning set forth in Section 6.14.4.

Offer means any submission including bid, proposal or quotation according to context.

Offeror means any individual or entity or entities that participate in a procurement.

Offer Review and Evaluation Panel or **Panel** has the meaning set forth in paragraph 6.3.2.

Offer Review and Evaluation Report has the meaning set forth in paragraph 6.3.3.

Offer Review Panel or **Panel** has the meaning, in context, set forth in paragraphs 6.2.2, 6.6.2, or 6.15.2.

Offer Review Report has the meaning in context, set forth in paragraphs 6.2.4, 6.6.2, or 6.15.2.

Operation and Maintenance Contract has the meaning set forth in paragraph 5.14.9.

Option has the meaning set forth in paragraph 5.7.9.

Procurement Action Lead Time or **PALT** means the time necessary to complete a procurement.

Procurement Agent means the firm that provides procurement agency services for the Accountable Entity.

Procurement Implementation Plan or **PIP** has the meaning set forth in paragraph 5.2.3.

Procurement Performance Information or **PPI** has the meaning set forth in section 7.4.

Procurement & Grants Plan Package has the meaning set forth in section 5.2.

Procurement Policy & Guidelines or **PPG** has the meaning set forth in part 1.

Project has the meaning set forth in part 1.

Quality-Based Selection or **QBS** has the meaning set forth in section 6.10.

Quality and Cost-Based Selection or **QCBS** has the meaning set forth in section 6.9.

Quality and Price Based Selection or **QPBS** has the meaning set forth in section 6.3.

Quotation Review Report or **QRR** has the meaning set forth in section 6.5.4.

Request for Expression of Interest or **REOI** has the meaning set forth in paragraph 6.1.2.

Request for Information or **RFI** has the meaning set forth in paragraph 5.2.2.

Request for Quotations or **RFQ** has the meaning set forth in section 6.5.2,

Requirements Contract has the meaning set forth in paragraph 5.14.4.

Shopping has the meaning set forth in section 6.5.

Sole Source Selection or **SSS** has the meaning set forth in section 6.15.

Specific Procurement Notice or **SPN** has the meaning set forth in paragraph 5.5.2.

Standard Bidding Documents or **SBDs** has the meaning set forth in paragraph 5.6.1.

Shortlisting has the meaning set forth in paragraph 6.1.2.

Technical Evaluation Panel or **Panel** has the meaning, in context, set forth in paragraphs 6.8.2, 6.9.2, 6.10.3, 6.11.3, 6.12.3 6.13.3 or 6.14.3.

Technical Evaluation Report has the meaning, in context, as set forth in paragraphs 6.8.4, 6.9.3, 6.10.4, 6.11.4, 6.12.4, 6.13.4, or 6.14.4.

Technical Review Report has the meaning set forth in paragraph 6.8.2.

Terms of Reference or **TOR** has the meaning set forth in paragraph 5.7.5.

Time-Based Contract (also known as Time & Materials Contract) has the meaning set forth in paragraph 5.14.2.

Trafficking in Persons of ("TIP") has the meaning set forth in section 4.6.

Turnkey Contract has the meaning set forth in paragraph 5.14.9.

UBO has the meaning set forth in Section 4.10.1.

USD means United States dollars.

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