

Millennium Challenge Corporation

Interim Amendment Notice 2011-001

May 23, 2011

Effective Date May 2, 2011



MILLENNIUM
CHALLENGE CORPORATION

UNITED STATES OF AMERICA

MCC/MCA Entity Procurement Community

Procurement Notices

This is a Material Interim Amendment Notice issued in accordance with Part 7 of the MCC Program Procurement Guidelines (PPG). MCC issues notices from time to time to inform MCC and all MCA Entities (including their Procurement Agent(s) and Implementing Entities) of changes to the PPG and the Standard Bidding Documents (SBDs). The changes indicated in this Material Interim Amendment Notice are effective as set out in the section titled “Effectiveness and Application of Amendment” below. This Material Interim Amendment Notice will be posted on MCC’s website.

MCC Program Procurement Guidelines

MCC and the MCA Entities shall implement the changes to the PPG as described in **Attachments A through E**, “*Material Interim Amendment 2011-001*.” The changes made by this Material Interim Amendment will be incorporated into the next formal revision of the PPG.

Standard Bidding Documents

MCC and the MCA Entities shall implement the changes to the MCC Standard Bidding Documents (SBDs) described in **Attachment F of this notice**, titled “**Standard Bidding Document Changes**.” The changes made by this Material Interim Amendment will be incorporated into the next formal revision of the SBDs.

Effectiveness and Application of Amendment

This amendment is effective as of May 2, 2011. The changes to the appropriate sections of the SBDs for Consulting Services, Goods, Small Works, Large Works, and Design/Build indicated on the attached list of changes are to be incorporated immediately into solicitation documents being developed that have not been issued. Solicitation documents currently released for contractors’ response do not have to be modified.

Summary of PPG Amendments and Rationale

- a. **Modification to PPG Part 1, Paragraph P1.A.2.64 (Evaluation and Comparison of Bids).** This change is being made following consultation with several MCA Entity Procurement Agents and is designed to provide flexibility to use the INCOTERMS which are most appropriate for a particular procurement. *[See Attachment A of this notice.]*

- b. **Modification to PPG Part 2, Paragraph P2.1.6 and P2.1.7 (Direct Contracting/Sole Source Procurement and Amendment).** MCC has deleted former Paragraph P2.1.6, set out revised provisions for amending Procurement Plans in revised Paragraphs P2.1.6 and Par 2.1.7 in order to rationalize the approval requirements when amending approved Procurement Plans. *[See Attachment A of this notice.]*
- c. **Modification to PPG Part 4 (Review and Approval Requirements) and PPG Attachment 1 (Approval Requirements).** These changes eliminate one of the two existing schedules in Attachment 1 to the PPG. MCC has determined that the dual approval structure was an undue source of confusion for MCA Entities and MCC staff. The new, single schedule Attachment 1 also revises certain threshold values; eliminates a redundant approval procedure in the selection of Individual Consultants; and adds the approval procedure for Government-Owned Enterprises determination. *[See Attachments B and D of this notice.]*
- d. **New PPG Part 15 (Combating Trafficking in Persons).** MCC has a zero tolerance policy regarding trafficking in persons. This addition to the PPG formalizes across all MCA countries the procedures to be used in procurements to help ensure that the contractors, subcontractors and employees of the MCA Entities are not engaged in such practices. *[See Attachment C of this notice]*
- e. **Modification to PPG Attachment 13 (Contract File Index Sample).** This change provides a revised contract file index that is designed to be more relevant to and suitable for MCA Entity procurements. *[Attachment E of this notice.]*

Patrick Fine
Vice President, Department of Compact Operations
Millennium Challenge Corporation

Attachment A

MCC Program Procurement Guidelines (10/23/2009 Version)

Material Interim Amendment 2011-001

This Material Interim Amendment modifies the October 23, 2009 version of the MCC Program Procurement Guidelines (PPG). The changes indicated in this amendment will be effective as set out in the section titled “Effectiveness and Application of Amendment” above. The changes will be incorporated into a future revision of the PPG.

MCC and the MCA Entities, including the Procurement Agent(s) and Implementing Entities, shall amend their copies of the PPG by inserting changed pages to the documents or by marking the change to the appropriate table or paragraph. It is also important to insert the Index of Interim Amendments found at the end of Attachment A of this notice. A copy of the PPG as amended by this Material Interim Amendment shall be maintained by the MCA Entity Procurement Director and the MCA Entity Procurement Agent(s) in a file/binder for use as a reference by staff and auditors.

1. AMENDMENT TO PART 1 OF PPG

Paragraph P1.A.2.64 of the MCC Program Procurement Guidelines is amended by striking the first sentence of the existing text and replacing the first sentence with the following:

“The evaluation and comparison of bids shall be on CIP prices (or other INCOTERMS 2010 as indicated in the solicitation document) for the supply of imported goods. The MCA Entity may ask for prices on a CIF basis (and bids compared on the same basis) only when the goods are carried by sea and the goods are not containerized.”

The remainder of this paragraph remains unchanged.

2. AMENDMENT TO PART 2 OF PPG

Paragraphs P2.1.6 and P2.1.7 of the MCC Program Procurement Guidelines are amended by striking the existing text and replacing it with the following:

“Amending Procurement Plans

P2.1.6 If the MCA Entity determines that a Material Change, as defined in P2.1.7, from the approved Procurement Plan is necessary or appropriate, the MCA Entity shall propose an amendment and secure approval from the Governing Body of the MCA Entity and MCC before beginning the new or changed procurement action. Changes to a Procurement Plan that are not Material Changes shall be recorded and approved by the MCA Entity Director of Procurement. If MCC approves the amendment to the approved Procurement Plan, the MCA Entity shall comply with any instructions contained in the approval, including any publication requirements (e.g. update of the GPN). See Attachment 6 for Sample Procurement Plan Amendment Form.

P2.1.7 A change to a Procurement Plan is a Material Change when:

- a. A new procurement is added with an estimated value at 25,000USD or more and a method other than Direct Contracting or Single Source Selection will be used to select the contractor or consultant.
- b. A new procurement is added with an estimated value at 10,000USD or more and the contractor or consultant will be selected by Direct Contracting or Single Source Selection.
- c. The estimated value of a particular procurement is increased or decreased by twenty-five percent (25%) or greater.
- d. The method of procurement or selection procedure is changed to a less open or more subjective process for selecting the contractor or consultant. Changing from Competitive Bidding to Limited Bidding or Shopping is an example of a change to a less open procedure. Changing from QCBS to QBS or CQS or from a CQS to Individual Consultant Selection are examples of a change to a more subjective procedure.

3. AMENDMENT TO PART 4 OF PPG

Part 4 of the MCC Program Procurement Guidelines is amended by striking Part 4 in its entirety and replacing it with Attachment B of this Amendment, “Part 4. Review and Approval Requirements.”

4. NEW PART 15 OF PPG

The MCC Program Procurement Guidelines are amended by inserting Attachment C of this Amendment, “Part 15. Combating Trafficking in Persons,” as the new Part 15 of the PPG.

5. AMENDMENT TO ATTACHMENT 1 OF PPG

Attachment 1 of the MCC Program Procurement Guidelines is amended by striking Attachment 1 in its entirety and replacing it with Attachment D of this Amendment, "Attachment 1. Approval Requirements."

6. AMENDMENT TO ATTACHMENT 13 OF PPG

Attachment 13 of the MCC Program Procurement Guidelines is amended by striking Attachment 13 in its entirety and replacing it with Attachment E of this Amendment, "Attachment 13. Contract File Index Sample."

7. GENERAL PROVISIONS

- a. Except as expressly amended by this Amendment, all of the terms and conditions of the MCC Program Procurement Guidelines remain unchanged and shall remain in full force and effect in accordance with their terms. This Amendment shall be limited as provided for herein, and shall not be deemed to be a waiver of, amendment of, consent to, or modification of any other term or provision of the MCC Program Procurement Guidelines.
- b. On and after the date of the Material Interim Amendment Notice associated with this Amendment, each reference in the MCC Program Procurement Guidelines to "these Guidelines," and any other reference to the MCC Program Procurement Guidelines will, unless otherwise stated, be construed to refer to the MCC Program Procurement Guidelines as amended by this Amendment.

Insert the following "*Index of Interim Amendments*" in the front of copies of the PPG.

MCC Program Procurement Guidelines (10/23/2009 Version)

Index of Interim Amendments

Interim Amendment	Issue Date
2010-001 (Material Interim Amendment)	September 27, 2010
2011-001 (Material Interim Amendment)	May 2, 2011

Attachment B

Part 4. Review and Approval Requirements

- P4.1.1 Certain important procurement actions and decisions shall be subject to prior review or approval by levels of authority within the MCA Entity or by MCC, as provided in *Attachment 1* of these Guidelines. This system of review and approval requirements is intended to ensure adequate oversight and monitoring of MCC-funded procurement activities, help detect errors when they can be easily corrected and to otherwise avoid problems in such procurement activities. It is subject to modification or exception at any time by MCC.
- P4.1.2 The MCA Entity shall ensure that all procurement actions described in *Attachment 1* for goods, works, consultant and non-consultant services in furtherance of the Compact and funded in whole or in part by MCC funding shall be subject to the prior approval of the MCA Entity's Procurement Director or board of directors (or equivalent governing body) for the corresponding type of action or dollar amount threshold in *Attachment 1*, unless MCC has granted a written exception to the approval requirement set out in *Attachment 1*.
- P4.1.3 Notwithstanding the approval requirements set out in *Attachment 1*, MCC shall have the right to review and require prior approval of any other procurement action, decision or document.

Attachment C

Part 15. Combating Trafficking in Persons

P15.1 Background

MCC has a zero tolerance policy with regard to trafficking in persons. Trafficking in persons (TIP) is the crime of using force, fraud, and/or coercion to exploit another person. Human trafficking 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. The U.S. Government, led by the Department of State, is committed to making progress against the global crime and human rights abuse of TIP. 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. For more on MCC's approach to combating TIP please visit: <http://www.mcc.gov/documents/reports/issuebrief-2010002011002-mccandtip.pdf>

P15.2 Defined Terms

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

- P15.2.1 “coercion” means (a) threats of serious harm to or physical restraint against any person; (b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (c) the abuse or threatened abuse of the legal process.
- P15.2.2 “commercial sex act” means any sex act on account of which anything of value is given to or received by any person.
- P15.2.3 “debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.
- P15.2.4 “employee” means an employee of a bidder, supplier, contractor, subcontractor, consultant, or sub-consultant directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

- P15.2.5 “forced labor” means knowingly providing or obtaining the labor or services of a person (a) by threats of serious harm to, or physical restraint against, that person or another person; (b) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or (c) by means of the abuse or threatened abuse of law or the legal process.
- P15.2.6 “fraud” means any act or omission, including any misrepresentation, in order to influence (or attempt to influence) any person to engage (knowingly or unknowingly) in any of the activities prohibited by this Part 15. Examples of fraud include, but are not limited to, false promises for specific employment; promises of money or other compensation that is never paid; working conditions that are not as promised; and a person being told he or she would receive legitimate immigration papers or legal authorizations necessary to work that are never received.
- P15.2.7 “involuntary servitude” includes a condition of servitude induced by means of (a) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or (b) the abuse or threatened abuse of the legal process.
- P15.2.9 “severe forms of trafficking in persons” means (a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- P15.2.9 “sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

P15.3 Prohibition

MCC has adopted a zero tolerance policy regarding TIP. Bidders, suppliers, contractors, subcontractors, consultants, sub-consultants and any of their respective employees shall not:

- a. engage in severe forms of trafficking in persons during the period of performance of any contract funded, in whole or in part, with MCC funding;
- b. procure commercial sex acts during the period of performance of any contract funded, in whole or in part, with MCC funding; or
- c. use forced labor in the performance of any contract funded, in whole or in part with MCC funding.

P15.4 Requirements

- a. Each bidder, supplier, contractor, subcontractor, consultant or sub-consultant shall:
 - i. notify its employees of (i) MCC's zero tolerance policy with regard to TIP and the prohibited activities described in section P15.3; and (ii) the actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and
 - ii. take appropriate action, up to and including termination, against employees or subcontractors or sub-consultants that violate the prohibitions set out in section P15.3.
- b. Each bidder (whether to be a supplier or contractor) or consultant, as part of its bid or proposal, shall:
 - i. certify that it is not engaged in, facilitating, or allowing any of the prohibited activities described in section P 15.3 for the duration of the contract;
 - ii. provide assurances that the prohibited activities described in section P 15.3 will not be tolerated on the part of employees or subcontractors, or sub-consultants (as the case may be), or their respective employees; and
 - iii. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the contract.

P15.5 Notification

A bidder, supplier, contractor, subcontractor, consultant or sub-consultant shall inform the MCA Entity immediately of:

- a. any information it receives from any source (including law enforcement) that alleges its employee, subcontractor, sub-consultant, or the employee of a subcontractor or sub-consultant, has engaged in conduct that violates this policy; and
- b. any actions taken against any employee, subcontractor, sub-consultant, or the employee of a subcontractor or sub-consultant, pursuant to these requirements.

P15.6 Remedies

In addition to other remedies available to the MCA Entity or MCC, a bidder's, supplier's, contractor's, subcontractor's, consultant's, or sub-consultant's failure to comply with the requirements of this Part 15 may result in:

- a. requiring the supplier, contractor, subcontractor, consultant or sub-consultant to remove the involved employee or employees from the performance of the contract;
- b. requiring the supplier, contractor, subcontractor, consultant or sub-consultant to terminate a subcontract;
- c. suspension of contract payments;
- d. loss of incentive payment, consistent with the incentive plan set out in the contract, if any, for the performance period in which the MCA Entity or MCC determined non-compliance;
- e. termination of the contract for default or cause, in accordance with the termination clause of the contract; and
- f. suspension or debarment of the bidder, supplier, contractor, subcontractor, consultant or sub-consultant from any contract funded, in whole or in part, with MCC funding.

P15.7 Subcontracts

The supplier, contractor, subcontractor, consultant or sub-consultant shall include the substance of all of the provisions of this Part 15, including this section P15.7, in all subcontracts.

P15.8 Mitigating Factor

The MCA Entity and MCC may consider whether the bidder, supplier, contractor, subcontractor, consultant or sub-consultant had a TIP awareness program at the time of any violation as a mitigating factor when determining remedies.

Attachment D

Attachment 1. Approval Requirements

Goods, Works and Non-Consultant Services

		Level of Approval (Thresholds expressed in USD)		
Procurement Procedure or Method	Decision	MCA Entity Director of Procurement	Governing Body of MCA Entity	MCC
	(Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)		(Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	(Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
	Procurement Plans	All	All	All
	Amendments to the Procurement Plan	All	Material Change [as defined in Part 2 of these Guidelines]	Material Change [as defined in Part 2 of these Guidelines]
Pre-qualification for Works	Pre-qualification documents and advertising procedures	All	None	None
	Report with proposed list of entities qualified	All	Above 5,000,000USD	None
	GOE Determination of Proposed Pre-qualification List	All	None	All
	Record of Bid Challenges	All	All	All

Goods, Works and Non-Consultant Services

		Level of Approval (Thresholds expressed in USD)		
			Governing Body of MCA Entity	MCC
Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	MCA Entity Director of Procurement	(Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	(Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
Competitive Bidding and Limited Bidding	Bidding Documents	All	None	Above 1,000,000USD Goods Above 5,000,000USD Works
	Bid Review Panel Membership	All	None	None
	Bid Review Report with Proposed Award	All	None	Above 1,000,000USD Goods Above 5,000,000USD Works
	Rejection of All Bids	All	None	Above 1,000,000USD Goods Above 5,000,000USD Works
	GOE Determination of Proposed Winner	All	None	All

Goods, Works and Non-Consultant Services

Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	Level of Approval (Thresholds expressed in USD)		
		MCA Entity Director of Procurement	Governing Body of MCA Entity (Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	MCC (Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
	Final Contract	All	None unless (i) the value of the proposed contract is more than 10% higher than the estimated budget in the approved Procurement Plan, or (ii) the contract has a substantial change in the legal clauses or technical requirements from the terms or requirements stated in the bidding documents.	None unless the contract has a substantial change in the legal clauses or technical requirements from the terms or requirements stated in the bidding documents.
	Record of Bid Challenges	All	All	All
Shopping	Evaluation Report	Over 2,000USD	None	None
	Record of Purchases	Weekly	Quarterly	None
	Record of Bid Challenges	All	All	All
Direct Contracting	GOE Determination of Proposed Contractor	All	None	All

Goods, Works and Non-Consultant Services

		Level of Approval (Thresholds expressed in USD)		
			Governing Body of MCA Entity	MCC
Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	MCA Entity Director of Procurement	(Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	(Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
	Proposed Contract	Over 2,000USD	None unless the value of the proposed contract is more than 10% higher than the estimated budget in the approved Procurement Plan.	Above 50,000USD
	Final Contract	Over 2,000USD (Under 2,000USD review monthly report)	None	None unless the final contract has substantial change in terms, conditions or price from the proposed contract. A price increase of more than 10% would be a substantial change
	Record of Bid Challenges	All	All	All
Force Account	Use of Government equipment and employees for performing works.	All	All	All

Goods, Works and Non-Consultant Services

		Level of Approval (Thresholds expressed in USD)		
Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	MCA Entity Director of Procurement	Governing Body of MCA Entity (Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	MCC (Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
	Proposed Contract	All	None unless the value of the proposed contract is more than 10% higher than the estimated budget in the approved Procurement Plan.	All

Goods, Works and Non-Consultant Services

		Level of Approval (Thresholds expressed in USD)		
Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	MCA Entity Director of Procurement	Governing Body of MCA Entity (Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	MCC (Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
All Procurement Actions	Contract Modifications and Change Orders for contracts valued at more than 25,000USD	All (Exception: If approval authority has been delegated to the Engineer under and as defined in the applicable bidding documents, only approval of the Engineer shall be required for changes within the Engineer's delegated authority. Notice of such modification or change order shall be sent to the MCA Entity Director of Procurement)	If an individual contract modification or change order (i) raises a contract which did not require approval above an approval threshold, or (ii) extends the original contract duration by 25% or more, or (iii) increases the original contract value by 10% or 1 million USD or more (whichever may apply).	If an individual or collective contract modifications or change orders (i) raise the contract value of a contract that did not require approval above an approval threshold, or (ii) extend the original contract duration by 25% or more or (iii) increase the original contract value by 10% or 1 million USD or more (whichever may apply). Once the 10% contract [or 1 million USD] threshold for modifications or change orders has been reached for a contract, any subsequent contract modification or change order that individually or collectively exceed 3% of the original contract value will also require MCC approval.

Goods, Works and Non-Consultant Services

		Level of Approval (Thresholds expressed in USD)		
Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	MCA Entity Director of Procurement	Governing Body of MCA Entity (Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	MCC (Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
All Procurement Actions	Contract Modifications and Change Orders for contracts valued at more than 25,000USD	All (Exception: If approval authority has been delegated to the Engineer under and as defined in the applicable bidding documents, only approval of the Engineer shall be required for changes within the Engineer's delegated authority. Notice of such modification or change order shall be sent to the MCA Entity Director of Procurement)	If an individual contract modification or change order (i) raises a contract which did not require approval above an approval threshold, or (ii) extends the original contract duration by 25% or more, or (iii) increases the original contract value by 10% or 1 million USD or more (whichever may apply).	If an individual or collective contract modifications or change orders (i) raise the contract value of a contract that did not require approval above an approval threshold, or (ii) extend the original contract duration by 25% or more or (iii) increase the original contract value by 10% or 1 million USD or more (whichever may apply). Once the 10% contract [or 1 million USD] threshold for modifications or change orders has been reached for a contract, any subsequent contract modification or change order that individually or collectively exceed 3% of the original contract value will also require MCC approval.

Consultant Services

		Level of Approval (Thresholds expressed in USD)		
			Governing Body of MCA Entity	MCC
Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	MCA Entity Director of Procurement	(Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	(Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, the MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
Quality and Cost Based Selection (QCBS)	Request for Expression of Interest	All	None	None
	Technical Evaluation Panel Membership	All	None	None
	Short List Report	All	None	Above 500,000USD
	GOE Determination of Proposed Short List	All	None	All
	Request for Proposal	All	None	Above 500,000USD
	Technical Evaluation Report	All	None	Above 500,000USD
	Rejection of all proposals	All	None	Above 500,000USD
	Combined Evaluation Report	All	None	Above 500,000USD
	GOE Determination of Proposed Winner	All	None	All

Consultant Services

		Level of Approval (Thresholds expressed in USD)		
			Governing Body of MCA Entity	MCC
Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	MCA Entity Director of Procurement	(Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	(Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, the MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
	Final Contract	All	None unless (i) the value of the proposed contract is more than 10% higher than the estimated budget in the approved Procurement Plan, or (ii) the contract has a substantial change in the legal clauses or technical requirements from the terms or requirements stated in the bidding documents.	None unless the contract has a substantial change in the legal clauses or technical requirements from the terms or requirements stated in the bidding documents
	Record of Bid Challenges	All	All	All
Quality Based Selection (QBS)	Request for Expression of Interest	All	None	None
	Technical Evaluation Panel Membership	All	None	None
	Short List Report	All	None	Above 500,000USD
	GOE Determination of Proposed Short List	All	None	All
	Request for Proposal	All	None	Above 500,000USD
	Rejection of all proposals	All	None	Above 500,000USD

Consultant Services

Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	Level of Approval (Thresholds expressed in USD)		
		MCA Entity Director of Procurement	Governing Body of MCA Entity (Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	MCC (Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, the MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
	Review Report with Proposed Award	All	None	Above 500,000USD
	GOE Determination of Proposed Winner	All	None	All
	Final Contract	All	Above 500,000USD	Above 500,000USD
	Record of Bid Challenges	All	All	All
Fixed Budget Selection (FBS)	Request for Expression of Interest	All	None	None
	Technical Evaluation Panel Membership	All	None	None
	Short List Report	All	None	Above 500,000USD
	GOE Determination of Proposed Short List	All	None	All
	Request for Proposal	All	None	Above 500,000USD
	Evaluation Report and Proposed Award	All	None	Above 500,000USD
	Rejection of all proposals	All	None	Above 500,000USD
	GOE Determination of Proposed Winner	All	None	All

Consultant Services

Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	Level of Approval (Thresholds expressed in USD)		
		MCA Entity Director of Procurement	Governing Body of MCA Entity (Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	MCC (Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, the MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
	Final Contract	All	None unless the contract has a substantial change in the legal clauses or technical requirements from the terms or requirements stated in the bidding documents.	None unless the contract has a substantial change in the legal clauses or technical requirements from the terms or requirements stated in the bidding documents.
	Record of Bid Challenges	All	All	All
Least Cost Selection	Request for Expression of Interest	All	None	None
	Technical Evaluation Panel Membership	All	None	None
	Short List Report	All	None	Above 500,000USD
	GOE Determination of Proposed Short List	All	None	All
	Request for Proposal	All	None	Above 500,000USD
	Evaluation Report with Proposed Award	All	None	Above 500,000USD
	Rejection of all proposals	All	None	Above 500,000USD
	GOE Determination of Proposed Winner	All	None	All

Consultant Services

		Level of Approval (Thresholds expressed in USD)		
			Governing Body of MCA Entity	MCC
Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	MCA Entity Director of Procurement	(Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	(Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, the MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
	Final Contract	All	None unless (i) the value of the proposed contract is more than 10% higher than the estimated budget in the approved Procurement Plan, or (ii) the contract has a substantial change in the legal clauses or technical requirements from the terms or requirements stated in the bidding documents.	None unless the contract has a substantial change in the legal clauses or technical requirements from the terms or requirements stated in the bidding documents.
	Record of Bid Challenges	All	All	All
Selection Based on Consultant's Qualifications	Request for Expression of Interest	All	None	None
	Technical Evaluation Panel Membership	All	None	None
	Short List Report	All	None	None
	GOE Determination of Proposed Short List	All	None	All
	Rejection of all proposals	All	None	Above 200,000USD

Consultant Services

Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	Level of Approval (Thresholds expressed in USD)		
		MCA Entity Director of Procurement	Governing Body of MCA Entity (Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	MCC (Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, the MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
	Review Report with Proposed Award	All	None	Above 200,000USD
	GOE Determination of Proposed Winner	A	None	All
	Final Contract	All	None unless (i) the value of the proposed contract is more than 10% higher than the estimated budget in the approved Procurement Plan, or (ii) the contract has a substantial change in the legal clauses or technical requirements from the terms or requirements stated in the bidding documents.	None unless the contract has a substantial change in the legal clauses or technical requirements from the terms or requirements stated in the bidding documents.
	Record of Bid Challenges	All	All	All
Sole Source Selection	GOE Determination of Proposed Consultant	All	None	All
	Proposed Contract	All	None	Above 50,000USD

Consultant Services

		Level of Approval (Thresholds expressed in USD)		
			Governing Body of MCA Entity	MCC
Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	MCA Entity Director of Procurement	(Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	(Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, the MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
	Final Contract	All	Above 50,000USD	None unless the final contract has substantial change in terms, conditions or price from the proposed contract. A price increase of more than 10% would be a substantial change.
	Record of Bid Challenges	All	All	All
Individual Consultants	Technical Evaluation Panel	All	None	None
	Evaluation Report with Proposed Award	All	None	None
	Final Contract	All	None unless the value of the proposed contract is more than 10% higher than the estimated budget in the approved Procurement Plan.	None
	Record of Bid Challenges	All	All	All

Consultant Services

		Level of Approval (Thresholds expressed in USD)		
Procurement Procedure or Method	Decision (Within each "Procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.)	MCA Entity Director of Procurement	Governing Body of MCA Entity (Notwithstanding the thresholds for the Governing Body of the MCA Entity set forth in these Approval Requirements, the Governing Body may exercise its authority to review any procurement decision with prior notice to the principal officer of the MCA Entity.)	MCC (Notwithstanding the thresholds for the MCC set forth in these Approval Requirements, the MCC may exercise its authority to review and approve any procurement decision with prior notice to the principal officer of the MCA Entity.)
All Procurement Actions	Contract Modifications and Change Orders for contracts valued at more than 25,000USD	All	If an individual contract modification or change order (i) raises a contract which did not require approval above an approval threshold, or (ii) extends the original contract duration by 25% or more, or (iii) increases the original contract value by 10% or 1 million USD or more (whichever may apply).	If an individual or collective contract modifications or change orders (i) raise the contract value of a contract that did not require approval above an approval threshold, or (ii) extend the original contract duration by 25% or more, or (iii) increase the original contract value by 10% or 1 million USD or more (whichever may apply). Once the 10% contract [or 1 million USD] threshold for modifications or change orders has been reached for a contract, any subsequent contract modification or change order that individually or collectively exceed 3% of the original contract value will also require MCC approval.

Attachment E

Attachment 13. Contract File Index Sample

(This recommended index of contents may be modified to fit various procurement methods)

Tabs	Minimum File Contents	Check
1	Title, Code, Number of Specific Procurement	
2	Contract close-out form signed by MCA Entity technical sector head, Chief Financial Officer, and Procurement Director (as applicable)	
3	Contract Administration documents (acceptance certificates, final payment certificate, contract modifications)	
4	Bid Challenges Report (if any)	
5	Copies of insurance, performance guarantee, advance payment bank guarantee, and any other required documentation	
6	Copy of signed contract	
7	Notification of Award (Copies of letters sent to winner and losers, copy of dgMarket and UNDB posting)	
8	Final Contract Approvals (Governing Body and MCC if applicable)	
9	Record of Contract Negotiations or Clarifications	
10	Combined Evaluation Report and MCC Approval (if applicable)	
11	Minutes of Financial Proposal Opening (if applicable)	
12	Bid Review/Technical Evaluation Report and MCC Approval	
13	Record of Eligibility Verification Checks	
14	Minutes of Opening of Bids/Proposals.	
15	Record of IFB/RFP Amendments (if any)	
16	Clarification Requests (Queries) and Responses	
17	Minutes of Pre-Bid/Solicitation Conference	
18	Copies of dgMarket, UNDB, and/or Newspaper advertisements	
19	Proposed Evaluation Panel	
20	Request for Solicitation (IFB/RFP) document and MCC approval	
21	MCC Approval of Shortlist Report (if required)	
22	Prequalification/EOI/Shortlist Report (if used)	
23	Record of Prequalification/EOIs received (if used)	
24	Issued Prequalification/IEOI (advertisement) (if used)	

Tabs	Minimum File Contents	Check
25	Procurement Requisition Note (PRN) (or similar form used by the MCA Entity to initiate a specific procurement action)	
26	Procurement Implementation Plan and subsequent revisions	
27	Copy of Approved Procurement Plan showing relevant procurement	

Attachment F

Standard Bidding Document Changes

The following changes shall be made to the English versions of the SBDs posted on the MCC website. MCA Entities using the French and Spanish versions of the SBDs should make equivalent changes to those SBDs.

Trafficking in Persons

The Instructions for Bidders section of each of the SBDs for the Procurement of Large Works, the Procurement of Goods and Related Services, the Procurement of Small Works, and for Design Build, as well as the Instructions to Consultants section in the SBD for Consulting Services and the Instructions to Applicants section in the SBD for Pre-Qualification of Works are to be revised to include the following new instruction at an appropriate place:

[insert appropriate section number] Trafficking in Persons

[section number].1 MCC has a zero tolerance policy with regard to trafficking in persons. Trafficking in persons (TIP) is the crime of using force, fraud, and/or coercion to exploit another person. Human trafficking 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.

[section number].2 The [Technical Specifications (for Large Works SBD)] [Description of Services (for Consulting Services SBD)] [Schedule of Requirements (for Goods and Related Services SBD)] [Specifications and Performance Requirements (for Small Works SBD)] [Scope of Work (for Pre-Qualification SBD)] [Employers Requirements (for Design-Build SBD)] may set out certain prohibitions, [contractor] [supplier] [consultant] requirements, remedies and other provisions that will be made a binding part of any contract that may be entered into with respect to this procurement. As such, those provisions, if included, should be given careful consideration.

[section number].3 Additional information on MCC’s requirements aimed at combating TIP can be found in Part 15 of MCC’s Program Procurement Guidelines.

Consulting Services SBD:

1. The following language should be inserted as a new paragraph in **Form TECH-1** (Section 4) in the Consulting Services SBD:

“We hereby certify that we are not engaged in, facilitating, or allowing any of the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines (Combating Trafficking in Persons) and that we will not engage in, facilitate, or allow any such prohibited activities for the duration of the Contract. Further, we hereby provide our assurance that the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines will not be tolerated on the part of our employees, or any sub-consultants, or sub-consultant employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.”

The following language should be inserted as a new sub-clause in the **General Conditions of Contract** (Section 5) in the Consulting Services SBD:

- | | | |
|------|----------------------------------|--|
| 3.14 | Combating Trafficking in Persons | “MCC, along with other United States Government entities, has adopted a zero tolerance policy with regard to trafficking in persons (“TIP”). In pursuance of this policy: |
| | Defined Terms | For purposes of the application and interpretation of this GCC Sub-Clause 3.14, the terms, “coercion,” “commercial sex act,” “debt bondage,” “employee,” “forced labor,” “fraud,” “involuntary servitude,” “severe forms of trafficking in persons,” and “sex trafficking” have the meanings given such terms in Part 15 [<i>Combating Trafficking in Persons</i>] of MCC’s Program Procurement Guidelines and such definitions are incorporated by reference into this GCC Sub-Clause 3.14. |

Prohibition

The Consultant, Personnel, any Sub-Consultant, or any of its personnel, or any agent or affiliate of any of the forgoing shall not:

- a. engage in severe forms of trafficking in persons during the period of performance of the Contract;
- b. procure commercial sex acts during the period of performance of the Contract; or
- c. use forced labor in the performance of the Contract.

Consultant Requirements The Consultant shall:

- a. fulfill its obligations under this GCC Sub-Clause 3.14 and any additional obligations related to TIP that may be set forth in the Services or any other documents that make up this Contract;
- b. notify Personnel with respect to MCC's policy regarding TIP and the prohibited activities described in this GCC Sub-Clause 3.14;
- c. notify the MCA Entity within 48 hours or as soon as reasonably possible upon the Consultant:
 - i. becoming aware of any information it receives from any source (including law enforcement) that alleges any Personnel, Sub-Consultant, or any of its personnel, or any agent or affiliate of any of them, has engaged in conduct that violates MCC's TIP policy; or
 - ii. taking any action against any Personnel, Sub-Consultant or any of its personnel, or any agent or affiliate of any of them, pursuant to these requirements; and
- d. ensure that any subcontract or subaward entered into by the Consultant, as permitted by this Contract, includes the substance of the provisions of this GCC Sub-Clause 3.14.

Remedies

In addition to any other remedies that may be available under the terms of this Contract or Applicable Law, any breach of this GCC Sub-Clause 3.14 may result in:

- a. the MCA Entity requiring the Consultant to remove the involved Personnel, Sub-Consultant or any of its involved personnel, or any involved agent or affiliate;
- b. the MCA Entity requiring the termination of a subcontract or subaward;
- c. suspension of Contract payments until the breach is remedied to the satisfaction of the MCA Entity and MCC;
- d. loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the MCA Entity or MCC determine the breach remains unremedied;
- e. the MCA Entity or MCC pursuing sanction of the Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; and
- f. termination of the Contract by the MCA Entity, in which case the provisions of GCC Sub-Clause 2.7.1(d) shall apply.

Large Works SBD:

1. The following language should be inserted as a new paragraph in the **Form of Letter of Bid** (Section IV) in the Large Works SBD:

“We hereby certify that we are not engaged in, facilitating, or allowing any of the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines (Combating Trafficking in Persons) and that we will not engage in, facilitate, or allow any such prohibited activities for the duration of the Contract. Further, we hereby provide our assurance that the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines will not be tolerated on the part of our employees, or any

subcontractor or supplier, or their respective employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.”

2. The following language should be inserted as a new sub-clause in the **Conditions of Particular Application** (Section VI) in the Large Works SBD:

Sub-Clause 6.15 Add the following Sub-Clause 6.15:
 Combating
 Trafficking in Persons

“MCC, along with other United States Government entities, has adopted a zero tolerance policy with regard to trafficking in persons (“TIP”). In pursuance of this policy:

- a. **Defined Terms.** For purposes of the application and interpretation of this Sub-Clause 6.15, the terms, “coercion,” “commercial sex act,” “debt bondage,” “employee,” “forced labor,” “fraud,” “involuntary servitude,” “severe forms of trafficking in persons,” and “sex trafficking” have the meanings given such terms in Part 15 [*Combating Trafficking in Persons*] of MCC’s Program Procurement Guidelines and such definitions are incorporated by reference into this Sub-Clause 6.15.
- b. **Prohibition.** The Contractor, the Contractor’s Personnel, any Subcontractor or supplier, or any of their respective personnel, or any agent or affiliate of any of the forgoing shall not:
 - i. engage in severe forms of trafficking in persons during the period of performance of the Contract;
 - ii. procure commercial sex acts during the period of performance of the Contract; or
 - iii. use forced labor in the performance of the Contract.
- c. **Contractor Requirements.** The Contractor shall:
 - i. fulfill its obligations under this Sub-Clause 6.15 and any additional obligations related to TIP that may be set forth in the Specification or any other documents that make up this Contract;

- ii. notify Contractor's Personnel with respect to MCC's policy regarding TIP and the prohibited activities described in this Sub-Clause 6.15;
 - iii. notify the Engineer and the Employer within 48 hours or as soon as reasonably possible upon the Contractor:
 - a. becoming aware of any information it receives from any source (including law enforcement) that alleges any Contractor's Personnel, Subcontractor or supplier, or any of their respective personnel, or any agent or affiliate of any of them, has engaged in conduct that violates MCC's TIP policy; or
 - b. taking any action against any Contractor's Personnel, Subcontractor or supplier, or any of their respective personnel, or any agent or affiliate of any of them, pursuant to these requirements; and
 - iv. ensure that any subcontract or subaward entered into by the Contractor, as permitted by this Contract, includes the substance of the provisions of this Sub-Clause 6.15.
- d. **Remedies.** In addition to any other remedies that may be available under the terms of this Contract or applicable Laws, any breach of this Sub-Clause 6.15 may result in:
- i. the Employer requiring the Contractor to remove the involved Contractor's Personnel, Subcontractor or supplier, any of their involved personnel, or any involved agent or affiliate;
 - ii. the Employer requiring the termination of a subcontract or subaward;
 - iii. suspension of Contract payments until the breach is remedied to the satisfaction of the Employer and MCC;
 - iv. loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the Employer or MCC determine the breach remains unremedied;

- v. the Employer or MCC pursuing sanction of the Contractor, including declaring the Contractor ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; and
- vi. termination by the Employer or MCC of the Contractor's employment under the Contract and expelling him from the Site, in which case the provisions of Clause 15 [*Termination by Employer*] shall apply as if such expulsion had been made under Sub-Clause 15.2(f)."

Goods and Related Services SBD:

1. The following language should be inserted as a new paragraph in **BSF1 Bid Submission Form** (Section 4) in the Goods and Related Services SBD:

"We hereby certify that we are not engaged in, facilitating, or allowing any of the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines (Combating Trafficking in Persons) and that we will not engage in, facilitate, or allow any such prohibited activities for the duration of the Contract. Further, we hereby provide our assurance that the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines will not be tolerated on the part of our employees, or any subcontractor or sub-suppliers, or their respective employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract."

2. The following language should be inserted as a new sub-clause in the **General Conditions of Contract** (Section 5) in the Goods and Related Services SBD:

34 Combating Trafficking in Persons	34.1	"MCC, along with other United States Government entities, has adopted a zero tolerance policy with regard to trafficking in persons ("TIP"). In pursuance of this policy:
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a. *Defined Terms.*

For purposes of the application and interpretation of this GCC Sub-Clause 34.1, the terms, “coercion,” “commercial sex act,” “debt bondage,” “employee,” “forced labor,” “fraud,” “involuntary servitude,” “severe forms of trafficking in persons,” and “sex trafficking” have the meanings given such terms in Part 15 [Combating Trafficking in Persons] of MCC’s Program Procurement Guidelines and such definitions are incorporated by reference into this GCC Sub-Clause 34.1.

b. *Prohibition.*

The Supplier, any Subcontractor, or any of their respective personnel, or any agent or affiliate of any of the forgoing shall not:

- i. engage in severe forms of trafficking in persons during the period of performance of the Contract;
- ii. procure commercial sex acts during the period of performance of the Contract; or
- iii. use forced labor in the performance of the Contract.

c. Supplier Requirements.

The Supplier shall:

- i. fulfill its obligations under this GCC Sub-Clause 34.1 and any additional obligations related to TIP that may be set forth in the Schedule of Requirements or any other documents that make up this Contract;
- ii. notify Supplier's personnel with respect to MCC's policy regarding TIP and the prohibited activities described in this GCC Sub-Clause 34.1;
- iii. notify the Purchaser within 48 hours or as soon as reasonably possible upon the Supplier:
 - a. becoming aware of any information it receives from any source (including law enforcement) that alleges any Supplier's personnel, Subcontractor, or any of its personnel, or any agent or affiliate of any of them, has engaged in conduct that violates MCC's TIP policy; or
 - b. taking any action against any Supplier's personnel, Subcontractor, or any of its personnel, or any agent or affiliate of any of them, pursuant to these requirements; and
- iv. ensure that any subcontract or subaward entered into by the Supplier, as permitted by this Contract, includes the substance of the provisions of this GCC Sub-Clause 34.1.

d. *Remedies.*

In addition to any other remedies that may be available under the terms of this Contract or Applicable Law, any breach of this GCC Sub-Clause 34.1 may result in:

- i. the Purchaser requiring the Supplier to remove the involved Supplier's personnel, Subcontractor, any of its involved personnel, or any involved agent or affiliate;
 - ii. the Purchaser requiring the termination of a subcontract or subaward;
 - iii. suspension of Contract payments until the breach is remedied to the satisfaction of the Purchaser and MCC;
 - iv. loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the Purchaser or MCC determine the breach remains unremedied;
 - v. the Purchaser or MCC pursuing sanction of the Supplier, including declaring the Supplier ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; and
 - vi. Termination of the Contract by the Purchaser, in which case the provisions of GCC Clause 32.4 shall apply."
3. Renumber existing GCC Clauses 34 through 39 in the General Conditions of Contract (Section 5) in the Goods and Related Services SBD as appropriate.

Small Works SBD:

1. The following language should be inserted as a new paragraph in the **Form of Contractor's Bid** (Section IV) in the Small Works SBD:

"We hereby certify that we are not engaged in, facilitating, or allowing any of the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines (Combating Trafficking in Persons) and that we will not engage in, facilitate, or allow any such prohibited activities for the duration of the

Contract. Further, we hereby provide our assurance that the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines will not be tolerated on the part of our employees, or any subcontractor or supplier, or their respective employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.”

2. The following language should be inserted as a new clause in the **General Conditions of Contract** (Section V) in the Small Works SBD:

- | | | |
|---|------|---|
| 30 Combating
Trafficking
in Persons | 30.1 | <p>“MCC, along with other United States Government entities, has adopted a zero tolerance policy with regard to trafficking in persons (“TIP”). In pursuance of this policy:</p> <ul style="list-style-type: none"> a. Defined Terms. For purposes of the application and interpretation of this GCC Sub-Clause 30.1, the terms, “coercion,” “commercial sex act,” “debt bondage,” “employee,” “forced labor,” “fraud,” “involuntary servitude,” “severe forms of trafficking in persons,” and “sex trafficking” have the meanings given such terms in Part 15 [<i>Combating Trafficking in Persons</i>] of MCC’s Program Procurement Guidelines and such definitions are incorporated by reference into this GCC Sub-Clause 30.1. b. Prohibition. The Contractor, any Subcontractor, or any of their respective personnel, or any agent or affiliate of any of the forgoing shall not: <ul style="list-style-type: none"> i. engage in severe forms of trafficking in persons during the period of performance of the Contract; ii. procure commercial sex acts during the period of performance of the Contract; or iii. use forced labor in the performance of the Contract. |
|---|------|---|

- c. **Contractor Requirements.** The Contractor shall:
- i. fulfill its obligations under this GCC Sub-Clause 30.1 and any additional obligations related to TIP that may be set forth in the Specifications or any other documents that make up this Contract;
 - ii. notify Contractor's personnel with respect to MCC's policy regarding TIP and the prohibited activities described in this GCC Sub-Clause 30.1;
 - iii. notify the Project Manager and the Employer within 48 hours or as soon as reasonably possible upon the Contractor:
 - a. becoming aware of any information it receives from any source (including law enforcement) that alleges any Contractor's personnel, Subcontractor or any of its personnel, or any agent or affiliate of any of them, has engaged in conduct that violates MCC's TIP policy; or
 - b. taking any action against any Contractor's personnel, Subcontractor, or any of its personnel, or any agent or affiliate of any of them, pursuant to these requirements; and
 - iv. ensure that any subcontract or subaward entered into by the Contractor, as permitted by this Contract, includes the substance of the provisions of this GCC Sub-Clause 30.1.

- d. **Remedies.** In addition to any other remedies that may be available under the terms of this Contract or Applicable Law, any breach of this GCC Sub-Clause 30.1 may result in:
- i. the Employer requiring the Contractor to remove the involved Contractor's personnel, Subcontractor, any of its involved personnel, or any involved agent or affiliate;
 - ii. the Employer requiring the termination of a subcontract or subaward;
 - iii. suspension of Contract payments until the breach is remedied to the satisfaction of the Employer and MCC;
 - iv. loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the Employer or MCC determine the breach remains unremedied;
 - v. the Employer or MCC pursuing sanction of the Contractor, including declaring the Contractor ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; and
 - vi. termination of the Contract by the Employer in which case the event shall be deemed a fundamental breach by the Contractor and the provisions of Clause 63 shall apply."
3. Renumber existing GCC Clauses 34 through 68 in the **General Conditions of Contract** (Section V) and in the **Special Conditions of Contract** (Section VI) in the Small Works SBD as appropriate.

Pre-Qualification SBD:

1. The following language should be inserted as a new paragraph in the **Form of Application Submission Form** (Section IV) in the Pre-Qualification SBD:

"We hereby certify that we are not engaged in, facilitating, or allowing any of the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines (Combating Trafficking in Persons) and that we will not engage in, facilitate, or allow any such prohibited activities for the duration of the

proposed contract. Further, we hereby provide our assurance that the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines will not be tolerated on the part of our employees, or any subcontractor or supplier, or their respective employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the proposed contract.”

Design-Build SBD:

1. The following language should be inserted as a new paragraph in the **Form of Letter of Bid** (Section IV) in the Design-Build SBD:

“We hereby certify that we are not engaged in, facilitating, or allowing any of the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines (Combating Trafficking in Persons) and that we will not engage in, facilitate, or allow any such prohibited activities for the duration of the Contract. Further, we hereby provide our assurance that the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines will not be tolerated on the part of our employees, or any subcontractor or supplier, or their respective employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.”

2. The following language should be inserted as a new sub-clause in the **Conditions of Particular Application** (Section VI) in the Design-Build SBD:

Sub-Clause 6.15 Add the following Sub-Clause 6.15:
Combating
Trafficking in Persons

“MCC, along with other United States Government entities, has adopted a zero tolerance policy with regard to trafficking in persons (“TIP”). In pursuance of this policy:

- a. **Defined Terms.** For purposes of the application and interpretation of this Sub-Clause 6.15, the terms, “coercion,” “commercial sex act,” “debt bondage,” “employee,” “forced labor,” “fraud,” “involuntary servitude,” “severe forms of trafficking in persons,” and “sex trafficking” have the meanings given such terms in Part 15 [*Combating Trafficking in Persons*] of MCC’s Program Procurement Guidelines and such definitions are incorporated by reference into this Sub-Clause 6.15.

- b. **Prohibition.** The Contractor, the Contractor's Personnel, any Subcontractor or supplier, or any of their respective personnel, or any agent or affiliate of any of the forgoing shall not:
 - i. engage in severe forms of trafficking in persons during the period of performance of the Contract;
 - ii. procure commercial sex acts during the period of performance of the Contract; or
 - iii. use forced labor in the performance of the Contract.
- c. **Contractor Requirements.** The Contractor shall:
 - i. fulfill its obligations under this Sub-Clause 6.15 and any additional obligations related to TIP that may be set forth in the Specification or any other documents that make up this Contract;
 - ii. notify Contractor's Personnel with respect to MCC's policy regarding TIP and the prohibited activities described in this Sub-Clause 6.15;
 - iii. notify the Engineer and the Employer within 48 hours or as soon as reasonably possible upon the Contractor:
 - a. becoming aware of any information it receives from any source (including law enforcement) that alleges any Contractor's Personnel, Subcontractor or supplier, or any of their respective personnel, or any agent or affiliate of any of them, has engaged in conduct that violates MCC's TIP policy; or
 - b. taking any action against any Contractor's Personnel, Subcontractor or supplier, or any of their respective personnel, or any agent or affiliate of any of them, pursuant to these requirements; and
 - iv. ensure that any subcontract or subaward entered into by the Contractor, as permitted by this Contract, includes the substance of the provisions of this Sub-Clause 6.15.

- d. **Remedies.** In addition to any other remedies that may be available under the terms of this Contract or applicable Laws, any breach of this Sub-Clause 6.15 may result in:
- i. the Employer requiring the Contractor to remove the involved Contractor's Personnel, Subcontractor or supplier, any of their involved personnel, or any involved agent or affiliate;
 - ii. the Employer requiring the termination of a subcontract or subaward;
 - iii. suspension of Contract payments until the breach is remedied to the satisfaction of the Employer and MCC;
 - iv. loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the Employer or MCC determine the breach remains unremedied;
 - v. the Employer or MCC pursuing sanction of the Contractor, including declaring the Contractor ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; and
 - vi. termination by the Employer or MCC of the Contractor's employment under the Contract and expelling him from the Site, in which case the provisions of Clause 15 [*Termination by Employer*] shall apply as if such expulsion had been made under Sub-Clause 15.2(f)."

ICC Rules for Demand Guarantees

In each of the following SBDs, the forms of (i) Bid Security and (ii) Guarantees for Advance Payments are to be modified such that the language: "This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458." is deleted and replaced with the language: "This guarantee is subject to the Uniform Rules for Demand Guarantees, 2010 Revision, ICC Publication No. 758."

Design-Build SBD:

Section IV-11: Form of Bid Security (Bank Guarantee); and

Section VII-7: Form of Bank Guarantee for Advance Payment

Large Works SBD:

Section IV-40: Form of Bid Security (Bank Guarantee); and

Section VI-90: Form of Bank Guarantee for Advance Payment

Small Works SBD:

Section VII Security Forms: Form of Bid Security (Bank Guarantee); and

Section VII Security Forms: Bank Guarantee for Advance Payment

In each of the following SBDs, the forms of Performance Guarantees are to be modified such that the language: “This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.” is deleted and replaced with the language: “This guarantee is subject to the Uniform Rules for Demand Guarantees, 2010 Revision, ICC Publication No. 758, except that Article 15 is hereby excluded.”

Design-Build SBD:

Section VII-6: Form of Performance Bank Guarantee

Large Works SBD:

Section VI-89: Form of Performance Bank Guarantee

Small Works SBD

Section VII Security Forms: Performance Bank Guarantee (Unconditional)