

RFA Ref No: MCA-MWII-24-4001 – Selection of two (2) Individual Consultant for Technical Assistance to 7 District Councils to Support implementation of Market Regulation for Inclusive Growth

## **Selection of Individual Consultants**



### **Millenium Challenge Account (MCA)-Malawi II**

**On behalf of the Government of Malawi**

**REQUEST FOR APPLICATIONS**

**Issued on: 13<sup>th</sup> November 2024**

**for**

**Selection of two (2) Individual Consultant for Technical Assistance to 7 District Councils to Support implementation of Market Regulation for Inclusive Growth**

Ref No: **MCA-MWII-24-4001**

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## Section 1. General Instructions to Applicants (GIA)

	<p>The following words and expressions shall have the meanings stated below. Throughout this RFA if the context so requires, words indicating the singular also include the plural and vice versa, and the feminine means the masculine and vice versa.</p>
	<ul style="list-style-type: none"> <li>(a) “Accountable Entity” means the entity designated by the Government to implement the Compact or Threshold Program, <b>identified in Section 2.</b></li> <li>(b) “Application” means the Technical Offer for the provision of the Services submitted by a Consultant in response to the RFA.</li> <li>(c) “Compact”, “Compact Development Fund” or “Threshold Program Grant Agreement” means the financing agreement between the Millennium Challenge Corporation and the Government, as applicable, <b>identified in Section 2.</b></li> <li>(d) “confirmation” means confirmation in writing.</li> <li>(e) “Consultant” means any eligible individual person that may provide or provides the Services to the Accountable Entity under the Contract.</li> <li>(f) “Contract” means the contract proposed to be entered into between the Accountable Entity and the Consultant, including all attachments, annexes, and all documents incorporated by reference therein, a form of which is included in the RFA.</li> <li>(g) “days” refers to calendar days, unless otherwise specified as "Business Day". A Business Day is any day that is an official working day in the Accountable Entity country and excludes the official public holidays.</li> <li>(h) “Financial Offer” means the priced and completed form to be submitted by the highest ranked Consultant, listing the prices and other relevant financial information to undertake the execution of the assignment.</li> <li>(i) “General Instructions to Consultants” or “GIC” means this Section 1 that provides general instructions to Consultants.</li> <li>(j) “Government” means the Government <b>identified in Section 2.</b></li> <li>(k) “ICS” means Individual Consultant Services selection method as defined in the MCC PPG.</li> <li>(l) “in writing” means communicated in written form (e.g., by</li> </ul>

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	<p>paper, mail, e-mail or other electronic means).</p> <p>(m) “Millennium Challenge Corporation” or “MCC” means a United States Government corporation, acting on behalf of the United States Government.</p> <p>(n) “<i>MCC Accountable Entity Procurement Policy and Guidelines</i>” or “MCC PPG” means the <i>MCC Accountable Entity Procurement Policy and Guidelines</i> and its amendments posted from time to time on the MCC website at <a href="http://www.mcc.gov/ppg">www.mcc.gov/ppg</a>.</p> <p>(o) “MCC Funding” means the funding MCC has made available to the Government pursuant to the terms of the financing agreement <b>identified in Section 2</b>.</p> <p>(p) “<i>MCC’s AFC Policy</i>” has the meaning provided in Clause 3.</p> <p>(q) “Pre-Application Conference” means a conference <b>specified in Section 2</b>, if any, held before Applications are submitted.</p> <p>(r) “RFA” means this Request for Applications, including any amendments that may be made, prepared by the Accountable Entity for the selection of the Consultant.</p> <p>(s) “Services” means the tasks to be performed by the Consultant pursuant to the Contract.</p> <p>(t) “Specific Instructions to Consultants” or “SIC” means Section 2 of the RFA, including any amendments, which provides Consultants with all information needed to prepare their Applications.</p> <p>(u) “Taxes” has the meaning given the term in the Compact, CDF or Threshold Program Grant Agreement.</p> <p>(v) “Technical Offer” refers to the Application Forms in Section 3 of the RFA (including any ancillary information), with the exception of the Financial Offer, filled and submitted by a Consultant.</p> <p>(w) “Terms of Reference” or “TOR” means the document included in this RFA, which explains the objectives; scope of work; activities; tasks to be performed; respective responsibilities of the Accountable Entity and the Consultant; and expected results and deliverables of the assignment.</p> <p>(x) “Trafficking in Persons” or “TIP” has the meaning given to the term in the MCC PPG.</p>
<p><b>1. Scope of RFA</b></p>	<p>1.1. The Accountable Entity has issued an RFA to select a Consultant in accordance with the ICS method stipulated in the MCC PPG.</p>

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	<p>1.2. Consultants are invited to submit Applications which will be evaluated (and as applicable, negotiated) for the purpose of executing a Contract.</p>
	<p>1.3. Consultants are encouraged to attend a Pre-Application Conference if one is specified <b>in Section 2</b>. Attending any Pre-Application Conference is strongly advised, but not mandatory. Attending any Pre-Application Conference and/or a site visit shall not be taken into account for the purpose of evaluation of Applications.</p>
	<p>1.4. The Accountable Entity will timely provide, at no cost to the Consultant, the inputs and facilities <b>specified in the Terms of Reference</b>, assist the Consultant in obtaining licenses and permits needed to carry out the Services, and make available relevant project data and reports. No other inputs will be provided. Therefore, an Applicant shall plan to cover all incurred expenses that may be foreseen to initiate and sustain the Services in a timely manner, including but not limited to office space, communication, insurance, office equipment, travel, etc. not otherwise <b>specified in the Terms of Reference</b>.</p>
	<p>1.5. The Accountable Entity is not bound to accept any Application, and reserves the right to cancel the procurement at any time prior to Contract award, without thereby incurring any liability to any Applicant.</p>
<p><b>2. Source of Funds</b></p>	<p>2. The United States of America, acting through MCC and the Government have entered into the Compact. The Government, acting through the Accountable Entity, intends to apply a portion of the MCC Funding to eligible payments under the Contract. Any payments made under the Contract with MCC Funding will be subject, in all respects, to the terms and conditions of the Compact and related documents, including restrictions on the use and distribution of MCC Funding. No party other than the Government and the Accountable Entity shall derive any rights from the Compact or have any claim to any proceeds of MCC Funding. The Compact and its related documents can be found on the MCC website (<a href="http://www.mcc.gov">www.mcc.gov</a>) or on the website of the Accountable Entity.</p>
<p><b>3. Fraud and Corruption</b></p>	<p>3.1. MCC requires that all beneficiaries of MCC Funding, including the Accountable Entity and any Applicants, offerors, suppliers, contractors, subcontractors, consultants and sub-consultants, and non-consulting service providers under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts. <i>MCC’s Policy on Preventing, Detecting</i></p>

	<p><i>and Remediating Fraud and Corruption in MCC Operations</i> (“MCC’s AFC Policy”) is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. This Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC’s AFC Policy and certify to the Accountable Entity that they have acceptable commitments and procedures in place to address the potential for fraud and corruption.</p> <p>(a) For the purposes of these provisions, the terms set forth below are defined as follows</p> <ul style="list-style-type: none"> <li>(i) “<b>coercion</b>” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to influence improperly the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including such actions taken in connection with a procurement process or the execution of a contract;</li> <li>(ii) “<b>collusion</b>” means a tacit or explicit agreement between two or more parties to engage in coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice, including any such agreement designed to fix, stabilize, or manipulate prices or to otherwise deprive the Accountable Entity of the benefits of free and open competition;</li> <li>(iii) “<b>corruption</b>” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, Accountable Entity staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC Funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract;</li> <li>(iv) “<b>fraud</b>” means any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including any act or omission designed to influence (or attempt to influence) a selection process or the execution of a contract, or to avoid (or attempt to avoid) an obligation;</li> <li>(v) “<b>obstruction of investigation into allegations of fraud or corruption</b>” means any act taken in connection with the implementation of any contract supported, in whole or in</li> </ul>
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	<p>part, with MCC funding: (a) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of coercion, collusion, corruption, fraud, or a prohibited practice; or (b) that threatens, harasses, or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; or (c) that is intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or the Office of the Inspector General (OIG) responsible for MCC provided under the Compact, Threshold Program agreement, or related agreements</p> <p>(vi) “<b><i>prohibited practice</i></b>” means any action that violates Section E (Compliance with Anti-Corruption Legislation), Section F (Compliance with Anti-Money Laundering Legislation), and Section G (Compliance with Terrorist Financing Legislation and Other Restrictions) of the Annex of Additional Provisions that will be made a part of MCC-funded contracts.</p> <p>(b) The Accountable Entity will reject an Application (and MCC will deny approval of a proposed Contract award) if it determines that the Applicant 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.</p> <p>(c) MCC and the Accountable Entity have the right to sanction an Applicant or a Consultant, 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 such party 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.</p> <p>(d) Per MCC PPG, MCC and the Accountable Entity have the right to require any Applicant or Consultant to permit the Accountable Entity, MCC, or any designee of MCC, to inspect their accounts, records and other documents relating to the submission of an Application or performance of an MCC-funded contract and to have them audited by auditors appointed by MCC or by the Accountable Entity with the approval of MCC.</p>
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	<p>(e) In addition, MCC has the right to cancel any portion or all of the MCC Funding allocated to the Contract if it determines at any time that representatives of a beneficiary of MCC Funding engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the selection process or the execution of an MCC-funded contract, without the Accountable Entity having taken timely and appropriate action satisfactory to MCC to remedy the situation.</p>
<p><b>4. Trafficking in Persons</b></p>	<p>4.1. MCC has a zero tolerance policy with regard to Trafficking in Persons (“TIP”). TIP is the crime of using force, fraud, and/or coercion to exploit another person. TIP can take the form of domestic servitude, peonage, forced labor, sexual servitude, bonded labor, and the use of child soldiers. This practice deprives people of their human rights and freedoms, increases global health risks, fuels growing networks of organized crime, and can sustain levels of poverty and impede development. MCC is committed to working with partner countries to ensure appropriate steps are taken to prevent, mitigate, and monitor TIP risks in the countries it partners with and projects it funds.</p>
	<p>4.2. The Additional Provisions (Annex 2 of the Contract) of this RFA may set out certain prohibitions, Consultant requirements, remedies and other provisions that will be made a binding part of any Contract that may be entered into. As such, those provisions, if included, should be given careful consideration.</p> <p>4.3. Additional information on MCC’s requirements aimed at combating TIP can be found in <i>MCC Counter-Trafficking in Persons Policy</i> (“C-TIP Policy”) that can be found on MCC’s website (<a href="https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy">https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy</a>). All contracts funded by MCC are required to comply with MCC’s C-TIP Policy’s Minimum Compliance Requirements. Contracts for projects categorized by MCC as high-risk for TIP are required to implement a TIP Risk Management Plan (which is to be developed by the Accountable Entity and implemented by the Consultant).</p>
<p><b>5. Eligible Consultants</b></p>	<p>5.1. An Applicant may have the nationality of any country, subject to the nationality restrictions specified in this Clause 5.</p>
	<p>5.2. Applicants must also satisfy the eligibility criteria contained in the MCC PPG governing MCC-funded procurements.</p>
	<p>5.3. No full-time key professional personnel of a consultant currently</p>

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	contracted by any Accountable Entity shall submit an Application.
Conflict of Interest	<p>5.4. An Applicant shall not have a conflict of interest. All Applicants found to have a conflict of interest shall be disqualified, unless the conflict of interest has been mitigated and the mitigation is approved by the Accountable Entity after receiving a "no-objection" from MCC. Consultants shall provide professional, objective, and impartial advice and at all times hold the interests of the Accountable Entity paramount, strictly avoid conflicts of interest, including conflicts with other assignments or their own corporate interests, and act without any consideration for future work. Applicants shall not be hired for any assignment that would be in 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 limitation on the generality of the foregoing, an Applicant may be considered to have a conflict of interest and disqualified or terminated if they:</p> <ul style="list-style-type: none"> <li>(a) have a relationship, directly or through common third parties, that puts them in a position to have access to information about or influence over the Application of another Applicant, or influence the decisions of the Accountable Entity regarding the selection process for this procurement; or</li> <li>(b) are themselves, or have a business or family relationship with, (i) a member of the Accountable Entity’s board of directors or staff, (ii) the project’s implementing entity’s staff, or (iii) the Procurement Agent or Fiscal Agent (as defined in the Compact or related agreements) hired by the Accountable Entity in connection with the Compact, any of whom is directly or indirectly involved in any part of (a) the preparation of this RFA or any section therein, (b) the selection process for this procurement, or (c) supervision of the Contract, unless the conflict stemming from this relationship has been resolved in a manner approved by the Accountable Entity after receiving a "no-objection" from MCC; or</li> <li>(c) are engaged by the Accountable Entity as staff member of the Implementing Entity, Procurement Agent, Fiscal Agent, or Auditor under the Compact.</li> </ul> <p>5.5. A Consultant that has been engaged by the Accountable Entity to provide goods, works or services other than consulting services for a project, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a Consultant hired to provide consulting services for the preparation or implementation of a project, shall be disqualified from</p>

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	<p>subsequently providing goods, works or services other than consulting services resulting from or directly related to such consulting services for such preparation or implementation. For example, a Consultant hired to prepare terms of reference for an assignment should not be hired for the assignment in question. For the purpose of this paragraph, services other than consulting services are defined as those leading to a measurable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.</p>
	<p>5.6. Applicants and Consultants have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the MCA Entity, or that may be reasonably perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Applicant or the termination of the Contract.</p> <p>5.7. The Consultant shall not receive any remuneration in connection with the Services except as provided in the Contract. The Consultant shall not engage in consulting 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 in other services resulting from or directly related to the Services in accordance with the requirements of the MCC PPG.</p>
<p>Government Employees</p>	<p>5.8. The following restrictions shall apply (in each case subject to the limited exception set forth in Sub-Clause 5.8 (e) below):</p> <p>(a) No member of the Accountable Entity’s board of directors or current employees of the Accountable Entity (whether part time, or full time, paid or unpaid, in leave status, etc.) may submit an Application.</p>
	<p>(b) Except as provided in Sub-clause 5.8 (d), no current employees of the Government shall work as Consultants under their own ministries, departments or agencies.</p>
	<p>(c) Recruiting current or former Accountable Entity or Government employees to perform services for their former ministries, departments or agencies is acceptable provided no conflict of interest exists.</p>
	<p>(d) If an Applicant is a Government employee, they must have written certification from the Government confirming that: (i) they will be on leave without pay from the time of their official Application submission and will remain on leave without pay</p>

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	<p>until the end of their assignment and they are allowed to work full-time outside of their previous official position; or (ii) they will resign or retire from Government employment on or prior to the Contract award date. Under no circumstances shall any individuals described in (i) and (ii) be responsible for approving the implementation of this Contract. Such certification shall be provided to the Accountable Entity by the Applicant as part of its Application.</p>
	<p>(e) In the case where an Applicant falls under Sub-clauses 5.8 (a) – 5.8 (d), and may have left the Accountable Entity (or such other MCC-funded accountable entity, as the case may be) within a period of less than twelve (12) months of the date of this RFA, it must obtain a “no-objection” from the Accountable Entity, prior to the submission of its Application. The Accountable Entity must also obtain a “no-objection” from MCC before replying to the Applicant on any related correspondence.</p>
<p><b>Ineligibility and Debarment</b></p>	<p>5.9. An Applicant or a Consultant will not be any person or entity under (a) a declaration of ineligibility for engaging in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption or prohibited practices as contemplated by Sub-clause 3.1 above, or (b) that has been declared ineligible for participation in a procurement in accordance with the procedures set out in the MCC PPG. This would also remove from eligibility for participation in this procurement any entity that is organized in, or has its principal place of business or a significant portion of its operations in, any country that is subject to sanctions or restrictions by law or policy of the United States.</p> <p>5.10. An Applicant or a Consultant not otherwise made ineligible for a reason described in this Clause 5 will nonetheless be excluded if:</p> <ul style="list-style-type: none"> <li>(a) as a matter of law or official regulation, the Government prohibits commercial relations with the country of the Applicant or Consultant; or</li> <li>(b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government prohibits any import of goods from the country of the Applicant or Consultant or any payments to entities in such country; or</li> <li>(c) such Applicant or Consultant are otherwise deemed ineligible by MCC pursuant to any policy or guidance that may, from</li> </ul>

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	time to time, be in effect as posted on MCC’s website.
Evidence of Continued Eligibility	5.11. Applicants and Consultants shall provide such evidence of their continued eligibility in a manner satisfactory to the Accountable Entity, as the Accountable Entity shall reasonably request.
Unfair Advantage	5.12. If an Applicant has gained an unfair competitive advantage because of its access to information in the context of another assignment, that Applicant may not be disqualified from participation in a subsequent procurement if the unfair competitive advantage can be adequately mitigated.
Commissions and Gratuities	5.13. An Applicant will furnish information on commissions and gratuities, if any, paid or to be paid relating to this procurement or its Application and during performance of the Contract if the Applicant is awarded the Contract, as requested in this RFA.
<b>6. Origin of Goods and Consulting Services</b>	6.1. Goods supplied and consulting services provided under the Contract may originate from any country, subject to the same restrictions specified for Applicants set forth in Clause 5.
<b>7. Amendment of the RFA</b>	7.1. At any time prior to the deadline for submission of Applications, the Accountable Entity may amend this RFA by issuing Addenda.
	7.2. All Addenda issued shall be part of this RFA, shall be posted on the Accountable Entity’s website, if one exists, and/or shall be communicated in writing to all Consultants that have registered or obtained the RFA directly from the Accountable Entity.
	7.3. To give prospective Applicants reasonable time in which to take an Addendum into account in preparing their Applications, the Accountable Entity may extend the deadline for the submission of Applications at its sole discretion.
<b>8. Cost of Application</b>	8.1. The Applicant shall bear all costs associated with the preparation and submission of its Application, and the Accountable Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process.
<b>9. Language of Application</b>	9.1. The Application, as well as all correspondence and documents relating to the Application exchanged by the Applicant and the Accountable Entity, shall be written in the language <b>specified in Section 2</b> . Supporting documents that are part of the Application may be in another language provided they are accompanied by an

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	accurate translation of the relevant passages into the language <b>specified in Section 2</b> , in which case, for purposes of interpretation of the Application, such translation shall govern.
<b>10. Preparation of Application</b>	10.1. In preparing their Application, Applicants are expected to examine in detail the documents comprising the RFA. Failure to provide the information requested may result in rejection of an Application.
Format and Content	10.2. Applicants are required to submit a Technical Offer, which shall provide the information indicated in the Forms 1 through 3 provided in Section 3 (Application Forms).
	10.3. The Technical Offer shall not include any financial information. A Technical Offer containing financial information will constitute grounds for declaring the Application non-responsive.
<b>11. Submission of Technical Offers</b>	<p>11.1. Applicants shall submit their Technical Offers in the manner and no later than the date and time <b>specified in Section 2</b>, or any extension of this date as communicated by the Accountable Entity. Any Application received by the Accountable Entity after the deadline for submission shall be declared late and rejected.</p> <p>11.2. An Applicant may withdraw, substitute, or modify its Application prior to the deadline for the submission through the File Request Link or in the manner <b>specified in Section 2</b>.</p>
<b>12. Confidentiality</b>	<p>12.1. Information relating to the evaluation of Applications and recommendations of Contract award shall not be disclosed to Applicants or any other persons not officially concerned with the process, until the notification of the technical evaluation results has been issued. The undue use by any Applicant of confidential information related to the process may result in the rejection of its Application or may invalidate the entire procurement process.</p> <p>12.2. Any attempt or effort by an Applicant to influence the Accountable Entity in the examination, evaluation, and ranking of Applications or Contract award decisions may result in the rejection of its Application and may subject the Applicant to the provisions of the Government’s, the Accountable Entity’s, and MCC’s AFC Policy and the application of other sanctions and remedies to the extent applicable.</p>
<b>13. Clarification of Technical Offers</b>	13.1. To assist in the examination and evaluation of Technical Offers, the Accountable Entity may, at its discretion, ask any Applicant for clarification of its Technical Offer. Any clarification submitted by an Applicant that is not in response to a request by the

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	<p>Accountable Entity shall not be considered. The Accountable Entity’s request for clarification and the Applicant’s response shall be in writing.</p>
<p><b>14. Evaluation</b></p>	<p>14.1. The Accountable Entity shall evaluate the Technical Offers on the basis of their responsiveness to the qualification requirements and Terms of Reference, applying the evaluation criteria, sub-criteria, and point system <b>specified in Section 5 (Evaluation Criteria)</b>. A Technical Offer may be rejected if it does not respond to the RFA or if it fails to achieve the minimum number of points indicated in <b>Section 5 (Evaluation Criteria)</b>.</p> <p>14.2. In exceptional circumstances, if none of the Applicants reach or exceed the minimum number of points, the Accountable Entity reserves the right to invite the Applicant receiving the highest number of points to negotiate both its Technical and Financial Offers. If the negotiations fail to result in an acceptable contract within a reasonable time, the Accountable Entity reserves the right to terminate the negotiations, at its sole discretion, and to invite—again, at its sole discretion—the Applicant receiving the next highest number of points to negotiate both its Technical and Financial Offers.</p>
<p><b>15. Past Performance and Reference Check</b></p>	<p>15.1. In accordance with the MCC PPG, the Applicant’ performance on earlier contracts will be considered a factor in the Accountable Entity’s qualification of the Applicant. The Accountable Entity reserves the right to check the performance references provided by the Applicant or to use any other source at the Accountable Entity’s discretion. If the Applicant is or has been party to an MCC-funded contract (either with MCC directly or with any Accountable Entity, anywhere in the world), whether as lead Consultant, affiliate, Associate, subsidiary, Sub-Consultant, or in any other role, the Applicant must identify the contract in its list of references submitted with its Application. Failure to include any such contracts may be used to form a negative determination by the Accountable Entity on the Applicant’s record of performance in prior contracts. However, the failure to list any contracts because the Applicant has not been a party to any such contract will not be grounds for a negative determination by the Accountable Entity on the Applicant’s record of performance in prior contracts. That is, prior performance in connection with an MCC-funded contract is not required. The Accountable Entity will check the references, including the Applicant’s past performance reports filed in MCC’s Contractor Past Performance Reporting System (“CPPRS”). A negative determination by the Accountable Entity on the Applicant’s record of performance in prior contracts</p>



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	<p>may be a reason for disqualification of the Applicant, or lowered evaluation scores, at the discretion of the Accountable Entity.</p>
<p><b>16. Notification of Technical Evaluation Results</b></p>	<p>16.1. Following completion of the evaluation of Technical Offers, and after receiving a “no objection” from MCC (if applicable), the Accountable Entity must notify all the Applicants of the results of the technical evaluation.</p>
	<p>16.2. The Accountable Entity shall promptly respond in writing to any Applicant who, after receiving notification of the technical evaluation results, makes a written request for a debriefing as provided in the MCC PPG.</p>
	<p>16.3. Applicants may challenge the results of a procurement only according to the rules established in the Bid Challenge System as <b>indicated in Section 2.</b></p>
<p>Financial Offer and Negotiations</p>	<p>16.4. The Accountable Entity will request the Applicant receiving the highest number of points to submit a Financial Offer using for this purposes Form 4 (Financial Offer) in Section 3 (Application Forms) and any other supporting financial information as may be requested by the Accountable Entity.</p> <p>16.5. The Financial Offer shall be expressed in the currency indicated by the Accountable Entity.</p>
	<p>16.6. The Accountable Entity and the highest ranked Applicant will negotiate a Contract of the basis of the Financial Offer.</p>
<p>Price Reasonableness</p>	<p>16.7. Negotiations will be held on the date and at the address notified to the Applicant. The invited Applicant will, as a pre-requisite for attendance at the negotiations, confirm their availability. Failure to confirm availability may result in the MCA Entity proceeding to negotiate with the next-ranked Applicant.</p> <p>16.8. Negotiations will commence with a discussion of the technical aspects of the Application, including as applicable (a) proposed technical approach and methodology, (b) workplan, and (c) any suggestions made by the Consultant to improve the Terms of Reference.</p> <p>16.9. The Accountable Entity and the Applicant will then finalize the Terms of Reference, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract under “Description of Services.” Special attention will be paid to clearly defining the inputs and facilities required from the Accountable Entity to ensure satisfactory implementation of the assignment. The Accountable Entity shall prepare minutes of negotiations</p>

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	<p>which will be signed by the Accountable Entity and the Consultant.</p> <p>16.10. Prior to execution of a contract, the Accountable Entity shall conduct a verification of the market-reasonableness of the prices offered. A negative determination (either unreasonably high or unreasonably low) could be a reason for rejection of the Financial Offer at the discretion of the Accountable Entity.</p> <p>16.11. It is the responsibility of the Applicant, before starting financial negotiations, to determine the relevant local tax amount to be paid by the Consultant under the Contract. In no event shall the Accountable Entity be responsible for the payment or reimbursement of any taxes.</p> <p>16.12. If negotiations fail, the Accountable Entity may, at its discretion, move to invite the next-ranked Applicant to submit a Financial Offer and to negotiate a Contract.</p>
<p><b>17. Accountable Entity’s Right to Accept Any Offer, and to Reject Any or all Offers</b></p>	<p>17.1. The Accountable Entity reserves the right to accept or reject any Application, and to annul the bidding process and reject all Applications at any time prior to Contract award, without thereby incurring any liability to Applicants. If all Applications are rejected, the Accountable Entity shall review the causes justifying the rejection and consider making revisions to the conditions of Contract, specifications, scope of the Contract, or a combination of these, before inviting new Applications. The Accountable Entity reserves the right to cancel the procurement if this is no longer in the interest of the Accountable Entity.</p>
<p><b>18. Notice of Award of Contract</b></p>	<p>18.1. After Contract signing, the Accountable Entity shall publish on its website the results identifying the procurement, the name of the winning Applicant and the price, duration, and summary scope of the Contract.</p>
<p><b>19. Inconsistencies with MCC PPG</b></p>	<p>19.1. The Procurement that is the subject of this RFA is being conducted in accordance with and is subject in all respects to the MCC PPG. In the event of any conflict between any section or provision of this RFA (including any Addenda that may be issued to this RFA) and the MCC PPG, the terms and requirements of the MCC PPG shall prevail, unless MCC has granted a waiver of the guidelines.</p>
<p><b>20. Applicable Compact Conditions</b></p>	<p>20.1. Consultants are advised to examine and consider carefully the provisions that are set forth in the Additional Provisions attached to and made part of the Contract, as these are a part of the Government’s and the Accountable Entity’s obligations under the Compact and related agreements which, under the terms of the</p>

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	<p>Compact and related documents are required to be transferred onto any Applicant or Consultant who partakes in procurement or subsequent contracts in which MCC Funding is involved.</p>
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## Section 2. Specific Instructions to Applicants (SIA)

Lilongwe, Malawi  
13<sup>th</sup> November 2024

### Selection of two (2) Individual Consultant for Technical Assistance to 7 District Councils to Support implementation of Market Regulation for Inclusive Growth

Ref No: MCA-MWII-24-4001

1. The United States of America, acting through the Millennium Challenge Corporation (“MCC”) and the Government of Malawi (the “Government”) have entered into a Millennium Challenge Compact for assistance to help facilitate poverty reduction through economic growth in Malawi (the “Compact”) in the amount of approximately US\$350,000,000 Dollars [Three-Hundred Fifty Million United States Dollars] (“MCC Funding”). The Government, acting through Millenium Challenge Account- Malawi II (the “Accountable Entity”), intends to apply a portion of the MCC Funding to eligible payments under a contract for which this Request for Applications (“RFA”) is issued.
2. The Compact program includes the following projects:
  - a) **The Accelerated Growth Corridors (“AGC”) Project** aims to reduce the barriers between farm and market by improving road conditions, encouraging a more transparent and competitive business environment for transporters, and addressing first mile transportation challenges for smallholder farmers. The project will support policy and institutional reforms to enable better road planning and maintenance of AGCs and associated infrastructure, as well as safer conditions for women to move and conduct economic activity along the corridors
  - b) **The Increased Land Productivity Project (the “Land Project”)** will support improved land services, better functioning land markets, and increased investment in land through revenue-oriented investments to increase adequate funding of land institutions at national and city levels and support institutional change in the land sector. Revenue work at both levels equally focuses on the broader role of well-functioning property tax systems in incentivizing productive use of land.
  - c) **The American Catalyst Facility for Development (“ACFD”) Project** is to facilitate United States International Development Finance Corporation (“DFC”) investment in Malawi in an effort to catalyze increased private investment consistent with compact objectives and increase the scale and impact of the compact.

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3. MCC requires that all beneficiaries of MCC Funding, including the Accountable Entity and any applicants, Bidders, Suppliers, contractors, Subcontractors, consultants, and sub-consultants under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts. *MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations* ("MCC's AFC Policy") is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website at: <https://www.mcc.gov/resources/doc/policy-fraud-and-corruption>.
4. The Accountable Entity now invites Applications from eligible Individual Consultants to provide the consultant services for **two (2) Individual Consultants for Technical Assistance to 7 District Councils to Support implementation of Market Regulation for Inclusive Growth**
5. **Contract start date and duration.** The location of the assignment is Malawi, with consultants working directly in various target districts: Mangochi, Ntcheu, Lilongwe, Mchinji, Kasungu, Mzimba, and Rumphi. The assignment is for a period of 8-13 person days per month over a total duration of approximately 48 calendar months (from 2025 to 2029).
6. The required qualifications for the Individual Consultant to be considered are indicated in the Section 5 (Evaluation Criteria).
7. All applicants are expected to be eligible individual consultants as per the eligibility criteria provided under GIA Clause 6, including the restrictions to apply to government employees. In the case where an applicant falls under GIA Sub-clauses 5.8(a) – 5.8(e), who may have left the Accountable Entity within a period of less than twelve (12) months of the date of the RFA, it must obtain a "no-objection" from the Accountable Entity for the inclusion of such a person, prior to the applicant's submission of its Application.
8. Interested Individual Consultants are requested to submit their Applications using the forms provided for this purpose in Section 3 (Application Forms) of this RFA.
9. A Pre-Application Conference **will not** be held. Attendance is encouraged but not mandatory.
10. Applicants are advised to seek clarifications to this RFA by email to [PAMalawi@charleskendall.com](mailto:PAMalawi@charleskendall.com) and cc [andy.koloko@mca-malawi2.gov.mw](mailto:andy.koloko@mca-malawi2.gov.mw) by **20<sup>th</sup> November 2024 at 15:00 PM Local Time**. The Accountable Entity may not respond to any clarifications submitted after this date and time. All requests for clarifications shall be official and in writing.

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11. The estimated budget for this procurement is \$600,000 USD for both consultants combined. For the avoidance of doubt, this is a notional budget not a fixed upper limit.
12. Applications shall be submitted **only** electronically, using a File Request Link (FRL), which shall expire on the deadline for receipt of Applications as per Clause 15 below. This is the only acceptable method to submit Applications. Applications submitted by email, email attachment or as hard-copy (by hand, post, courier, etc.) shall be rejected.
13. The Technical Offer - Forms 1 and 2 (and Form 3, if applicable) - are not required to be password-protected, but may be protected at the Applicant's discretion. Applicants who choose to password-protect their Technical Offers can do so to protect against inadvertent untimely opening of that document, but at their own responsibility for providing the correct password by the deadline indicated in Clause 15 below. If an Applicant fails to provide the correct password that opens the files so its relevant contents can be announced by the deadline indicated in Clause 15, their Application shall be rejected. Applicants cannot provide this password via the File Request Link; the password should be sent to the email address indicated in Clause 10 above.
14. Applicants are not required to submit a Financial Offer or to indicate their fees together with the Technical Offer. **A Financial Offer (Form 4) shall be required only from the successful Applicant.**
15. The deadline for receipt of Applications is **11<sup>th</sup> December 2024 at 15:00 PM Local Time**. The FRL to submit Applications is:  
  
<https://www.dropbox.com/request/A4gNxGdEGzCrT7lkR6F8>  
  
The same FRL can be used (more than once) to submit the Technical Offers, and any additional documentation.
16. All submitted documents (whether as standalone files or files in folders) shall be in Microsoft Office or PDF format. Compressed files or folders are discouraged, thus the Accountable Entity assumes no responsibility for the partial or complete damage or failure to open or access documents submitted in any archived and/or compressed format (compressed by WinZip - including any application of the zip family-, WinRAR, 7z, 7zX, or any other similar formats).
17. Applicants should use the following filename format for Applications:
  - Technical Offer filename: [Applicant's Name]-Individual-TA-MRIG-MCA-MWII-24-4001
18. **Selection Procedure:** The Consultants will be selected in accordance with the procedures for selection of Individual Consultants set out in the MCC *Accountable*

RFA Ref No: MCA-MWII-24-4001 – Selection of two (2) Individual Consultant for Technical Assistance to 7 District Councils to Support implementation of Market Regulation for Inclusive Growth

*Entity Procurement Policy and Guidelines* which are provided on the MCC website ([www.mcc.gov](http://www.mcc.gov)).

19. The selection process comprises two stages: (a) Accountable Entity will evaluate the Applications and select the Applicant with the most appropriate CV/qualifications and experience using the criteria provided in Section 4 of the RFA, then (b) the most qualified Applicant will be invited to submit their Financial Offer/fee. Contract award is subject to negotiations and a price reasonableness analysis. In the resultant contract, the Consultant will be paid only for time worked.

20. All Applications shall be valid for a period of **90 days** from the deadline of submission.

21. The Bid Challenge System is accessible from:


<https://mmd-malawi.org/procurement/Files/Bid%20Challenge%20System/BCSC.pdf>

For the Purposes of this RFA Bid Challenge:

- **Protest Fee:** The Protest Fee shall be **USD 750**
- **Appeal Fee:** The Appeal Fee shall also be **USD 3,000.**

Yours sincerely,

For Accountable Entity

Signed by:  
  
2EE3D269D19F494...

**Dye Mawindo**  
**Chief Executive Officer**  
**Millenium Challenge Account-Malawi II**

RFA Ref No: MCA-MWII-24-4001 – Selection of two (2) Individual Consultant for Technical Assistance to 7 District Councils to Support implementation of Market Regulation for Inclusive Growth

## Section 3. Application Forms

### Form 1: Letter of Application

[*Location, Date*]

**To:** Dye Mawindo  
Chief Executive Officer  
Millenium Challenge Account-Malawi II

**Address:** Sparc Complex, Second Floor, Plot Number 13/133, City Centre,  
P.O. Box 31513,  
Lilongwe, Malawi

Dear Sir/Madam,

**Re: Procurement of Consultant Services for *Selection of two (2) Individual Consultant for Technical Assistance to 7 District Councils to Support implementation of Market Regulation for Inclusive Growth***

**REF No: MCA-MWII-24-4001**

I, the undersigned, offer to provide the consulting services for the above-mentioned assignment in accordance with Letter of Invitation dated **13th November 2024**.

I hereby submit my Application including my latest updated Curriculum Vitae which contains among others my previous relevant assignments and references with complete contact details.

I hereby declare that all the information and statements made in this document are true and correct. I accept that any misinterpretation contained herein can lead to my disqualification.

I hereby certify that I am not engaged in, facilitating, or allowing any of the prohibited activities described in the *MCC Counter-Trafficking in Persons Policy* and that I will not engage in, facilitate, or allow any such prohibited activities for the duration of the Contract. Finally, I acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.

I acknowledge notice of *MCC's Policy on Preventing, Detecting and Remediating Fraud and*



RFA Ref No: MCA-MWII-24-4001 – Selection of two (2) Individual Consultant for Technical Assistance to 7 District Councils to Support implementation of Market Regulation for Inclusive Growth

*Corruption in MCC Operations*<sup>1</sup> and hereby certify that I am not engaged in or facilitating, any fraud and corruption as described in GIA Clause 4. Finally, I acknowledge that engaging in such activities is cause for suspension or termination of the Contract. I further certify that I am eligible to be awarded an MCC-funded contract as per the eligibility clauses of the *MCC Accountable Entity Procurement Policy and Guidelines*.

If negotiations are held during the initial period of validity of the Application, I undertake to negotiate on the basis of my availability for the assignment.

My submission is subject to modifications arising from Contract negotiations.

I undertake, if my Application is accepted, to initiate the consulting services on the timelines indicated in Section 2 (Specific Instructions to Consultants).

I understand and accept without condition that, in accordance with Section 2 of this RFA (SIA), any challenge or protest to the process or results of this procurement may be brought only through the Accountable Entity's Bid Challenge System (BCS).

I understand that you are not bound to accept any submissions that you may receive.

I acknowledge that my digital/digitized signature is valid and legally binding.

Yours Sincerely,

---

[Name of Applicant]

[Date]

Email of Applicant: \_\_\_\_\_

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<sup>1</sup> Available at [www.mcc.gov/resources/doc/policy-fraud-and-corruption](http://www.mcc.gov/resources/doc/policy-fraud-and-corruption)

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## Form 2: Curriculum Vitae (CV)

<b>Name</b>	[Insert full name]				
<b>Date of Birth</b>	[Insert birth date]				
<b>Nationality</b>	[Insert nationality]				
<b>Education</b>	[Indicate college/university and other specialized education, giving names of institutions, degrees obtained, and dates of obtainment].				
<b>Membership in Professional Associations</b>	[insert information]				
<b>Other Training</b>	[Indicate appropriate postgraduate and other training]				
<b>Countries of Work Experience</b>	[List countries where the consultant has worked in the last ten years]				
<b>Languages</b>	[For each language indicate proficiency: excellent, good, fair, or poor in speaking, reading, and writing] <table><thead><tr><th>Language</th><th>Speaking</th><th>Reading</th><th>Writing</th></tr></thead></table>	Language	Speaking	Reading	Writing
Language	Speaking	Reading	Writing		
<b>Employment Record</b>	[Starting with present position, list in reverse order every employment held by the consultant since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.]  From [month] [year]: To [month] [year]: Employer: Position(s) held:				
<b>Work undertaken that best illustrates capability to handle the tasks assigned</b>	[Among the assignments in which the consultant has been involved, indicate the following information for those assignments that best illustrate his/her capability to handle the tasks listed in the LOI]  Name of assignment or project:				

RFA Ref No: MCA-MWII-24-4001 – Selection of two (2) Individual Consultant for Technical Assistance to 7 District Councils to Support implementation of Market Regulation for Inclusive Growth

Year:

Location:

Accountable Entity:

Main project features:

Position held:

activities/tasks performed:

**References**

*[List at least three individual references with substantial knowledge of your work. Include each reference's name, title, phone and e-mail contact information. The Accountable Entity reserves the right to contact other sources as well as to check references. References for MCC/Accountable Entities experience is provided below, separately]*

**Past MCC/Accountable Entities Experience**

*[Insert information about any and all MCC-funded contracts (either with MCC directly or with any Accountable Entity, anywhere in the world) to which you are or had been a party whether as a lead Consultant, affiliate, associate, subsidiary, Sub-Consultant, or in any other role]*

**Certification:**

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

I, the undersigned, hereby declare that I agree to participate in the above-mentioned assignment. I further declare that I am able and willing to work for the period foreseen in the above referenced in the Letter of Invitation.

Signature:

Date:

RFA Ref No: MCA-MWII-24-4001 – Selection of two (2) Individual Consultant for Technical Assistance to 7 District Councils to Support implementation of Market Regulation for Inclusive Growth

### **Form 3: Approach and Methodology**

*Not used*

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## Form 4: Financial Offer

**[Location, Date]**

**To:** Dye Mawindo  
Chief Executive Officer  
Millenium Challenge Account-Malawi II

**Address:** Sparc Complex, Second Floor, Plot Number 13/133, City Centre, P.O. Box 31513,  
Lilongwe, Malawi

**Re: Procurement of Consultant Services for Selection of two (2) Individual Consultant for Technical Assistance to 7 District Councils to Support implementation of Market Regulation for Inclusive Growth**

**REF No: MCA-MWII-24-4001**

Dear Sir/Madam,

Having examined the Letter of Invitation documents, I am pleased to submit the following Financial Offer for the services to be provided:

***[Include daily fee rate<sup>2</sup> excluding airfare, accommodation, per diem and other expenses]***

As part of acknowledging notice of *MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations*<sup>3</sup> and declaring that we have not engaged in fraud and corruption as described in GIA Clause 4, I certify that:

- (a) The prices in this Offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to:
  - (i) Those prices;
  - (ii) The intention to submit an offer; or
  - (iii) The methods or factors used to calculate the prices offered.
  
- (b) No attempt has been made or will be made by us to induce any other party to submit or not to submit an offer for the purpose of restricting competition; and

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<sup>2</sup> This should be remuneration rate, excluding all reimbursables, i.e. travel, accommodation, per diem and other expenses, which will be negotiated and paid separately. For travel, Accountable Entity will negotiate for the lowest economy fare as applicable.

<sup>3</sup> Available at [www.mcc.gov/resources/doc/policy-fraud-and-corruption](http://www.mcc.gov/resources/doc/policy-fraud-and-corruption)

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- (c) I understand that you are not bound to accept any proposal you may receive and that a binding contract would result only after final negotiations are concluded on the basis of the technical and price components proposed.

I acknowledge that my digital/digitized signature is valid and legally binding.

Yours sincerely,

---

[Name of Applicant]

[Date]

*[Include salary history for the past three years].*

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## **Section 4. Terms of Reference**

**The selection of two (2) Individual Consultants for  
Technical Assistance to 7 District Councils to Support implementation of  
Market Regulation for Inclusive Growth**

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## **Abbreviations**

ACFD : American Catalyst Facility for Development

AGC : Accelerated Growth Corridors

DC : District Council

DLI : Disbursement Linked Indicator

DGTWG : District Gender Technical Working Group

GESD : Governance to Enable Service Delivery

GBVH : Gender Based Violence and Harassment

GoM : Government of Malawi

ILP : Increased Land Productivity

MCA : Millenium Challenge Account

MCC : Millenium Challenge Corporation

MRIG : Market Regulation for Inclusive Growth

PIR : Policy and Institutional Reform

PiP : Performance Improvement Plan

TA : Technical Assistance

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## **1.0 BACKGROUND**

The Government of Malawi (GoM) and the MCC are implementing a second MCC Compact in Malawi (Compact II), after the first Compact (Compact I) in the Energy Sector was successfully concluded in 2018. The Compact agreement was signed in September 2022 and entered into force on 6<sup>th</sup> May, 2024 signaling the start of compact implementation. The \$350 million Transportation and Land Compact is comprised of three projects as follows:

### **1.1 THE ACCELERATED GROWTH CORRIDORS (AGC) PROJECT**

The focus of the AGC Project is on reducing high transport costs and weak market linkages in the agricultural sector through the provision of road investments along select corridors, combined with policy and institutional strengthening encompassing improved planning, management, and maintenance of local roads in corridor districts. The project has two main activities – *Road Corridor Improvement Activity*, which seeks to reduce travel time and costs for smallholder farmers through targeted road works interventions in selected transport “corridors,” and *Policy and Institutional Reform (PIR) Activity*, which seeks to provide selected capacity building and technical assistance on key issues constraining the enabling environment in the areas of agriculture, transport, gender and social inclusion, and environmental and social performance. The Market Regulation for Inclusive Growth (MRIG), which is the subject of this ToR, falls under the PIR component of the AGC Project.

### **1.2 THE INCREASED LAND PRODUCTIVITY PROJECT (ILP)**

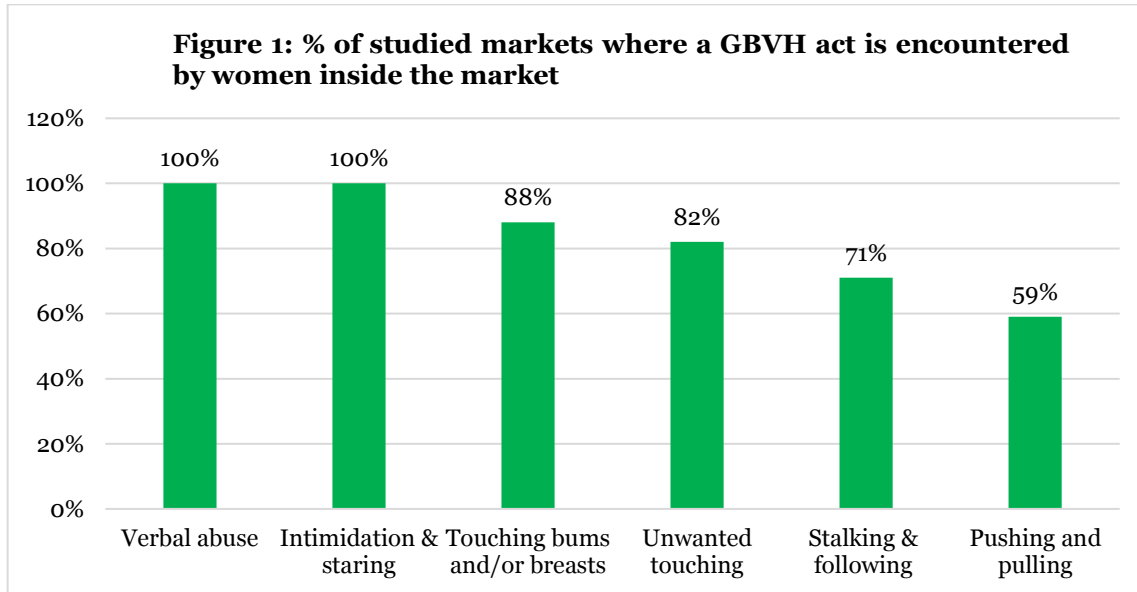
The Increased Land Productivity Project (ILP) focuses on improving land services, strengthening conditions for increased investment in land and better functioning land markets through two main activities: Land Administration Resourcing and Institutions Activity – which focuses on reform and reform implementation in land-based revenues, devolution of land services, creation of a new Land Authority; and City Council Land-Based Revenue Modernization Activity, which is focusing on addressing the substantial gaps between land-based revenue currently collected by the City Councils and the land-based revenue that could be collected were city tax rolls more complete and valuation more efficient.

### **1.3 THE AMERICAN CATALYST FACILITY FOR DEVELOPMENT PROJECT (ACFD)**

The American Catalyst Facility for Development Project (ACFD) will use MCC funding to finance qualifying private sector investments in Malawi. The DFC will invest in projects in sectors with development impact. The sectors cited are power, transport, water & sanitation, health and education. The proposed project will have to address one of the binding constraints identified during the Constraints Analysis phase or operate in a sector tied to the binding constraints.

## 2.0 THE MARKET REGULATION FOR INCLUSIVE GROWTH (MRIG) SUB-ACTIVITY

Under the Accelerated Growth Corridors (AGC) Project, Millennium Challenge Corporation (MCC) conducted due diligence on the barriers to women’s ability to benefit from AGC infrastructure investments, with a focus on Gender-Based Violence and Harassment (GBVH) in markets and transport services. The qualitative study, which was conducted in 17 markets in four candidate corridors in the three regions of Malawi, revealed the high prevalence of GBVH in markets and transport services as shown in figure 1 below;



The above figure shows that in all the 17 studied markets, verbal abuse, intimidation, staring, touching of women’s bums and/or breasts and unwanted touching are nearly universal, and stalking and following are quite common.

According to the report, GBVH in markets is mostly manifested through systemic discrimination that marginalizes women’s businesses, theft at commercial scale which includes extortionate bargaining and taking goods on false or forced credit, petty theft of women’s goods, extortionate pricing negotiation, bullying and discrimination over market space, abuse of women by Revenue Collectors, women traders’ profitability being tied to enduring sexual abuse and harassment and women traders being labelled ‘prostitutes’ for being in the market.

The study also found that transport services (motorcycles, lorries, sientas and min-buses) used by women to and from markets, and the hubs where women board and de-board, are also GBVH hotspots. These range from women being targets for theft, price discrimination, sexual assault of female passengers, sexual harassment and unwanted touching by call boys, transport operators and other passengers and women being terrorized with violent, dishonest and

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extortionate behaviours. While district councils play important roles in preventing and responding to various forms of Gender Based Violence and Harassment, the study found that there are currently no interventions targeting GBVH in markets and transport services in the project areas.

It is against this background that MCA Malawi designed and is implementing the Market Regulation for Inclusive Growth (MRIG) Sub-Activity in the seven districts of Mangochi, Ntcheu, Lilongwe, Mchinji, Kasungu, Mzimba, and Rumphi. MRIG aims to strengthen the monitoring and regulation of Gender-Based Violence and Harassment (GBVH) in markets and associated transport services along the MCC-supported road corridors. Under the activity, the seven District Councils will receive financial and technical support to enhance their regulation of Gender-Based Violence and Sexual Harassment in up to 25 markets and transport hubs served by the road corridors being built or rehabilitated under the AGC Project. This will include capacity building of market and transport committees; behavior change and gender transformative interventions with traders and customers; development of more robust systems of reporting, sanction, and grievance redress; review and drafting of new bylaws; and mobilization of local and District-level stakeholders to support regulatory and behavior change efforts. Districts will be paid for performance, receiving triannual payments for both process indicators (reflections of effort) and outcome and output indicators (reflections of success). It is under this component that this Consultancy falls.

## **2.1 MRIG IMPLEMENTATION APPROACH**

MRIG will utilize a Disbursement Linked Indicator (DLI) financing structure, under which each District has the opportunity to qualify for three tranches of financing annually based on achievement of pre-defined performance milestones (see below). At the District level, work will be managed by Appointed Desk Officers, who will work closely with District Gender Officers and other District actors in implementing the activity. Districts will be supported on an ongoing basis to achieve DLIs by this consultancy.

## **2.2 KEY MRIG MILESTONES AND REQUIREMENTS FOR DISTRICT COUNCILS**

*Initial eligibility & Prefinancing:* Districts unlock prefinancing by (i) opening a ring-fenced bank account, (ii) creating a high-level work plan, and (iii) assigning a Desk Officer to the activity. (They will also need to qualify for funding under the World Bank-funded Governance to Enable Service Delivery (GESD) performance-based grant project)

*Assessment:* Districts select a single first “pilot” market for intervention and conduct an assessment of the current challenges, needs, and gaps within this market and at the District level. As they add new markets to the program in years 2-4, they will receive additional payments for each additional market assessment completed.

*Action plan:* Based on assessments, Districts will produce work plans for the year. As they add

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new markets to the program in years 2-4, they will receive additional payments for each additional market action plan completed.

*Ongoing implementation:* Beginning immediately post approval of action plans. This phase includes launching the work plan and undertaking activities continuously until the program ends.

(a) There are three types of indicators associated with implementation:

- *Launch & ongoing process DLIs:* earned for enacting activities included in the action plan (training, capacity building, developing grievance redress systems, working with transporter associations, etc). Performance rubrics will be developed following receipt of action plans. All measures for these DLIs will be qualitative, based on documented evidence of activities completed (e.g. meeting notes and rosters), and evidence of accomplishments advanced (e.g. draft grievance management systems written up and included in trainings) and TA Consultant observations of implementation quality. Performance rubrics produced by MCA will guide grading and further define metrics of success.
- *Market and transport systems functioning DLIs:* Based on an annual survey in intervention markets. Aggregate measure of the extent to which crucial systems and processes are established and functioning both in the markets and associated transport services.
- *Behavioural outcomes DLI:* Based on an annual survey in intervention markets and transport hubs. Aggregate measure of whether the experiences and behaviours being observed by vendors and customers indicate targeted changes are occurring. Targets are modest and require Districts to make slow, steady progress on improving market conditions over time.

MCA Malawi II intends to hire the services of two Individual Consultants who will support the seven AGC District Councils to successfully implement the Market Regulation for Inclusive Growth (MRIG) Sub-Activity as detailed above. Each Consultant will be assigned 3-4 districts which they will work with for the duration of the assignment.

### **3.0 OBJECTIVE OF THE ASSIGNMENT**

The Objective of this assignment is for the Consultants to provide ongoing, light-touch technical support to the seven AGC District Councils to enhance their performance in adopting reforms to reduce Gender Based Violence and Harassments in Markets and Transport Services

### **3.1 DESCRIPTION OF SERVICES**

The Individual Consultants will be engaged for the entire duration of the MRIG Activity and will be responsible for providing ongoing, periodic, on-the-job technical coaching to Desk Officers, Gender Officers, and other District Actors in the seven District Councils. Specifically,

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the technical assistance will require the Consultants to provide focused technical support including developing content and potentially direct facilitation and training sessions for District Gender Technical Working Groups, Market Committees, Transport Committees and other relevant local governance structures. In addition, the Consultants will also support District Councils to conduct needs assessments, developing action plans and ensuring that these are effectively implemented and monitored whilst documenting best practices and lessons learnt in the course of implementation. Furthermore, the Consultants will also support district actors including Desk Officers, Gender Officers, Directors of Planning and Directors of Finance to identify opportunities and mechanisms for consolidating the MRIG interventions through cross-sectoral interventions.

### **3.2 SPECIFIC TASKS**

In carrying out the above outlined services, the Consultants will carry out the following Tasks:

#### **Task 1: Implementation Workshop**

The Consultants will support MCA-Malawi II to develop and facilitate an implementation workshop for representatives of the activity from each District (Desk Officers and Gender Officers at minimum).

#### **Task 2: On-the-job coaching**

The Consultants will provide ongoing, periodic, on-the-job technical coaching to Desk Officers, Gender Officers, and other District Actors in in the following areas:

- Workplan development and execution, strategy development, stakeholder engagement, communication, change management, meeting/workshop facilitation, training/capacity building, monitoring, and reporting.
- Cross- sectoral stakeholder mobilization for problem-solving and operationalization of functional prevention and grievance redress systems.

(b)

#### **Task 3: Focused technical support**

The Consultants will provide focused technical support—technical inputs, including developing content and potentially direct facilitation and training sessions to:

- Develop GBVH bylaws for markets and transport hubs/services.
- Build the capacity of market and transport committees and Revenue Collectors within intervention markets and support them to establish functional systems of regulation.
- Strengthen the capacity of district actors who will be implementing behaviour change, communication, and gender transformative interventions with market traders and customers, and transport operators and customers.

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- Support implementation of gender transformative interventions, e.g. with workshop facilitation and training of trainers.

(c)

### **Task 3: Supervising and documentation support**

The Consultants will:

- Conduct periodic supervision of District performance and of evolving regulatory approaches within the project markets and transport hubs and services.
- Support MCA to develop and implement annual market/transport surveys, beginning at baseline, to support tracking of program outcomes.
- Draft District Performance Improvement Plans (PiPs) and work with Districts to refine and implement as necessary
- Participate in and potentially collaborate with District Councils and the client to organize learning events, including an implementation workshop and annual workshops for all project Desk Officers, District Gender Officers, and other District Actors; as well as periodic corridor-specific cross-learning and review meetings. This may also include development of high quality “best practices” or “lessons learned” briefs to share within and across Districts, and cultivation of a community of practice within and across Districts between formal learning events.
- Support external evaluation exercises (mid and end term); as well as the development of end of project report for the MRIG sub-activity as needed.

### **Task 4: Progress and other reporting**

The Consultants will:

- Provide triannual reporting to the client on the achievement of project milestones and/or related challenges by the Districts, including completion of reporting templates and of client-supplied grading rubrics, which will rate District performance against pre-defined performance milestones (e.g. *poor, fair, good excellent*) to determine their payment amounts.
- Hold weekly virtual and monthly in-person meetings with the client and communicate on an as-needed basis about District performance, providing guidance on performance challenges and remediation approaches.

### **Task 5: Sustainability planning**

The Consultant will:

- Support district actors to identify opportunities and mechanisms for consolidating MRIG interventions through cross-sectoral interventions.
- Integrate MRIG indicators and/or lessons in ongoing district planning.

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- Facilitate the development of district sustainability strategies based on intra and inter district lessons and experiences.

#### **4.0 FACILITIES AND INFORMATION TO BE PROVIDED BY MCA MALAWI II**

The Consultants are expected to provide their own computers and office space, though will be provided with space while in the field with Districts. MCA Malawi will reimburse Consultant's transportation costs for travel to their assigned districts and shall provide any necessary technical guidance as needed to facilitate the performance of this assignment. Additionally, the following information/documents will be provided to the Consultants' during the performance of this assignment.

- MRIG Project Document
- District Council Performance rubrics
- Reporting guidelines

#### **5.0 RESPONSIBILITIES OF THE CONSULTANT**

The Individual Consultants have the responsibility to carry out the assignment in line with these Terms of Reference. The Consultants will be responsible for planning visits to the assigned districts, and proposing for the client's approval a schedule of District visits for direct support tailored to each District's need and performance. The Consultants will follow technical direction provided in regular Task Orders regarding approved LOE and tasks.

#### **6.0 KEY DELIVERABLES**

All reports will be submitted in English, in Microsoft Word, using Times New Roman Font, 12-point font size at 1.15 spacing and all reports will be submitted electronically. Deliverables will include the following:

- Initial District Capacity Assessment Report, which will include current challenges, needs, and gaps to be remediated within each District with respect to program implementation, along with the Consultant's workplan and proposal for a schedule of ongoing in-person and virtual Technical Assistance to the assigned districts. The district capacity assessment report will be a maximum of 15 pages (excluding annexes). The assessment will partly be based on a review of DCs' initial work – a needs assessment and work plan for their first intervention markets. Rubrics will be provided to the consultant to guide performance assessments.
- Capacity development. This will include supporting development of training, sensitization, and behavior change curriculum and materials to support implementation across relevant District actors (e.g., District Gender Technical Working Groups, District Executive Committees, Market Committees, Transport Associations) based on identified knowledge and capacity gaps. In some (low District Capacity) cases, these



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materials may have to be developed fully by the Consultant. Some of this content may be straightforward training on new rules and procedures; some may include gender transformative and other interactive methods to motivate changes in norms and behaviors. Additionally, the Consultants will support training, behavior change, and sensitization delivery, with a combination of coaching (relevant District trainers) and direct facilitation of workshops /trainings and other sessions.

- Brief monthly progress reports detailing the activities executed by the Consultant during the month and describing the follow up actions that are planned. The reports should focus on alerting the client to emerging issues in implementation and proposed fixes; providing updates on evolving District capacity; and alerting the client to “bright spots” or things that are going well and could/should be shared as examples across implementing Districts. Correspondingly, follow-up actions should include proposals on shifting the intensity of engagement (to more or less support), and planned travel and forms of support to be delivered to each District in the subsequent month. The monthly reports will be a maximum of 10 pages.
- Triannual reporting to the client on the achievement of project milestones and/or related challenges by the Districts, largely via completion of reporting templates and client-supplied grading rubrics, which will rate District performance against pre-defined performance milestones (e.g. poor, fair, good excellent) to determine their payment amounts. The triannual reports will be a maximum of 20 pages and will include annexes such as the Consultants’ workplan for the next four months, detailed district performance report, draft Performance Improvement Plan for non-performing districts indicating the measures and actions to improve the district's performance, etc.
- Final Report, which will be used as a basis for similar work in other Districts, and should focus on a clear and cohesive summary of lessons learned, best/good practices, and recommendations for further interventions by the DCs and development partners to continue the reform process. The report will be a maximum of 25 pages and shall include in the appendices all materials, photographs, videos, etc in their original formats produced or captured during the contract period for the project.

## **7.0 LEVEL OF EFFORT AND DURATION**

The level of effort for this assignment is expected to be between 8 and 13 working days per month for the duration of the MRIG Sub-Activity, which is from 2025-2029. The start date for carrying out the assignment is immediately after the contract signing.

## **8.0 INSTITUTIONAL ARRANGEMENTS**

The contract will be between the Consultants and MCA Malawi. The Consultants shall be reporting to the MCA Malawi II Gender and Social Inclusion Manager Where necessary,

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technical experts shall be availed by MCA Malawi to support the Consultants on relevant technical matters. MCC will also periodically engage the consultant to provide technical support as necessary.

## **9.0 LOCATION OF THE ASSIGNMENT**

The individual Consultants will be based in Malawi and will be assigned districts to work with where they will frequently travel. The project's target districts are Mangochi, Ntcheu, Lilongwe, Mchinji, Kasungu, Mzimba and Rumphi.

## **10.0 QUALIFICATION AND EXPERIENCE**

The Consultants shall be technically qualified to carry out all the tasks according to the Terms of Reference. The candidates must have:

### **Education and qualifications**

- A master's degree in development studies, Economics, Gender, Human Rights, Law, Sociology, Political Science, Economics, or another social science discipline.

### **General experience**

- A minimum of 7 years of post-university experience.
- Experience as an individual consultant in at least two related assignment providing technical assistance to district stakeholders in gender and GBVH related interventions

### **Specific experience of the individual consultant**

- Five years' experience in district Council governance processes (district planning, budgeting, bylaw development, intra-district, and multi-sectoral coordination).
- Five years' experience in Community and local governance structures, including in the context of addressing gender inequalities.
- Five years' experience with Results-based strategy development, implementation, and monitoring & evaluating development projects.
- Five years' experience in communication and behaviour change interventions, including—ideally—the use of participatory gender transformative approaches, e.g. the use of visioning tools for improved livelihoods and gender relations
- Seven years' experience in implementing interventions to address Gender Based Violence and Harassment (GBVH), gender inequalities and women empowerment issues in rural development programs.
- Five years' experience in Analytical research, conceptualization, documentation, and communication.

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- Five years' experience in Team management, on the job coaching, organizing and facilitating technical workshops and trainings for both technical and non-technical audiences.
- Five years' experience in Managing multiple and competing tasks with several teams while inspiring collective innovation, consolidating & sustaining results, and maintaining high quality of deliverables within deadlines.

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## Section 5. Evaluation Criteria

Applicants are required to obtain a minimum of 80 points in order to qualify. The Applicants with the two (2) highest score equal to or above the 80 points thresholds will be recommended for award subject to satisfactory references being obtained, successful negotiations, positive price reasonableness analysis and agreement on the rate and contents of the Financial Offer. ***Two (2) Consultants will be recommended for award on this selection process.***

In the event that a Contract cannot be agreed between Accountable Entity and any of the two (2) best ranked Consultants, the next ranked Consultant will then be invited for negotiations.

The selection of the Individual Consultant will be based on the following criteria:

ITEM	CRITERIA	POINTS
<b>1</b>	<b><i>Education and Qualifications</i></b>	<b>10</b>
1.1	A master’s degree in development studies, Economics, Gender, Human Rights, Law, Sociology, Political Science, Economics, or another social science discipline.	10
<b>2</b>	<b><i>General experience</i></b>	<b>20</b>
2.1	A minimum of 7 years of post-university experience	10
2.2	Experience as an individual consultant in at least two related assignment providing technical assistance to district stakeholders in gender and GBVH related interventions	10
<b>3</b>	<b><i>Specific Experience of the Individual Consultant</i></b>	<b>70</b>
3.1	Five years’ experience with District Council governance processes (district planning, budgeting, bylaw development, intra-district, and multi-sectoral coordination).	8.75
3.2	Five years’ experience with results-based strategy development, implementation, and monitoring & evaluating development projects.	8.75
3.3	Five years’ experience with communication and behaviour change interventions, including—ideally—the use of participatory gender	8.75

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	transformative approaches, e.g. the use of visioning tools for improved livelihoods and gender relations	
3.4	Seven years’ experience implementing interventions to address Gender Based Violence and Harassment (GBVH), gender inequalities and women empowerment issues in rural development programs.	8.75
3.5	Five years’ experience with analytical research, conceptualization, documentation, and communication.	8.75
3.6	Five years’ experience with team management, on the job coaching, organizing and facilitating technical workshops and trainings for both technical and non-technical audiences.	8.75
3.7	Five years’ experience managing multiple and competing tasks with several teams while inspiring collective innovation, consolidating & sustaining results, and maintaining high quality of deliverables within deadlines.	8.75
3.8	Five years’ experience with community and local governance structures, including in the context of addressing gender inequalities.	8.75
	<b>Total Score</b>	<b>100</b>

**Technical Evaluation Framework**

**[Integer Method Example]**

*[0 = No evidence presented*

*1 = Significant deviation from the requirements*

*2-3 = Marginal deviation from the requirements*

*4 = Meeting the requirements*

*4.5 = Marginally exceeding the requirements*

*5 = Significantly exceeding the requirements]*

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## Section 6. Contract Documents



### CONTRACT FOR CONSULTANT'S SERVICES

Contract No. **MCA-MWII-24-4001/00X**

between

**Millenium Challenge Account (MCA)-Malawi II  
and**

*[Name of the Consultant]*

for

**Selection of two (2) Individual Consultant for Technical Assistance to 7  
District Councils to Support implementation of Market Regulation for  
Inclusive Growth**

**Dated: *[Date]***

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## Form of Contract Agreement

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

WHEREAS, the Accountable Entity has accepted the Consultant’s proposal for the performance of the Services (the “Services”) described in the Description of Services in Appendix A, and the Consultant is capable and willing to perform said Services.

THE ACCOUNTABLE ENTITY AND THE CONSULTANT (the “Parties”) AGREE AS FOLLOWS:

1. This Contract, its meaning, interpretation and the relation between the Parties shall be governed by the applicable law of **Malawi**.
2. The Contract is signed and executed in English language, and all communications, notices and modifications related to this Contract shall be made in writing and in the same language.
3. The total Contract Ceiling price is [*insert amount and the currency*] and is [*indicate: inclusive or exclusive*] of local taxes. The Contract price includes all costs associated with the assignment, including remuneration of the Consultant (foreign and local, in the field and at the Consultants’ home office), travel expenses, accommodation, per diem and other expenses. **Appendix E** provides further details.
4. The expected date for the commencement of the Services is [*insert date, month and year*] at [*insert location*]. The time period shall be [*insert time period, e.g.: twelve months and end date, insert date, month and year*].
5. The Accountable Entity designates [*Insert Name and Title reporting Point of Contact*] as the Accountable Entity’s reporting point of contact.
6. Any dispute, controversy or claim that cannot be amicably settled between the parties and arising out of, or relating to this Contract or the breach, termination or invalidity thereof, shall be finally settled by [*dispute resolution in accordance with the applicable law*]. The arbitration shall be held in Mauritius and the language of the arbitration shall be English.
7. The following documents form an integral part of this Contract:
  - (a) The Conditions of Contract (including Attachment 1 “MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC’s AFC Policy”), Attachment 2 “Annex to General Provisions”).

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- (b) Appendices:
  - Appendix A: Description of Services and Reporting Requirements
  - Appendix B: Consultant's CV
  - Appendix C: Consultant's Bank Details
  - Appendix D: Negotiated Deployment Schedule
  - Appendix E: Cost Details

SIGNED:

For and on behalf of *[Name of Accountable Entity]*

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*[Authorized Representative of the Accountable Entity – name, title and signature]*

For and on behalf of *[Name of Consultant]*

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*[ Consultant – name and signature]*



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## **Conditions of Contract**

- |  |     |   |
|--|-----|---|
| <b>1. Corrupt and Fraudulent Practices</b> | 1.1 | The Millennium Challenge Corporation (“MCC”) requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Attachment 1.  |
| <b>2. Commissions and Fees Disclosure</b>  | 2.1 | The Accountable Entity requires the Consultant to disclose any commissions, gratuities or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract and/or sanctions by MCC.  |
| <br><b>3. Force Majeure</b>                |     |   |
| <b>Definition</b>                          | 3.1 | For the purposes of this Contract, “Force Majeure” means an event or condition that (a) is not reasonably foreseeable and is beyond the reasonable control of a Party, and is not the result of any acts, omissions or delays of the Party relying on such event of Force Majeure, (or of any third person over whom such Party has control, (b) is not an act, event or condition the risks or consequence of which such Party has expressly agreed to assume under this Contract, (c) could not have been prevented, remedied or cured by such Party’s reasonable diligence, and (d) makes such Party’s performance of its obligations under this Contract impossible or so impractical as to be considered impossible under the circumstances. Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder. |
| <b>No Breach of Contract</b>               | 3.2 | The failure of a Party to fulfil any of its obligations under this Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as practicable (and in no event later than five (5) days after the occurrence) about the occurrence of an event giving rise to a claim of Force Majeure.   |
| <b>Measures to be Taken</b>                | 3.3 | A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical and shall take all reasonable measures to minimize the   |

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consequences of any event of Force Majeure.

- 3.4 Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- 3.5 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Accountable Entity, shall either:
  - (a) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Accountable Entity, in reactivating the Services; or
  - (b) continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

In the case of disagreement between the Parties as to the existence or extent of and event of Force Majeure, the matter shall be settled in accordance with Clause 18.

**4. Suspension**

- 4.1 The Accountable Entity may, by written notice of suspension to the Consultant, suspend part or all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding seven (7) calendar days after receipt by the Consultant of such notice of suspension or if MCC has suspended disbursements under the Compact.

**5. Termination**

- 5.1 This Contract may be terminated by either Party as per provisions set out below.

**By the Accountable Entity**

- 5.2 The Accountable Entity may terminate this Contract with at least fourteen (14) calendar days prior written notice to the Consultant after the occurrence of any of the events specified in paragraphs (a) through (e) of this Clause:
  - (a) If the Consultant does not remedy a failure in the performance of its obligations under the Contract after being notified by the Accountable Entity in writing by specifying the nature of the failure and requesting to

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remedy it within at least ten (10) calendar days after the receipt of the Accountable Entity's notice;

- (b) If the Consultant becomes insolvent or bankrupt;
- (c) If the Consultant, in the judgment of the Accountable Entity, has engaged in integrity violations as defined in Attachment 1 or if in the judgment of the Accountable Entity, continuing the Contract will be detrimental to the interests or reputation of the Accountable Entity, or the project;
- (d) If the Accountable Entity, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
- (e) If the Compact has been terminated or MCC has suspended disbursements under the Compact. If this Contract is suspended pursuant to this Sub-Clause 5.2 (e) the Consultant has an obligation to mitigate all expenses, damages and losses to the Accountable Entity during the period of the suspension.

**By the Consultant**

5.3 The Consultant may terminate this Contract, upon written notice to the Accountable Entity in accordance with the time period specified below, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (e) of this Sub-Clause 5.3:

- (a) If the Accountable Entity fails to pay any money due to the Consultant pursuant to this Contract that is not otherwise subject to dispute pursuant to Clause 18 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the payment that is the subject of such notice of termination is made by the Accountable Entity to the Consultant within such thirty (30) days.
- (b) If, as the result of an event of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.
- (c) If the Accountable Entity fails to comply with any final decision reached as a result of arbitration pursuant to Clause 18. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the

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notice of termination.

- (d) If the Consultant does not receive a reimbursement of any Taxes that are exempt under the Compact within one hundred and twenty (120) days after the Consultant gives notice to the Accountable Entity that such reimbursement is due and owing to the Consultant. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the reimbursement that is the subject of such notice of termination is made to the Consultant within such thirty (30) days.
- (e) If this Contract is suspended for a period of time exceeding three (3) consecutive months; provided that the Consultant has complied with its obligation to mitigate in accordance with Clause 5.2(e) during the period of the suspension. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.

**6. Obligations of the Consultant**

**Standard of Performance**

- 6.1 The Consultant shall carry out the Services with due diligence and efficiency and shall exercise such reasonable skill and care in the performance of the Services as is consistent with sound professional practices.
- 6.2 The Consultant shall act at all times so as to protect the interests of the Accountable Entity and shall take all reasonable steps to keep all expenses to a minimum, consistent with sound professional practices.

**Compliance**

- 6.3 The Consultant shall perform the Services in accordance with the Contract and the applicable law of **Malawi**.

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**Conflict of Interests** 6.4. The Consultant shall hold the Accountable Entity’s interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

6.5 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant’s Services for the preparation or implementation of the project.

6.6 The Consultant shall not engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

6.7 The Consultant has an obligation shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Accountable Entity, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

**7. Confidentiality** 7.1 Except with the prior written consent of the Accountable Entity, the Consultant shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant, make public the recommendations formulated in the course of, or as a result of, the Services.

**8. Insurance to be taken out by the Consultant** 8.1 The Consultant shall take out and maintain at its own cost adequate professional liability insurance as well as adequate insurance against third party liability and loss of or damage to equipment purchased in whole or in part with funds provided by the Accountable Entity. The Consultant shall ensure that such insurance is in place prior to commencing the Services.

8.2 The Accountable Entity undertakes no responsibility in respect of any life, health, accident, travel or other insurance which may be necessary or desirable for the Consultant, for purpose of the Services, nor for any dependent of any such person.

8.3 The Accountable Entity reserves the right to require original evidence that the Consultant has taken out the necessary insurance.

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- 9. Accounting, Inspection and Auditing**
- 9.1 The Consultant shall keep, and shall make all reasonable efforts to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.
- 9.2 The Consultant shall permit MCC and/or persons appointed by MCC to inspect the site and/or all accounts and records relating to the performance of the Contract and to have such accounts and records audited by auditors appointed by MCC if requested by MCC.
- 10. Reporting Obligations**
- 10.1 The Consultant shall submit to the Accountable Entity the reports and documents specified in **Appendix A**, in the form, in the numbers and within the time periods set forth in said Appendix.
- 11. Proprietary Rights of the Accountable Entity in Reports and Records**
- 11.1 All reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Accountable Entity in the course of the Services shall be confidential and become and remain the absolute property of the Accountable Entity unless otherwise agreed by the Accountable Entity in writing. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Accountable Entity, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Accountable Entity.
- (a) The Consultant shall indemnify the Accountable Entity from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, proceedings, demands, costs, expenses and disbursements of whatsoever nature that may be imposed on, incurred by or asserted against, the Accountable Entity during or in connection with the Services by reason of i) infringement or alleged infringement by the Consultant of any patent or other protected right, or ii) plagiarism or alleged plagiarism by the Consultant.
- (b) The Consultant shall ensure that all goods and services (including without limitation all computer hardware, software and systems) procured by the Consultant from the Accountable Entity funds or used by the Consultant in the carrying out of the Services do not violate or infringe any industrial property or intellectual property right or claim of

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any third party.”

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| <b>12. Job Description of Consultant</b>           | 12.1 | The title, agreed job description, and minimum qualification to carry out the Services of the Consultant are described in <b>Appendix A</b> .  |
| <b>13. Accountable Entity’s Payment Obligation</b> | 13.1 | In consideration of the Services performed by the Consultant under this Contract, the Accountable Entity shall make such payments to the Consultant for the Services specified in <b>Appendix E</b> .  |
| <b>14. Mode of Billing and Payment</b>             | 14.1 | The payments under this Contract shall be made in accordance with the payments provisions as described in the <b>Appendix E</b> .  |
|  | 14.2 | Payments do not constitute acceptance of the whole Services nor relieve the Consultant of its obligations.   |
| <b>15. Interest on Delayed Payments</b>            | 15.1 | If the Accountable Entity has delayed payments beyond thirty (30) days after the payment date determined, the interest rate to be applied in the case of late payments is: <ul style="list-style-type: none"> <li>(i) for payments in US Dollars: the Federal Funds Rate as stated on the website:<br/><br/><a href="http://www.federalreserve.gov/releases/h15/current/default.htm">http://www.federalreserve.gov/releases/h15/current/default.htm</a></li> <li>(ii) for payments in local currency: <u><i>insert applicable interest rate</i></u></li> </ul>   |
| <b>16. Taxes and Duties</b>                        |      | <ul style="list-style-type: none"> <li>(a) <i>[This Clause 16(a) may need to be modified to address unique tax arrangements in some countries.]</i> Except as may be exempted pursuant to the Compact or another agreement related to the Compact, available in English at <b>[insert web link]</b>, the Consultant, may be subject to certain Taxes as defined in the Compact on amounts payable by the Accountable Entity under this Contract in accordance with Applicable Law (now or hereinafter in effect). The Consultant shall pay all Taxes levied under Applicable Law. In no event shall the Accountable Entity be responsible for the payment or reimbursement of any Taxes. In the event that any Taxes are imposed on the Consultant, the contract price shall not be adjusted to account for such Taxes.</li> <li>(b) The Consultant shall follow the usual customs procedures of the Accountable Entity Country in importing property into the Accountable Entity Country.</li> <li>(c) If the Consultant does not withdraw, but dispose of any property in the Accountable Entity Country upon which</li> </ul> |

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customs duties or other Taxes have been exempted, the Consultant, (i) shall bear such customs duties and other Taxes in conformity with Applicable Law, or (ii) shall reimburse such customs duties and Taxes to the Accountable Entity if such customs duties and Taxes were paid by the Accountable Entity at the time the property in question was brought into the Accountable Entity Country.

- (d) Without prejudice to the rights of the Consultant under this clause, the Consultant, will take reasonable steps as requested by the Accountable Entity or the Government with respect to the determination of the Tax status described in this Clause 16.
- (e) If the Consultant is required to pay Taxes that are exempt under the Compact or a related agreement, the Consultant shall promptly notify the Accountable Entity (or such agent or representative designated by the Accountable Entity) of any Taxes paid, and the Consultant shall cooperate with, and take such actions as may be requested by the Accountable Entity, MCC, or either of their agents or representatives, in seeking the prompt and proper reimbursement of such Taxes.
- (f) The Accountable Entity shall use reasonable efforts to ensure that the Government provides the Consultant, the exemptions from taxation applicable to the Consultant, in accordance with the terms of the Compact or related agreements. If the Accountable Entity fails to comply with its obligations under this paragraph, the Consultant shall have the right to terminate this Contract.

**17. Amicable Settlement of Disputes**

17.1 The Parties shall seek to resolve any dispute amicably by mutual consultation.

**18. Dispute Resolution**

18.1. Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to and determined by a sole arbitrator to be appointed by agreement between the Parties or in default of agreement by the Parties, in accordance with Clause 6 of the Contract Agreement. The arbitral award shall be final and binding. Notwithstanding any reference to arbitration herein, the Parties shall continue to perform their respective obligations under the Contract.

18.2 MCC has the right to be an observer to any arbitration proceeding associated with this Contract, at its sole discretion, but does not have the obligation to participate in any arbitration proceeding. Whether or not MCC is an observer to any arbitration associated with this Contract, the Parties shall provide MCC with written English transcripts of any arbitration



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proceedings or hearings and a copy of the reasoned written award within ten (10) days after (a) each such proceeding or hearing or (b) the date on which any such award is issued. MCC may enforce its rights under this Contract in an arbitration conducted in accordance with this provision or by bringing an action in any court that has jurisdiction. The acceptance by MCC of the right to be an observer to the arbitration shall not constitute consent to the jurisdiction of the courts or any other body of any jurisdiction or to the jurisdiction of any arbitral panel.

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## **Attachment 1: MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC’s AFC Policy”)**

*MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations* (“MCC’s AFC Policy”) may be found at the following link:

<https://www.mcc.gov/resources/doc/policy-fraud-and-corruption>

**[These provisions must be downloaded and attached to the Contract]**

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## **Attachment 2: MCC’s Policy – Annex to General Provisions**

The MCC’s general provisions can be found at the following link:

<https://www.mcc.gov/resources/doc/annex-of-general-provisions>

**[These provisions must be downloaded and attached to the Contract]**

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## **APPENDICES**

### **APPENDIX A – DESCRIPTION OF SERVICES AND REPORTING REQUIREMENTS**

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**APPENDIX B - CONSULTANT'S CV**

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**APPENDIX C – CONSULTANT'S BANK DETAILS**

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**APPENDIX D – NEGOTIATED DEPLOYMENT SCHEDULE *[if necessary]***

Consultant Input (in the form of a bar chart)								
Months	1	2	3	4	5	6	Etc.	<b>Total</b>
[Home]								
[Field]								

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**APPENDIX E – COST DETAILS**

Description	Unit Cost	U/M	Total	Remarks
<b>Remuneration</b>				
Fees				Daily Rates

<b>Other Costs</b>				
Description	Rate	Qty	Total	Remarks
Return Flight [insert airports]				N/A
Return Flight [insert airports]				N/A
Lodging [[insert city]				N/A
M&IE [insert city] (first day of travel)				N/A
M&IE [insert city]				N/A
M&IE [insert city] (last day of travel)				N/A
Visa Costs, courier services and related expenses				N/A
		Total	<b>0.00</b>	

Grand Total: US\$ **0.00**

For all reimbursables, the Consultant will submit the originals of boarding passes, invoices and receipts of any expenses incurred based on the maximum approved costs.

The Consultant will only be paid for time worked. The LoE for each assignment should be agreed between the parties before the initiation of the work.

The billing cycle will be Monthly.

Any invoice should be paid upon approval by MCA Malawi.