

REQUEST FOR PROPOSALS

Issued on: May 2017

**Millennium Challenge Account - Benin II
(MCA-BENIN II)**

On Behalf of:

The Government of Benin

**Millennium Challenge Account – Benin II
Program**

Funded by

THE UNITED STATES OF AMERICA

through

**THE MILLENNIUM CHALLENGE
CORPORATION**

for

Procurement of Consultant Services

**Selection of Transaction Advisor for a
Management Contract with SBEE**

RFP/QCBS/PP4-CIF/PRISP-06

Letter of Invitation Requesting Proposals

Cotonou, Benin
May 18, 2017

Re: Selection of Transaction Advisor for a Management Contract with SBEE
RFP Ref: PP4-CIF-PRISP-06

Dear Madam/Sir:

The United States of America, acting through the Millennium Challenge Corporation (“MCC”) and the Government of Benin (the “Government” or “GoB”) have entered into a Millennium Challenge Compact for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in **Benin** (the “Compact”) in the amount of approximately **375 000 000 USD** (“MCC Funding”). The Government, acting through **Millennium Challenge Account – Benin II** (the “MCA Entity”), intends to apply a portion of the MCC Funding to eligible payments under a contract for which this Request for Proposals (“RFP”) is issued. Any payments made by the MCA Entity under the proposed contract 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 MCA Entity shall derive any rights from the Compact or have any claim to the proceeds of MCC Funding. The Compact and its related documents can be found on the MCC website (www.mcc.gov) and on the website of the MCA Entity.

The objective of the Benin Power Program is to expand business production and productivity, generate greater economic opportunities for households and improve the capacity to provide public and social services by improving the quantity and quality of the supply of electricity. The Benin Program is comprised of the following four projects:

- **Policy Reform and Institutional Strengthening Project:** This project will advance far-reaching policy reforms and strengthen institutions through improved regulation, utility operations and management, energy efficiency, and private investment in power generation. The project advances the compact’s policy reform agenda, including planned conditions precedent.
- **Electricity Generation Project:** This project will increase the amount of installed generating capacity in Benin by 78 megawatts (MW) – equivalent in capacity to one-third of the country’s current peak demand – while helping the country decrease its reliance on unreliable energy imports. This will be achieved through the installation of 45 MW of solar photovoltaic generation and the rehabilitation of 33 MW of thermal and hydroelectric generation infrastructure that will complement the solar investment.
- **Electricity Distribution Project:** This project will modernize Benin’s electricity distribution infrastructure to expand grid capacity to accommodate future growth, improve reliability, and reduce losses and outages. The project will improve the grid serving Cotonou, the commercial capital, selected regional networks as a complement to proposed solar generation investments, as well as on a national level by building a

modern distribution dispatch and control center to more effectively manage the network, including intermittent power from renewable sources.

- Off-grid Electricity Access Project: This project will expand access to electricity through financing of an off-grid energy grant facility along with policy and institutional strengthening to support the entire off-grid power sector in Benin.

The MCA Entity now invites proposals from legally constituted consulting firms to provide the consultant services referenced above (“Proposals”). More details on these consultant services are provided in the Terms of Reference.

This RFP is open to all eligible entities (“Consultants”) who wish to respond. Subject to restrictions noted in the RFP, consultants may associate with other consultants to enhance their capacity to successfully carry out the assignment.

The consultant services, and the contract expected to be awarded, are anticipated to be conducted during a period of **twelve (12) calendar months**.

A Consultant will be selected under the **Quality and Cost Based Selection (QCBS)**, the evaluation procedure for which is described in sections of the RFP in accordance with “MCC Program Procurement Guidelines” which are provided on the MCC website (www.mcc.gov/ppg). The selection process, as described, will include a review and verification of qualifications and past performance, including a reference check, prior to the contract award.

The RFP includes the following Sections:

PART 1 – PROPOSAL AND SELECTION PROCEDURES

Section I Instructions to Consultants

This section provides information to help potential Consultants prepare their Proposals; it also provides information on the submission, opening, and evaluation of Proposals and on the award of the proposed contract.

Section II Proposal Data Sheet

This section includes provisions that are specific to this procurement and that supplement Section I, Instructions to Consultants.

Section III Qualification and Evaluation Criteria

This section specifies the qualifications required of the Consultant and the criteria to be used to evaluate the Proposal.

Section IV A Technical Proposal Forms

This section provides the Technical Proposal Forms which are to be completed by a potential Consultant and submitted in a separate envelope as part of a potential Consultant’s total Proposal.

Section IV B Financial Proposal Forms

This section provides the Financial Proposal Forms which are to be completed by a potential Consultant and submitted in a separate envelope as part of a potential Consultant's total Proposal.

Section V Terms of Reference

This Section includes the detailed Terms of Reference that describe the nature, tasks, and duties of the consulting services to be procured.

PART 2 – CONDITIONS OF CONTRACT AND CONTRACT FORMS

Section VI Contract Agreement and General Conditions of Contract

This section contains the form of Contract proposed to be entered into between the MCA Entity and Consultant.

Section VII Special Conditions of Contract and Annexes to Contract

This section contains the form of those clauses of the Contract that supplement the GCC and that are to be completed by MCA Entities for each procurement of Consulting Services. This section also includes an Annex to the Contract (Annex B: Additional Provisions) that contains provisions that are a part of the Government's and the MCA Entity's obligations under the Compact and related documents which, under the terms of the Compact and related documents, are required to be transferred onto any Consultant, Sub-Consultant or Associate who partakes in any MCC-funded procurement.

Please note that a Pre-Proposal Conference **will** be held as described in the Proposal Data Sheet ("PDS"), Section II of this RFP.

Consultants interested in submitting a Proposal should register their interest by sending an e-mail, giving full contact details of the Consultant, to the following. This will ensure that the Consultants receive updates regarding this RFP.

MCA-BENIN II

Attn: The Procurement Agent

E-mail: info-benin@charleskendall.com with

Copy to: info@mcabenin2.bj

Proposals must be delivered to the address and in the manner specified in the PDS ITC 17.5, no later than **July 19, 2017 at 10:00 a.m. local time in Benin.**

Consultants should be aware that distance and customs formalities may require longer than expected delivery time. Late Proposals will not be accepted under any circumstances and will be returned unopened at the written request and cost of the Consultant.

Please note that electronic Proposals shall not be accepted. However, an electronic version of the technical proposal shall be submitted on a CD or on a thumb drive.

Yours sincerely,

Samuel Olukayodé BATCHO
National Coordinator of MCA-BENIN II

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PART 1:
PROPOSAL AND SELECTION PROCEDURES

Section I. Instructions to Consultants

A. General

In Part 1 (Proposal and Selection Procedures) of this Request for Proposals, the following words and expressions shall have the meanings stated. These definitions shall not apply to any words or expressions in the sections that make up Part 2 (Conditions of Contract and Contract Forms) of this RFP, in which such words and expressions shall have the meanings stated in GCC Sub-Clauses 1.1 and 2.1 unless otherwise specified.

- (a) “Addendum” or “Addenda” means a modification to this RFP issued by the MCA Entity.
- (b) “Associate” means any entity that is a member of the Association that forms the Consultant. A Sub-Consultant is not an Associate.
- (c) “Association” or “association” means an association of entities that forms the Consultant.
- (d) “Compact” means the Millennium Challenge Compact **identified in the PDS**.
- (e) “confirmation” means confirmation in writing.
- (f) “Consultant” means any legal entity that may provide or provides the Services to the MCA Entity under the Contract.
- (g) “Contract” means the contract proposed to be entered into between the MCA Entity and the Consultant, including all attachments, annexes, and all documents incorporated by reference therein, a form of which is included in Part 2 of this RFP.
- (h) “days” refers to calendar days.
- (i) “FBS” means Fixed Budget Selection method as defined in the MCC PPG.
- (j) "Financial Proposal" has the meaning given the term in ITC Sub-Clause 12.5.
- (k) “Fiscal Agent” means any entity that provides services to the MCA Entity under the terms of the Fiscal Agent Agreement.
- (l) “GCC” means the General Conditions of Contract.
- (m) “Government” means the Government **identified in the PDS**.
- (n) “Instructions to Consultants” or “ITC” means

Section I of this RFP, including any amendments, which provides Consultants with all information needed to prepare their Proposals.

- (o) "Key Professional Personnel" means the Key Professional Personnel identified pursuant to ITC Sub-Clause 12.3(d).
- (p) "LCS" means Least Cost Selection method as defined in the MCC PPG.
- (q) "Millennium Challenge Corporation" or "MCC" means a United States Government corporation, acting on behalf of the United States Government.
- (r) "MCA Entity" means the accountable entity **identified in the PDS.**
- (s) "MCC Funding" means the funding MCC has made available to the Government pursuant to the terms of the Compact.
- (t) "MCC Program Procurement Guidelines" or "MCC PPG" means the MCC Program Procurement Guidelines and its amendments posted from time to time on the MCC website at www.mcc.gov/ppg.
- (u) "PDS" means the Proposal Data Sheet, in Section II of this RFP, used to reflect specific requirements and/or assignment conditions.
- (v) "Personnel" means Key Professional Personnel and additional staff provided by the Consultant, or by any Sub-Consultants, or Associates that are assigned to perform the Services or any part thereof.
- (w) "Pre-Proposal Conference" means the pre-proposal conference specified in PDS ITC 1.4, if any.
- (x) "Program Implementation Agreement" means the Program Implementation Agreement to be entered into, or that has been entered.
- (y) "Proposal" means the Technical Proposal and the Financial Proposal for the provision of the Services submitted by a Consultant in response to this RFP.
- (z) "QBS" means Quality-Based Selection method as defined in the MCC PPG.
- (aa) "QCBS" means Quality and Cost-Based Selection

method as defined in the MCC PPG.

- (bb) “RFP” means this Request for Proposals, including any amendments that may be made, prepared by the MCA Entity for the selection of the Consultant.
- (cc) “SCC” means the Special Conditions of Contract.
- (dd) “Services” means the tasks to be performed by the Consultant pursuant to the Contract.
- (ee) “Sub-Consultant” means any person or legal entity with whom the Consultant subcontracts any part of the Services.
- (ff) “Taxes” has the meaning given the term in the Compact.
- (gg) “TEP” means the Technical Evaluation Panel, selected for the purpose of evaluating the Proposals received, that submits a report with recommendation for award of the Contract for which this RFP is being issued.
- (hh) "Technical Proposal" has the meaning given the term in ITC Sub-Clause 12.3.
- (ii) “Terms of Reference” or “TOR” means the document included in this RFP as Section V which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the MCA Entity and the Consultant, and expected results and deliverables of the assignment.
- (jj) “Trafficking in Persons” or “TIP” has the meaning given to the term in the MCC Program Procurement Guidelines.

- 1. Scope of RFP
 - 1.1 The MCA Entity will select a Consultant in accordance with the selection method **specified in the PDS**.
 - 1.2 Throughout this RFP except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and the feminine means the masculine and vice versa.
 - 1.3 Consultants are invited to submit a Technical Proposal and a Financial Proposal for consulting services required for this assignment as **named in the PDS**. The Proposal

will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultant.

- 1.4 Consultants should familiarize themselves with local conditions and take them into account in preparing their Proposals. To obtain first-hand information on the assignment and local conditions, Consultants are encouraged to attend a Pre-Proposal Conference if one is **specified in the PDS**. Attending any Pre-Proposal Conference is strongly advised, but not mandatory. Attending any Pre-Proposal Conference and/or a site visit shall not be taken into account for the purpose of evaluation of Proposals.
 - 1.5 The MCA Entity will timely provide, at no cost to the Consultant, the inputs and facilities **specified in the PDS**, assist the firm 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, a Consultant 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 **specified in the PDS**.
 - 1.6 The MCA Entity is not bound to accept any Proposal, and reserves the right to cancel the procurement at any time prior to Contract award, without thereby incurring any liability to any Consultant.
2. Source of Funds
- 2.1 The United States of America, acting through MCC and the Government have entered into the Compact. The Government, acting through the MCA 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 MCA 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 (www.mcc.gov) or on the website of the MCA Entity.

3. Corrupt and Fraudulent Practices

3.1 MCC requires that all beneficiaries of MCC Funding, including the MCA 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. MCC's AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC's AFC Policy and certify that they have acceptable commitments and procedures in place to address the potential for fraudulent and corrupt practices. In pursuance of this policy, the following conditions shall apply:

- (a) For the purposes of these provisions, the terms set forth below are defined as follows, and sometimes referred to collectively in this document as "Fraud and Corruption":
 - (i) "***coercive practice***" 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;
 - (ii) "***collusive practice***" means a tacit or explicit agreement between two or more parties to perform a coercive, corrupt, fraudulent, obstructive or prohibited practice, including any such agreement designed to fix, stabilize, or maintain prices or to otherwise deprive the MCA Entity of the benefits of free and open competition;
 - (iii) "***corrupt practice***" means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, MCA 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;

- (iv) ***“fraudulent practice”*** 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;
- (v) ***“obstructive practice”*** means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC Funding:
 - (aa) 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 a coercive, collusive, corrupt, fraudulent or prohibited practice;
 - (bb) 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; and/or
 - (cc) intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or an authorized Inspector General of MCC provided under the Compact and related agreements; and
- (vi) ***“prohibited practice”*** means any action that violates Section E (Compliance with Anti-Corruption, Anti-Money Laundering,

Terrorist Financing, and Trafficking in Persons Statutes and Other Restrictions) of Annex B (Additional Provisions) of the Contract.

- (b) The MCA Entity will reject a Proposal (and MCC will deny approval of a proposed Contract award) if it determines that the Consultant recommended for award has, directly or through an agent, engaged in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices in competing for the Contract.
- (c) MCC and the MCA Entity have the right to sanction a Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded an MCC-funded contract if at any time either MCC or the MCA Entity determines that the Consultant has, directly or through an agent, engaged in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices in competing for, or in executing, such a contract.
- (d) MCC and the MCA Entity have the right to require that a provision be included in the Contract requiring the selected Consultant to permit the MCA Entity, MCC, or any designee of MCC, to inspect the Consultant's, or any of the Consultant's suppliers or Sub-Consultants on the Contract, accounts, records and other documents relating to the submission of its Proposal or performance of the Contract and to have such accounts, records and other documents audited by auditors appointed by MCC or by the MCA Entity with the approval of MCC.
- (e) In addition, MCC has the right to cancel any portion of the MCC Funding allocated to the Contract if it determines at any time that any representative of a beneficiary of MCC Funding engaged in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices during the selection process or the execution of any MCC-funded Contract, without the MCA Entity having taken timely and appropriate action satisfactory to MCC to remedy the situation.

4. Trafficking in Persons

4.1 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. Trafficking in Persons 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 ensuring appropriate steps are taken to prevent, mitigate, and monitor TIP risks in the projects it funds.

- 4.2 The Description of Services (Annex A of the Contract) sets out certain prohibitions, Consultant requirements, remedies and other provisions that will be made a binding part of any Contract that may be entered into.
 - 4.3 Additional information on MCC’s requirements aimed at combating trafficking in persons can be found in MCC’s Counter-Trafficking in Persons Policy that can be found on MCC’s website (<https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy>). All contracts funded by MCC are required to comply with MCC’s Counter-Trafficking in Persons requirements as described in the Counter-Trafficking in Persons Policy. 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 MCA Entity and implemented by the corresponding contractor).
5. Qualification and Eligibility of Consultants
- 5.1 The qualification and eligibility criteria set out in this section will apply to the Consultant, including all parties constituting the Consultant, for any part of the Contract, including related services.
- Qualification of Consultants
- 5.2 Consultants must satisfy the legal, financial and litigation criteria requirements stated in Paragraphs 3.1 to 3.3 of Section III of this RFP.
- Eligibility of Consultants
- 5.3 Consultants must also satisfy the eligibility criteria set forth in this RFP and as contained in the MCC Program Procurement Guidelines governing MCC-funded procurements under the Compact.
- Qualification and Eligibility of Joint Ventures or Associations
- 5.4 In the case where a Consultant is, or proposes to be, a joint venture or other Association (a) all members of the joint venture or Association must satisfy the legal, financial, litigation, eligibility and other requirements set out in this RFP; (b) all members of the joint venture or

Association will be jointly and severally liable for the execution of the Contract; and (c) the joint venture or Association will nominate a representative who will have the authority to conduct all business for and on behalf of any and all the members of the joint venture or the Association is awarded the Contract, during Contract performance.

Conflict of Interest

- 5.5 A Consultant shall not have a conflict of interest. All Consultants found to have a conflict of interest shall be disqualified, unless the conflict of interest has been mitigated and the mitigation is approved by MCC. The MCA Entity requires that Consultants hold the MCA Entity's interests paramount at all times, strictly avoid conflicts of interest, including conflicts with other assignments or their own corporate interests, and act without any consideration for future work. Without limitation on the generality of the foregoing, a Consultant, including all parties constituting the Consultant and any Sub-Consultants and suppliers for any part of the Contract, including related services, and their respective Personnel and affiliates, may be considered to have a conflict of interest and disqualified or terminated if they:
- (a) have at least one controlling partner in common with one or more other parties in the process contemplated by this RFP; or
 - (b) have the same legal representative as another Consultant for purposes of this Proposal; or
 - (c) 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 Proposal of another Consultant, or influence the decisions of the MCA Entity regarding the selection process for this procurement; or
 - (d) participate in more than one Proposal in this process; participation by a Consultant in more than one Proposal will result in the disqualification of all Proposals in which the party is involved; however, this provision does not limit the inclusion of the same Sub-Consultant in more than one Proposal; or
 - (e) are themselves, or have a business or family

relationship with, (i) a member of the MCA Entity's board of directors or staff, (ii) the Procurement Agent, Fiscal Agent, or Auditor (as defined in the Compact or related agreements) hired by the MCA Entity in connection with the Compact, any of whom is directly or indirectly involved in any part of (A) the preparation of this RFP, (B) the selection process for this procurement, or (C) supervision of the Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to MCC; or

(f) any of their affiliates have been or, at present, are engaged by the MCA Entity in the capacity of the Procurement Agent or Fiscal Agent under the Compact.

5.6 A Consultant that has been engaged by the MCA Entity to provide goods, works or services other than consulting services for a project, and any of its affiliates, 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, and any of its affiliates, shall be disqualified from 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 measureable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.

5.7 [Intentionally Deleted.]

5.8 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 Consultant or the termination of the Contract.

Government
Employees

5.9

- (a) No member of the MCA Entity’s board of directors or current employees of the MCA Entity (whether part time, or full time, paid or unpaid, in leave status, etc.) shall be proposed or work as, or on behalf of, any Consultant.
- (b) Except as provided in Sub-Clause 5.9(d), no current employees of the Government shall work as Consultants or as Personnel under their own ministries, departments or agencies.
- (c) Recruiting former MCA Entity or Government employees to perform services for their former ministries, departments or agencies is acceptable provided no conflict of interest exists.
- (d) If a Consultant proposes any Government employee as Personnel in their Technical Proposal, such Personnel must have written certification from the Government confirming that: (i) they will be on leave without pay from the time of their official Proposal submission and will remain on leave without pay until the end of their assignment with the Consultant 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 MCA Entity by the Consultant as part of its Technical Proposal.
- (e) In the case where a Consultant seeks to engage the services of any person falling under ITC Sub-Clauses 5.9(a) – 5.9(d), who may have left the MCA Entity within a period of less than twelve (12) months of the date of this RFP, it must obtain a “no-objection” from the MCA Entity for the inclusion of such a person, prior to the Consultant’s submission of its Proposal.

Ineligibility and
Debarment

- 5.10 A Consultant, all parties constituting the Consultant, and any Sub-Consultants and suppliers for any part of the

Contract, including related services, and their respective Personnel and affiliates, will not be any person or entity under (a) a declaration of ineligibility for engaging in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices as contemplated by ITC 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 Part 10 of MCC's Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC's website at www.mcc.gov/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.

5.11 A Consultant, all parties constituting the Consultant, and any Sub-Consultants and suppliers for any part of the Contract, including related services, and their respective Personnel and affiliates not otherwise made ineligible for a reason described in this ITC 5 will nonetheless be excluded if:

- (a) as a matter of law or official regulation, the Government prohibits commercial relations with the country of the Consultant (including any Associates, Sub-Consultants, and suppliers and any respective affiliates); or
- (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 Consultant (including any Associates, Sub-Consultants, and suppliers and any respective affiliates) or any payments to entities in such country; or
- (c) such Consultant, any parties constituting the Consultant, any Sub-Consultant or supplier or their respective Personnel or affiliates are otherwise deemed ineligible by MCC pursuant to any policy or guidance that may, from time to time, be in effect as posted on MCC's website.

Evidence of Continued Eligibility

5.12 Consultants shall provide such evidence of their continued eligibility in a manner satisfactory to the MCA

Entity, as the MCA Entity shall reasonably request.

Unfair Advantage

5.13 If a Consultant could derive an unfair competitive advantage from having provided consulting services related to the assignment in question, the MCA Entity shall make available to all Consultants, together with this RFP, all information that would in that respect give such Consultant any unfair competitive advantage over competing Consultants.

Commissions and Gratuities

5.14 A Consultant will furnish information on commissions and gratuities, if any, paid or to be paid relating to this procurement or its Proposal and during performance of the Contract if the Consultant is awarded the Contract, as requested in the Financial Proposal Form FIN-1 of Section IV B.

6. Origin of Goods and Consulting Services

6.1 Goods supplied and consulting services provided under the Contract may originate from any country, subject to the same restrictions specified for Consultants (including their Associates, if any), their Personnel and Sub-Consultants set forth in ITC Sub-Clause 5.10.

A. Contents of RFP

7. Sections of RFP

7.1 This RFP consists of Parts 1 and 2, which include all the sections indicated below and should be read in conjunction with any Addenda issued in accordance with ITC Clause 9.

Part 1 Proposal and Selection Procedures

- Section I. Instructions to Consultants
- Section II. Proposal Data Sheet
- Section III. Qualification and Evaluation Criteria
- Section IV. A. Technical Proposal Forms
- Section IV. B. Financial Proposal Forms
- Section V. Terms of Reference

Part 2 Conditions of Contract and Contract Forms

- Section VI. Contract Agreement and General Conditions of Contract
- Section VII. Special Conditions of Contract and

Annexes to Contract

- 7.2 The Request for Proposals letter issued by the MCA Entity is not part of the RFP.
 - 7.3 The MCA Entity is not responsible for the completeness of this RFP and its Addenda if they were not obtained directly from the source stated by the MCA Entity in the Request for Proposals Letter.
 - 7.4 The Consultant is expected to examine all instructions, forms, terms, and Terms of Reference in this RFP. Failure to furnish all information or documentation required by this RFP may result in the rejection of the Proposal.
8. Clarification of RFP
- 8.1 A prospective Consultant requiring any clarification of this RFP shall contact the MCA Entity in writing, or by email or fax at the MCA Entity's address **indicated in the PDS**. The MCA Entity will respond to any request for clarification, provided that such a request is received no later than the number of days **indicated in the PDS** prior to the deadline for submission of Proposals. The MCA Entity shall send written copies of the responses, including a description of the inquiry but without identifying its source, to all shortlisted Consultants or Consultants who have registered or obtained the RFP directly from the MCA Entity, as the case may be, by the date **specified in the PDS**. The MCA Entity will also post a copy of the responses and inquiry descriptions to the MCA Entity's website **indicated in the PDS**. Should the clarification result in changes to the essential elements of this RFP, the MCA Entity shall amend this RFP following the procedure under ITC Clause 9.
 - 8.2 The Consultant's designated representative is invited to attend a Pre-Proposal Conference, if provided for in PDS ITC 1.4. The purpose of the conference will be to clarify issues and to answer questions on any matter that may be raised at that stage.
 - 8.3 Minutes of the Pre-Proposal Conference, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the conference, will be posted on the MCA Entity's website as indicated in PDS ITC 8.1, and shall be transmitted in writing to all shortlisted Consultants or Consultants who have registered or

obtained the RFP directly from the MCA Entity, as the case may be. Any modification to this RFP that may become necessary as a result of the Pre-Proposal Conference shall be made by the MCA Entity exclusively through the issue of an Addendum and not through the minutes of the Pre-Proposal Conference.

9. Amendment of the RFP
- 9.1 At any time prior to the deadline for submission of Proposals, the MCA Entity may amend this RFP by issuing Addenda.
- 9.2 All Addenda issued shall be part of this RFP, posted on the MCA Entity's website, and shall be communicated in writing to all shortlisted Consultants or Consultants who have registered or obtained the RFP directly from the MCA Entity, as the case may be.
- 9.3 To give prospective Consultants reasonable time in which to take an Addendum into account in preparing their Proposals, the MCA Entity may extend the deadline for the submission of Proposals at its sole discretion.

B. Preparation of Proposals

10. Cost of Proposal
- 10.1 Except as otherwise **provided in the PDS**, the Consultant shall bear all costs associated with the preparation and submission of its Proposal, and the MCA Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Proposal process.
11. Language of Proposal
- 11.1 If Proposals are to be submitted in both English and/or any other language, **as stated in the PDS**, the English version shall govern.
12. Preparation of Proposal
- 12.1 In preparing their Proposal, Consultants are expected to examine in detail the documents comprising the RFP. Failure to provide the information requested may result in rejection of a Proposal.
- 12.2 While preparing the Technical Proposal, Consultants must give particular attention to the following:
- (a) In the case where there has been no shortlisting of Consultants, if a Consultant considers that it may enhance its expertise for the assignment, it may associate with another Consultant. In the case where a

Consultant is, or proposes to be, a joint venture or other association (i) all members of the joint venture or Association must satisfy the legal, financial, litigation and other requirements set out in this RFP; (ii) all members of the joint venture or Association will be jointly and severally liable for the execution of the Contract; and (iii) the joint venture or Association will indicate the authorized representative who will have the authority to conduct all business for and on behalf of any and all the members of the joint venture or the Association during the bidding process and, in the event the joint venture or Association is awarded the Contract, during Contract performance.

- (b) In the case where there has been shortlisting of Consultants, if a shortlisted Consultant considers that it may enhance its expertise for the assignment by associating with other Consultants in a joint venture or Sub-Consultancy, it may associate with either (a) non-shortlisted Consultant(s), or (b) shortlisted Consultant(s) if so **indicated in the PDS**. A shortlisted Consultant must first obtain the approval of the MCA Entity if it wishes to enter into a joint venture with non-shortlisted or shortlisted Consultant(s). In case of association with non-shortlisted Consultant(s), the shortlisted Consultant shall act as the authorized representative of the association. In case of a joint venture, all partners shall be jointly and severally liable and shall indicate who will act as the leader of the joint venture.
- (c) The RFP may provide either, but never both, the estimated budget or the estimated level of effort of key staff. The estimated budget or the estimated number of person-months for Key Professional Personnel envisaged to execute the assignment may be **provided in the PDS**. However, the evaluation of the Proposal shall be based on the price and number of person-months estimated by the Consultant.
- (d) For FBS-based assignments, the available budget is provided in PDS ITC 12.2(c), and the Financial Proposal shall not exceed this budget, while the estimated number of Professional staff-months shall not be disclosed.
- (e) Alternative Key Professional Personnel shall not be proposed, and only one curriculum vitae (“CV”) may

be submitted for each position indicated in the TOR.

Technical Proposal
Format and Content

12.3 Consultants are required to submit a Technical Proposal, which shall provide the information indicated in the following paragraphs (a) through (g) using the standard forms provided in Section IV A (the “Technical Proposal”). A page is considered to be one printed side of A4 or US letter-size paper.

- (a) Information on the Consultant’s financial capacity is required (Form TECH-2A of Section IV A). Information on current or past proceedings, litigation, arbitration, action claims, investigations or disputes is required (Form TECH-2B of Section IV A). A brief description of the Consultants’ organization and an outline of recent experience of the Consultant and of each Associate, if any, on assignments of a similar nature is required (Form TECH-3 and TECH-4 of Section IV A). For each assignment, the outline should indicate the names of Associates or Key Professional Personnel who participated, duration of the assignment, contract amount, and Consultant’s involvement. Information should be provided only for those assignments for which the Consultant was legally contracted as a corporation or as one of the major firms within a joint venture. Assignments completed by individual professional staff working privately or through other consultants cannot be claimed as the experience of the Consultant, or that of an Associate, but can be claimed by the professional staff themselves in their CVs. Consultants should be prepared to substantiate the claimed experience if so requested by the MCA Entity. References of the Consultant are required (Forms TECH-5A and B of Section IV A).
- (b) Comments and suggestions on the Terms of Reference including workable suggestions that could improve the quality/ effectiveness of the assignment; and on requirements for counterpart staff and facilities including: administrative support, office space, local transportation, equipment, data, etc. to be provided by the MCA Entity (Form TECH-7 of Section IV A).
- (c) A description of the approach, methodology and work plan for performing the assignment covering the

following subjects: technical approach and methodology, work plan, and organization and staffing schedule. Guidance on the content of this section of the Technical Proposal is provided (Form TECH-6 of Section IV A). The work plan should be consistent with the Work and Deliverables Schedule (Form TECH-10 of Section IV A) which will show in the form of a bar chart the timing proposed for each activity.

- (d) The list of the proposed Key Professional Personnel by area of expertise, the position that would be assigned to each person, and their tasks (Form TECH-8 of Section IV A).
- (e) Estimates of the staff input (person-months of foreign and local professionals) needed to carry out the assignment (Form TECH-9 of Section IV A). The person-months input should be indicated separately for home office and field activities, and for foreign and local professional staff.
- (f) CVs of the Key Professional Personnel signed by the staff themselves and/or by the authorized representative (Form TECH-11 of Section IV A).
- (g) A detailed description of the proposed methodology and staffing for training, if training is **identified in the PDS** as a specific component of the assignment (Form TECH-6 of Section IV A).

12.4 The Technical Proposal shall not include any financial information other than the required information in Form TECH-2A. A Technical Proposal containing financial information will constitute grounds for declaring the Proposal non-responsive.

Financial Proposals

12.5 The Consultant's Financial Proposal shall be prepared using the forms provided in Section IV B (the "Financial Proposal"). It shall list all prices associated with the assignment, including remuneration for Personnel (foreign and local, in the field and at the Consultants' home office) and travel expenses, if **indicated in the PDS**. All activities and items described in the Technical Proposal shall be assumed to be included in the price offered in the Financial Proposal.

13. Taxes 13.1 GCC 18 sets forth the Tax provisions of the Contract. Consultants should review this clause carefully in preparing their Proposal.
14. Only One Proposal 14.1 Consultants may only submit one Proposal. If a Consultant submits or participates in more than one Proposal, all such Proposals shall be disqualified. However, this does not preclude the participation of the same Sub-Consultants, including individual experts, in more than one Proposal.
15. Currencies of Proposal 15.1 Consultants must submit their Financial Proposals in the currency or currencies **specified in the PDS**.
16. Period of Proposal Validity 16.1 Proposals shall remain valid for the period **specified in the PDS** after the Proposal submission deadline date prescribed by the MCA Entity. A Proposal valid for a shorter period may be rejected by the MCA Entity as non-responsive.
- 16.2 During the period of proposal validity, Consultants shall maintain the availability of Key Professional Personnel identified in the Proposal. The MCA Entity will make its best effort to complete negotiations within this period. Should the need arise, however, the MCA Entity may request Consultants to extend the validity period of their Proposals. Consultants who agree to such extension shall confirm that they maintain the availability of the Key Professional Personnel nominated in the Proposal, or in their confirmation of extension of validity of the Proposal, Consultants could submit new Key Professional Personnel in replacement, which would be considered in the final evaluation for Contract award. Consultants who do not agree have the right to refuse to extend the validity of their Proposals.

C. Submission and Opening of Proposals

17. Sealing and Marking of Proposals 17.1 The following applies to the “**ORIGINAL**” of the Technical Proposal, and of the Financial Proposal. The “**ORIGINAL**” shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants themselves. The person signing the Proposal must initial such corrections, as well as initial each page of the relevant “**ORIGINAL**”. The submission

letters for the Technical Proposal and for the Financial Proposal should respectively be in the format shown in (Form TECH-1) and (Form FIN-1).

- 17.2 If **required in the PDS**, the authorized representative of the Consultant signing the **“ORIGINAL”** of the Technical and the Financial Proposals shall provide within the Technical Proposal an authorization in the form of a written power of attorney demonstrating that the person signing has been duly authorized to sign the **“ORIGINAL”** on behalf of the Consultant, and its Associates. The signed Technical Proposals and the signed Financial Proposals shall be clearly marked **“ORIGINAL”**.
- 17.3 Copies of the Technical Proposal and the Financial Proposal shall be made, in the number **stated in the PDS**, and each shall be clearly marked **“COPY”**. If discrepancies are found between the original and any of the copies of the relevant documents, then the **“ORIGINAL”** shall govern.
- 17.4 The **“ORIGINAL”** and each **“COPY”** of the Technical Proposal shall be placed in a sealed envelope/parcel clearly marked **“TECHNICAL PROPOSAL”**. Similarly, the **“ORIGINAL”** and each **“COPY”** of the Financial Proposal shall be placed in a separate sealed envelope/parcel clearly marked **“FINANCIAL PROPOSAL”**.
- 17.5 Each envelope/parcel shall bear the name and address of the MCA Entity as **stated in the PDS**, the name and address of the Consultant (in case they have to be returned unopened), and the Name of the Assignment as stated in PDS ITC 1.3.
- 17.6 In addition, the envelope/parcel containing the original and copies of the Financial Proposal shall be marked with a warning **“DO NOT OPEN WITH THE TECHNICAL PROPOSAL”**. If the Financial Proposal is not submitted in a separate sealed envelope/parcel duly marked as indicated above, this will constitute grounds for declaring the Proposal non-responsive.
- 17.7 The two envelopes/parcels containing the Technical Proposal and the Financial Proposal shall then be placed into one outer envelope or carton (as appropriate) and securely sealed to prevent premature opening. This outer envelope/carton shall bear the submission address, name

and address of the Consultant, name of the assignment reference number, and be clearly marked with the statement **indicated in the PDS** and bear the name and address of the MCA Entity as stated in PDS ITC 17.5. The MCA Entity shall not be responsible for misplacement, losing or premature opening if the outer envelope/carton is not sealed and/or marked as stipulated. This circumstance may be cause for Proposal rejection.

18. Deadline for Submission of Proposals

- 18.1 Proposals must be received by the MCA Entity before the submission deadline **specified in the PDS**.
- 18.2 The MCA Entity may, at its discretion, extend the deadline for the submission of Proposals by amending this RFP in accordance with ITC 9, in which case all rights and obligations of the MCA Entity and the Consultants previously subject to the original deadline shall thereafter be subject to the new deadline as extended.
- 18.3 Any Proposal received by the MCA Entity after the deadline for submission shall be declared late and rejected. The Consultant shall be notified of such rejection.

19. Late Proposals

- 19.1 The MCA Entity shall not consider any Proposal that arrives after the deadline for submission of Proposals in accordance with ITC 18. Any Proposals received by the MCA Entity after the deadline for submission of Proposals shall be declared late, rejected, and returned unopened to the Consultant at the request and cost of the Consultant.

20. Proposal Opening

- 20.1 The MCA Entity shall open the outer envelopes/cartons in a public meeting at the address, date and time **specified in the PDS** as soon as possible after the deadline for submission and sort the Proposals into Technical Proposals or Financial Proposals as appropriate. The MCA Entity shall ensure that the Financial Proposals remain sealed and securely stored until such time as the public opening of Financial Proposals takes place.

D. Evaluation of Proposals

21. Confidentiality

- 21.1 Information relating to the evaluation of Proposals and recommendations of Contract award shall not be

disclosed to Consultants or any other persons not officially concerned with the process, until the publication of the award of Contract. The undue use by any Consultant of confidential information related to the process may result in the rejection of its Proposal or may invalidate the entire procurement process.

21.2 Any attempt or effort by a Consultant to influence the MCA Entity in the examination, evaluation, and ranking of Proposals or Contract award decisions may result in the rejection of its Proposal and may subject the Consultant to the provisions of the Government's, the MCA Entity's, and MCC's AFC Policy and the application of other sanctions and remedies to the extent applicable

21.3 From the time Proposals are opened to the time the Contract is awarded, Consultants shall not contact the MCA Entity on any matter related to its Technical Proposal or Financial Proposal except in writing to the Procurement Agent.

22. Clarification of Proposals

22.1 To assist in the examination and evaluation of Proposals, the MCA Entity may, at its discretion, ask any Consultant for clarification of its Proposal. Any clarification submitted by a Consultant that is not in response to a request by the MCA Entity shall not be considered. The MCA Entity's request for clarification and the Consultant's response shall be in writing. No change in the prices or substance of the Proposal shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by the MCA Entity in the evaluation of the Proposals.

22.2 If a Consultant does not provide clarifications of its Proposal by the date and time set in the MCA Entity's request for clarification, its Proposal may be rejected.

23. Evaluation of Technical Proposals

23.1 The TEP shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub-criteria, and point system specified in Section III. Each responsive Proposal will be given a technical score (St). A Proposal may be rejected at this stage if it does not respond to the RFP or if it fails to achieve the minimum technical score **indicated in the PDS**.

- 23.2 In exceptional circumstances, if none of the scores awarded by the TEP reach or exceed the minimum technical score (St), the MCA Entity reserves the right to invite the Consultant receiving the highest technical score (St) to negotiate both its Technical and Financial Proposals. If the negotiations fail to result in an acceptable contract within a reasonable time, the MCA Entity reserves the right to terminate the negotiations, at its sole discretion, and to invite—again, at its sole discretion—the Consultant receiving the next highest technical score (St) to negotiate both its Technical and Financial Proposals.
24. Evaluation of Financial Capacity
- 24.1 The Consultant’s financial capability to mobilize and sustain the Services is imperative. In its Proposal, the Consultant is required to provide information on its financial and economic status. The information required should be completed using the Form TECH-2A.
- 24.2 A Consultant that fails to demonstrate through its financial records that it has the economic and financial ability to perform the required services as described in the respective Terms of Reference may be disqualified. In the circumstance of a disqualification the Technical Proposal will not be evaluated further and the Financial Proposal shall be returned unopened at the cost and request of the Consultant.
- 24.3 The MCA Entity, at its discretion, may ask for clarifications or additional information regarding the information provided in Form TECH-2A.
- 24.4 The outcome of the Financial Capacity evaluation is a **clear YES or NO**. Any Consultant that receives a NO shall not be evaluated further and its Financial Proposal shall be returned unopened. The Proposals that receive a YES at this stage will be evaluated further according to the technical scoring methodology described in Section III.
- Financial Proposals (only for QBS)
- 24.5 Following the ranking of Technical Proposals, and after receiving a “no objection” from MCC (if applicable), when selection is based on quality only (QBS), the first ranked Consultant will be invited to negotiate its Technical and Financial Proposals and the Contract in accordance with the instructions given under ITC

Sub-Clause 26.1.

- Financial Proposals (only for QCBS, FBS, LCS) 24.6 Following completion of the evaluation of Technical Proposals, and after receiving a “no objection” from MCC (if applicable), the MCA Entity shall inform the Consultants who have submitted Proposals of the technical points (total score only) assigned to each Consultant. The MCA Entity shall simultaneously notify the Consultants that have secured at least the minimum qualifying mark of the date, time, and place set for opening the Financial Proposals and notify them that their attendance at the opening of the Financial Proposals is not mandatory. The Financial Proposal opening shall take place at the location **indicated in the PDS**. The date and time scheduled for the Financial Proposal opening shall be specified on the MCA Entity’s website **provided in the PDS**. The MCA Entity shall promptly respond in writing to any Consultant who, after receiving notification of the procurement results, makes a written request for a debriefing as provided in the MCC Program Procurement Guidelines, or submits a formal Bid Challenge.
- 24.7 The notification shall also advise those Consultants whose Technical Proposals did not meet the minimum qualifying mark, or which were considered non-responsive, that their Financial Proposals will be returned unopened after the MCA Entity has completed the selection process at the cost and request of the Consultant.
- 24.8 The MCA Entity shall open the Financial Proposals in a public meeting at the address, date and time specified in the notification described in ITC Sub-Clause 24.6. All Financial Proposals will first be inspected to confirm that they have remained sealed and unopened. Only the Financial Proposals of those Consultants who met the minimum qualifying mark following the Technical Evaluation stage will be opened. The Technical Score (St) and only the Total Proposal Price, as stated in the Financial Proposal Submission Form (Form FIN-1) shall be read out aloud and recorded. A copy of the record shall be posted on the MCA Entity’s website.
- 24.9 The TEP will correct any computational errors, and in

cases of a discrepancy between a partial amount and the total amount, or between words and figures the former will prevail. In addition to the above corrections, activities and items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items. In cases where an activity or line item is quantified differently in the Financial Proposal from the Technical Proposal, no corrections will be applied to the Financial Proposal in this respect. If Consultants are not required to submit financial proposals in a single currency, prices shall be converted to a single currency for evaluation purposes using the selling rates of exchange, source and date **indicated in the PDS.**

24.10 For Quality and Cost Based Selection (QCBS), the lowest evaluated Financial Proposal (Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as indicated in Section III: Qualification and Evaluation Criteria. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; F = the weight given to the Financial Proposal; T + F = 1) **indicated in the PDS.** $S = St \times T\% + Sf \times F\%$. The Consultant achieving the highest combined technical and financial score will be invited for negotiations.

24.11 In the case of Fixed-Budget Selection (FBS), the MCA Entity will select the firm that submitted the highest ranked Technical Proposal within the budget. Proposals that exceed the indicated budget will be rejected. In the case of the Least-Cost Selection (LCS), the MCA Entity will select the lowest priced Proposal among those that passed the minimum technical score. In both cases, the evaluated Proposal price according to ITC Sub-Clause 24.9 shall be considered, and the selected firm invited for negotiations.

24.12 Prior to execution of a contract, the MCA 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 proposal at the discretion of the MCA Entity. The Consultant shall not be permitted to

revise its submission after a determination that its offered price is unreasonable. In addition, the MCA Entity may also verify any information provided on the TECH Forms submitted in the Proposal. A negative determination in the post-qualification could lead to the rejection of the Proposal and the MCA Entity may, at its discretion, move to invite the next-ranked Consultant for negotiation.

25. Past Performance
and Reference
Check

In accordance with the MCC PPG, the Consultant's performance on earlier contracts will be considered a factor in the MCA Entity's qualification of the Consultant's evaluation. The MCA Entity reserves the right to check the performance references provided by the Consultant or to use any other source at the MCA Entity's discretion. If the Consultant (including any of its Associates or joint venture/association members) is or has been party to an MCC-funded contract (either with MCC directly or with any MCA Entity, anywhere in the world), whether as lead Consultant, affiliate, Associate, subsidiary, Sub-Consultant, or in any other role, the Consultant must identify the contract in its list of references submitted with its Proposal using Technical Form TECH-5B: References of MCC-Funded Contracts. Failure to include any such contracts may be used to form a negative determination by the MCA Entity on the Consultant's record of performance in prior contracts. However, the failure to list any contracts because the Consultant (including any of its Associates or joint venture/association members) has not been a party to any such contract will not be grounds for a negative determination by the MCA Entity on the Consultant's record of performance in prior contracts. That is, prior performance in connection with an MCC-funded contract is not required. The MCA Entity will check the references, including the Consultant's past performance reports filed in MCC's Contractor Past Performance Reporting System ("CPPRS"). A negative determination by the MCA Entity on the Consultant's record of performance in prior contracts may be a reason for disqualification of the Consultant, or lowered evaluation scores, at the discretion of the MCA Entity. However, before rejecting the Proposal, the MCA Entity shall give the Consultant one opportunity to respond to the negative determination.

E. Award of Contract

26. Negotiations
- 26.1 Negotiations will be held at the address **indicated in the PDS**. The invited Consultant will, as a pre-requisite for attendance at the negotiations, confirm the availability of all the Key Professional Personnel listed in the Technical Proposal. Failure to confirm such Personnel may result in the MCA Entity proceeding to negotiate with the next-ranked Consultant. Representatives conducting negotiations on behalf of the Consultant must have written authority to negotiate and conclude the Contract on behalf of the Consultant.
- Technical Negotiations
- 26.2 Negotiations will commence with a discussion of the Technical Proposal, including (a) proposed technical approach and methodology, (b) workplan, (c) organization and staffing, and (d) any suggestions made by the Consultant to improve the Terms of Reference.
- 26.3 The MCA Entity and the Consultant will then finalize the Terms of Reference, staffing schedule, 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 MCA Entity to ensure satisfactory implementation of the assignment. The MCA Entity shall prepare minutes of negotiations which will be signed by the MCA Entity and the Consultant.
- Financial Negotiations
- 26.4 It is the responsibility of the Consultant, before starting financial negotiations, to determine the relevant local Tax amount to be paid by the Consultant under the Contract. In no event shall the MCA Entity be responsible for the payment or reimbursement of any Taxes. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates.
- Availability of Professional Staff/Experts
- 26.5 Having selected the Consultant on the basis of, among other things, an evaluation of proposed Key Professional Personnel, the MCA Entity expects to negotiate a Contract on the basis of those Personnel named in the Technical Proposal.
- 26.6 During Contract negotiations, the MCA Entity will not

consider substitution of any Key Professional Personnel unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity of one of the Personnel. If this is not the case and if it is established that any Key Professional Personnel were offered in the Proposal without confirming their availability, the Consultant may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate.

Conclusion of the Negotiations

26.7 Negotiations will conclude with a review of the draft Contract and Annexes, following which the MCA Entity and the Consultant will initial the agreed Contract. If negotiations fail, the MCA Entity will invite the Consultant whose Proposal received the second highest score to negotiate a Contract.

27. Notice of Award of Contract

27.1 Upon conclusion of successful negotiations, the MCA Entity shall also notify, in writing, all other Consultants who submitted Proposals of the award decision. The MCA Entity shall promptly respond in writing to any unsuccessful Consultant who, after receiving notification of the procurement results, makes a written request for a debriefing as provided in the MCC Program Procurement Guidelines, or submits a formal Bid Challenge.

27.2 After the award of Contract, the MCA Entity shall publish on its website, at dgMarket and at UNDB online, the results identifying the procurement, the name of the winning Consultant and the price, duration, and summary scope of the Contract. The same information shall be sent to all Consultants who have submitted Proposals.

28. Bid Challenges

Consultant are advised to examine and consider carefully the provisions that are set forth in Annex B to the contract, as these are a part of the Government's and the MCA- Benin II's obligations under the Compact and related agreements, which, under the terms of the Compact and related agreements, are required to be transferred onto any Consultant (including any associate) or Sub-Consultant who partakes in procurement or subsequent contracts in which MCC funding is involved.

28.1 MCA-Benin II shall entertain a bid challenge from any Consultant or potential Consultant that claims to have suffered or that may suffer loss or injury due to a breach of a duty by MCA-Benin II in the conduct of this procurement. The Interim Bid Challenge System is not intended to examine or review the implementation or conduct of any contract once awarded.

A bid challenge shall:

- a. Identify the procurement out of which the bid challenge arises;
 - b. Describe the nature of the bid challenge and supporting facts, including the bidding documents or portion of the procurement process that was allegedly in non-compliance;
 - c. Identify the specific provision(s), as set forth in the bidding documents, which were allegedly breached;
 - d. Indicate the requested remedy or relief, which may include compensation for any reasonable and verifiable cost of bid preparation and appeal, excluding attorney fees or lost profits;
 - e. Explain why the bid challenge was timely (see para 2. below); and
 - f. Include the name, address, telephone and facsimile numbers, as well as the email address of the challenger.
- 28.2 A bidder or potential bidder that claims to have suffered or claims that it may suffer loss or injury because of an alleged decision or action of MCA Benin II that is not in compliance with the bidding documents, may challenge the decision or action concerned, except for:
- a. The selection of a method of procurement or selection procedures (e.g., shopping or competitive bidding etc.);
 - b. The selection of the type of procurement (e.g., goods, works, non-consultant services etc.);

- c. The decision by MCA Entity to reject all bids, proposals, offers or quotations; and
 - d. Allegations of fraud or corruption or intent of wrong doing in the procurement process, which shall be processed in accordance with MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations, a copy of which is available on MCC's Website (www.mcc.gov).
- 28.3 An "Intent to Award" notice will be published in the national daily newspaper and a copy will be sent¹ to all bidders who have submitted a bid/proposal. MCA Entity will also send this letter to the winning bidder, and to all losing bidders informing them of the reasons for not awarding the contract.
- 28.4 Any losing bidder, if it wishes to, may submit a bid challenge to MCA Benin II, in writing (can be submitted electronically), within three (3) working days after the publication of the "Intent to Award" notice. All challenges will be submitted to the following address:
- Samuel O. BATCHO
National Coordinator
MCA-BENIN II
Immeuble KOUGBLENOU, 3ème Etage,
Domaine de l'OCBN
Derrière la Compagnie Territoriale
de Gendarmerie du Littoral
01 BP 101 Cotonou, Republic of Benin
Fax: +229 21 31 96 42
E-mail : info@mcabenin2.bj
- 28.5 The MCA Benin II shall, within five (5) working days after submission of the bid challenge, issue a written decision to the challenger ("Challenger") stating the reasons for the decision and, if the bid challenge is upheld in whole or in part, indicating the corrective measures that are to be taken.

¹e-mail and/or paper mail

Appeals

28.6 In certain cases, the Challenger may seek review by MCC if it is not satisfied with the decision of MCA Benin II as above. Please note that MCC's review is not the review of the procurement process or the evaluation of a particular bid, but is limited to claims that (a) MCA Benin II failed to entertain its bid challenge, (b) MCA Benin II failed to issue a written decision on the bid challenge within the time specified in this system, or (c) claims that MCA Benin II violated the procedures set out in the bidding documents. The appeal to MCC must be received in writing (may be in electronic form) within five (5) working days of the date the Challenger learned or should have learned of an adverse decision by MCA Benin II as above. MCC will issue a final decision within fifteen (15) working days of the submission of the appeal.

28.7 A bid appeal shall:

- a. Identify the procurement out of which the bid challenge arises;
- b. Describe the nature of the appeal and supporting facts, including full correspondence and decision of MCA Benin II;
- c. Indicate the requested remedy or relief, which may include compensation for any reasonable and verifiable cost of bid preparation and appeal, excluding attorney fees or lost profits;
- d. Explain why the appeal is timely (see paragraph 6. above); and
- e. Include the name, address, telephone and facsimile numbers, as well as the email address of the appellant.

28.8 The appeal should be addressed to:

Millennium Challenge Corporation
Attention: Vice President, Department of Compact

Operations
(with a copy to the Vice President and General Counsel)
1099 14th Street NW; Suite 700
Washington, DC 20005-3550
United States of America
Fax: (202) 521-3700
Email: VPOperations@mcc.gov (Vice President for Compact Operations)
VPGeneralCounsel@mcc.gov (Vice President and General Counsel)

29. Return of Unopened Financial Proposals 29.1 After Contract signature, the MCA Entity shall return the unopened Financial Proposals to the unsuccessful Consultants at the cost and request of the Consultant.
30. Commencement Date 30.1 The Consultant is expected to commence the assignment on the date and at the location **specified in the PDS**.
31. Inconsistencies with MCC Program Procurement Guidelines 31.1 The Procurement that is the subject of this RFP 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 RFP (including any Addenda that may be issued to this RFP) and the MCC PPG, the terms and requirements of the MCC PPG shall prevail, unless MCC has granted a waiver of the guidelines.
32. Applicable Compact Conditions 32.1 Consultants are advised to examine and consider carefully the provisions that are set forth in Annex B (Additional Provisions) attached to and made part of the Special Conditions of the Contract, as these are a part of the Government's and the MCA Entity's obligations under the Compact and related agreements which, under the terms of the Compact and related documents are required to be transferred onto any Consultant or Sub-Consultant who partakes in procurement or subsequent contracts in which MCC Funding is involved.

Section II. Proposal Data Sheet

A. General	
ITC Definitions	<p>“Compact” means the Millennium Challenge Compact between the United States of America, acting through the Millennium Challenge Corporation, and the Government of Benin, signed on September 9, 2015, as may be amended from time to time.</p> <p>“Government” means the Government of Benin.</p> <p>“MCA Entity” means Millennium Challenge Account - Benin II, the accountable entity designated by the Government to implement the Compact.</p>
ITC 1.1	The method of selection is the Quality and Cost Based Selection (QCBS) method.
ITC 1.3	The Name of the assignment is: Selection of Transaction Advisor for a Management Contract with SBEE.
ITC 1.4	A Pre-Proposal Conference will be held at 10:00 am (local time) on June 08, 2017 at MCA-Benin II Conference room . Attendance is strongly advised for all prospective Consultants or their representatives but is not mandatory.
ITC 1.5	<p>The MCA Entity will provide the following inputs and facilities:</p> <p>All existing documentation related to the assignment are as indicated in the Terms of Reference (See paragraphs 7.3, 7.4 and 7.5).</p>
B. Contents of the RFP	
ITC 8.1	<p>Clarifications may be requested by e-mail not later than fifteen (15) business days e.g., June 28, 2017 before the deadline for submission of the Proposals, so that responses can be issued to all Consultants not later than ten (10) business days e.g., July 05, 2017 prior to the deadline for submission of Proposals.</p> <p>The address for requesting clarifications is:</p> <p style="text-align: center;">MCA-BENIN II Attn: The Procurement Agent Immeuble KOUGBLENOU, 3ème Etage, Domaine de l’OCBN Derrière la Compagnie Territoriale de Gendarmerie du Littoral</p>

	<p>01 BP 101 Cotonou, Republic of Benin E-mail: info-benin@charleskendall.com cc : info@mcabenin2.bj Website: www.mcabenin2.bj</p>																														
<p>C. Preparation of Proposals</p>																															
ITC 10.1	<p>If MCA Entity shall pay any costs associated with the preparation and/or submission of the Proposal, those are listed below: NONE</p>																														
ITC 11.1	<p>The Proposal shall be written in French.</p>																														
ITC 12.2(a)	<p>Consultants may associate with other Consultants.</p>																														
ITC 12.2(c)	<p>The estimated total number of person-days for all Personnel required for the assignment by labor category is: 1000 person-days.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;">Category of Consultant</th> <th style="text-align: center;">Staff days</th> </tr> </thead> <tbody> <tr> <td colspan="2" style="background-color: #e0e0e0;">Key Professional Personnel</td> </tr> <tr> <td>Utility Restructuring Expert (Team Lead)</td> <td style="text-align: center;">200</td> </tr> <tr> <td>Utility Expert</td> <td style="text-align: center;">140</td> </tr> <tr> <td>Utility Financial Expert</td> <td style="text-align: center;">120</td> </tr> <tr> <td>Procurement/Transactions/Legal Expert</td> <td style="text-align: center;">140</td> </tr> <tr> <td>TOTAL KEY PERSONNEL</td> <td style="text-align: center;">600</td> </tr> <tr> <td colspan="2" style="background-color: #e0e0e0;">Support personnel</td> </tr> <tr> <td>Environmental Specialist</td> <td style="text-align: center;">30</td> </tr> <tr> <td>IT Specialist</td> <td style="text-align: center;">30</td> </tr> <tr> <td>Junior Engineers</td> <td style="text-align: center;">150</td> </tr> <tr> <td>Mid-level lawyer to support the Procurement/Legal Expert</td> <td style="text-align: center;">150</td> </tr> <tr> <td>Communications Specialist</td> <td style="text-align: center;">20</td> </tr> <tr> <td>Communications support and constituent engagement</td> <td style="text-align: center;">20</td> </tr> <tr> <td>TOTAL SUPPORT PERSONNEL</td> <td style="text-align: center;">400</td> </tr> </tbody> </table>	Category of Consultant	Staff days	Key Professional Personnel		Utility Restructuring Expert (Team Lead)	200	Utility Expert	140	Utility Financial Expert	120	Procurement/Transactions/Legal Expert	140	TOTAL KEY PERSONNEL	600	Support personnel		Environmental Specialist	30	IT Specialist	30	Junior Engineers	150	Mid-level lawyer to support the Procurement/Legal Expert	150	Communications Specialist	20	Communications support and constituent engagement	20	TOTAL SUPPORT PERSONNEL	400
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TOTAL STAFF DAYS	1000								
ITC 12.3(g)	Training is not a specific component of this assignment.								
ITC 12.5	Per diem and in-country travel will be included in the total price in form FIN-2.								
ITC 15.1	<p>The currency (ies) of the Proposal shall be as follows: USD <u>or</u> XOF <u>or</u> a combination of the two at the discretion of the Consultant.</p> <p>The currency (ies) of the payment shall be as follows: USD <u>or</u> XOF <u>or</u> a combination of the two at the discretion of the Consultant.</p>								
ITC 16.1	Proposals must remain valid for one hundred and twenty (120) days after the deadline for the submission of Proposals specified in PDS ITC 18.1.								
D. Submission and Opening of Proposals									
ITC 17.2	Written Power of Attorney is required.								
ITC 17.3	The Consultant must submit one (1) original and four (4) copies of both the Technical Proposal and the Financial Proposal, in the language(s) specified in PDS ITC 11.1.								
ITC 17.5	<p>The address for the submission of Proposals is:</p> <p style="padding-left: 40px;">MCA-Benin II Attn: The Procurement Agent Immeuble KOUGBLENOU, 3^{ème} étage, Domaine de l’OCBN Derrière la Compagnie Territoriale de Gendarmerie du Littoral 01 BP 101 Cotonou, Republic of Benin E-mail: info-benin@charleskendall.com cc.: info@mcabenin2.bj</p> <p>Submission of proposals by e-mail is not allowed. However, an electronic version of the technical proposal shall be submitted on a CD or on a thumb drive.</p>								
ITC 17.7	<p>Ensure the outer label (or carton) of the Proposal includes this statement:</p> <p>“Do NOT Open Before 10:00 a.m. local time on July 19, 2017. On or after</p>								

	10:00 a.m. local time on July 19, 2017. Open ONLY In Presence of the Official Appointed.”
ITC 18.1	Proposals must be submitted no later than 10:00 a.m. local time of Cotonou, Benin on July 19, 2017.
ITC 20.1	The Proposal opening shall take place at Immeuble KOUGBLENOU, 3^{ème} étage, Domaine de l’OCBN, Derrière la Compagnie Territoriale de Gendarmerie du Littoral on July 19, 2017, 2017 at 10:15 a.m Cotonou time, Benin.
E. Evaluation of Proposals	
ITC 23.1	The minimum technical score (St) required to pass is 80 out of 100 possible points. For detailed scoring criteria, see Section III.
ITC 24.6	The Financial Proposal opening shall take place at Immeuble KOUGBLENOU, 3^{ème} étage, Domaine de l’OCBN, Derrière la Compagnie Territoriale de Gendarmerie du Littoral at the date and time to be specified on the MCA Entity’s website: www.mcabenin2.bj.
ITC 24.9	The single currency for price conversions is US Dollar for the purposes of evaluation. The source of official selling rates for evaluation purposes is: Central Bank of West African States (BCEAO). The date of the exchange rate for evaluation purposes is the date thirty (30) days prior to the deadline for submission of the Proposal.
ITC 24.10	The weight given to the Technical Proposal, T = 80 The weight given to the Financial Proposal, F = 20
F. Award of Contract	
ITC 26.1	The expected date for Contract negotiations is thirty (30) days after the opening of the Financial Proposals and will be held in Cotonou (Benin).
ITC 30.1	The date for commencement of the Services is twenty-one (21) days after the effective date of the Contract and the location is Cotonou (Benin).

Section III. Qualification and Evaluation Criteria

3.1 Legal Status

Each entity forming the Consultant shall attach to Form TECH-1 a copy of its letter of incorporation, or other such document, indicating its legal status. In the event the Consultant is an Association of entities, the Consultant shall include any other document showing that it intends to associate, or it has associated with, the other entity or entities that are jointly submitting a Proposal. Each Associate must provide the information required in Form TECH-1.

3.2 Financial Criteria

The Consultant shall provide evidence showing that it has the sufficient financial capacity needed for this Contract, as required in Form TECH-2A. Each Associate must provide the information required in TECH-2A.

3.3 Litigation Criteria

The Consultant shall provide accurate information on any current or past litigation or arbitration resulting from contracts completed, terminated, or under execution by the Consultant over the last five (5) years, as indicated in Form TECH-2B. A consistent history of awards against the Consultant or existence of high value disputes may lead to the rejection of the Proposal. Each Associate must provide the information required in TECH-2B.

3.4 Evaluation Criteria

A Proposal may be rejected if it does not earn a total minimum score of **80% of points**.

A Proposal may be rejected, at the discretion of the MCA Entity, if the firm does not satisfy the mandatory criteria as per table below. In addition, Proposals may be rejected, at the discretion of the MCA Entity, if any of the Key Personnel fails to satisfy the mandatory requirements.

The Consultant will be rejected if its Proposal does not clearly demonstrate that it meets the following Minimum Mandatory Criteria:

Ref	Item
Mandatory Criterion 1	Previous experience of at least two (2) transactions for management contracts in emerging (non-OECD) countries successfully completed or substantially underway in the last seven (7) years.

Criteria, sub-criteria, and point system for the evaluation of Technical Proposals		
ITC 5.2	Criteria, sub-criteria	Points
	1. Organizational Capability and Experience of the Consultant	
	<p>Evidence of organizational capability and relevant experience in the execution of projects of a similar nature, including the nature and value of the relevant contracts, as well as works in hand and contractually committed provided in Form TECH-4. The evidence shall include successful experience as the prime consultant/advisor in the execution of at least 2 projects of a similar nature and complexity.</p> <p>In accordance with the MCC Program Procurement Guidelines, the Consultant’s past performance on MCC-funded contracts will be considered as a criterion in the MCA Entity’s evaluation of the Consultant’s Technical Proposal.</p> <p>The MCA Entity reserves the right to contact the Form Tech-5 References as well as other sources to check references and past performance.</p> <ul style="list-style-type: none"> a- At least two (2) transactions for utility management contract successfully completed or substantially underway in the last seven (7) years: 15 b- Experience in transaction structuring and transaction implementation in similar countries (emerging (non-OECD) countries): 05 	
	Total Points for this criterion	20
	2. Approach, Methodology and Work Plan	
	<p>Proposed approach, methodology, and work plan demonstrates a clear understanding of the technical contract requirements and appreciation for the work required in all the various aspects of the Terms of Reference.</p> <ul style="list-style-type: none"> • Proposed approach: 10 <p>Quality of Proposed approach and methodology to implement the assignment especially in the following areas:</p> <ul style="list-style-type: none"> ✓ Assessment of SBEE current operations, financial situation, and organizational structure; ✓ Investment and Turnaround Management Action Plan ✓ Development of technical documents for tender package ; ✓ Marketing the transaction to potential private partners; 	15

	<ul style="list-style-type: none"> ✓ Procurement Planning and Tendering Period Support; ✓ Support during the post-Contract Award and until; Operations Takeover; ✓ Oversight arrangements; <ul style="list-style-type: none"> • Work plan: 05 	
	<p>Proposed project organization and staffing provides a clear, logical and appropriate staffing pattern with responsibilities among different staff positions adequately defined, including what member of staff will do what aspects of the work, and when they will be working in Benin.</p> <ul style="list-style-type: none"> • Proposed project organization: 05 • Staffing plan: 03 	08
	<p>Proposed approach and methodology includes listing of risks and solutions for mitigating risks, such as addressing time constraints and gaining approval for each deliverable.</p> <ul style="list-style-type: none"> • Proposed approach and methodology of risks management: 04 • Proposed solution for mitigation of risk: 03 	07
	Total Points for this criterion	30
	3. Key Professional Personnel Qualifications for the Assignment	
	Utility Restructuring Expert (Team Lead)	18
	Utility Expert	12
	Utility Financial Expert	10
	Procurement/Transaction/Legal Expert	10
	The number of points to be assigned to each of the above positions shall be determined considering the following three sub-criteria and relevant percentage weights:	
	Education and training as called for in position description	25%
	Demonstrated successful experience and past performance in accomplishment of similar projects (at least 2 for the Team Lead and 1 for the other key personnel).	50%
	Fluency in written and spoken French	10%
	Computer literate	5%
	Experience working in Benin or other West African Francophone countries	10%
	Total weight	100%
	Total Points for this criterion	50

	Total Points for the three (3) Criteria	100
	The minimum technical score S_t required to pass is	80
	If none of the scores awarded by the TEP reach or exceed the minimum technical score (S_t), the MCA Entity reserves the right to invite the Consultant receiving the highest technical score (S_t) to negotiate both its Technical and Financial Proposals. If the negotiations fail to result in an acceptable contract within a reasonable time, the MCA Entity reserves the right to terminate the negotiations, at its sole discretion, and to invite—again, at its sole discretion—the Consultant receiving the next highest technical score (S_t) to negotiate	
ITC 24.10	The formula for determining the financial scores is the following: $S_f = 100 \times F_m / F$, in which S_f is the financial score, F_m is the lowest price and F the price of the Proposal under consideration. The weights given to the Technical and Financial Proposals are: $T = 0.80$ and $F = 0.20$	

Section IV. A. Technical Proposal Forms

1. Technical Proposal Forms in English

Disclosure in these technical forms of any proposed prices will constitute grounds for declaring the Proposal non-responsive; see ITC Sub-Clause 12.4.

TECH-1	Technical Proposal Submission Form
TECH-2A	Financial Capacity of the Consultant
TECH-2B	Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes of the Consultant
TECH-3	Organization of the Consultant
TECH-4	Experience of the Consultant
TECH-5A	References of the Consultant
TECH-5B	References of MCC-Funded Contracts
TECH-6	Description of Approach, Methodology and Work Plan for Performing the Assignment
TECH-7	Comments and Suggestions on the Terms of Reference & Assignment
TECH-8	Team Composition and Task Assignments
TECH-9	Staffing Schedule
TECH-10	Work and Deliverables Schedule
TECH-11	Curriculum Vitae (CV) of Proposed Key Professional Personnel

Note: Comments in brackets on the following pages serve to provide guidance for the preparation of the Technical Proposal and therefore should not appear on the Technical Proposal to be submitted.

Form TECH-1.A. Technical Proposal Submission Form

[Location, Date]

To: **Mr. Samuel O. BATCHO, National Coordinator of Millennium Challenge Account – Benin II (MCA-BENIN II)**

Address: Immeuble KOUGBLENOU, 3^{ème} étage
Domaine de l'OCBN, Quartier Zongo Nima
Derrière Compagnie Territoriale de la Gendarmerie du Littoral
01 BP 101 Cotonou, Republic du Benin

Email : **info@mcabenin2.bj**

Ladies and Gentlemen:

**Re: Selection of Transaction Advisor for a Management Contract with SBEE
RFP Ref: PP4-CIF-PRISP-06**

We, the undersigned, offer to provide the consulting services for the above mentioned assignment in accordance with your Request for Proposal (RFP) dated **[Insert Date]** and our Proposal.

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 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.

We acknowledge notice of MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations². We have taken steps to ensure that no person acting for us or on our behalf has engaged in any corrupt or fraudulent practices described in ITC Clause 3. As part of this, we 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.

² Available at www.mcc.gov/resources/doc/policy-fraud-and-corruption

- (b) The prices in this offer have not been and will not be knowingly disclosed by us, directly or indirectly, to any other offeror or competitor before Proposal opening or Contract award unless otherwise required by law; and
- (c) No attempt has been made or will be made by us to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal, each sealed in separate and clearly marked envelope/parcel.

We are submitting our Proposal in Association with:

[Insert a list with full name and address of each associated Consultant].³

We hereby declare that all the information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

We are attaching herewith information to support our eligibility in accordance with Section III of the RFP.

If negotiations are held during the initial period of validity of the Proposal, we undertake to negotiate on the basis of the nominated Key Professional Personnel.

Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations, and we undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in this RFP.

We understand and accept without condition that, in accordance with ITC Clause 28.1, any challenge or protest to the process or results of this procurement may be brought only through the MCA Entity's Interim Bid Challenge System (BCS).

We understand you are not bound to accept any Proposal that you may receive.

Yours sincerely,

[Authorized Signatory]

**[Name and Title of
Signatory]**

[Name of Consultant]

[Address of Consultant]

³ [Delete in case no Association is foreseen.]

Annexes:

- 1.** Power of Attorney demonstrating that the person signing has been duly authorized to sign the Proposal on behalf of the Consultant and its Associates;
- 2.** Letter(s) of Incorporation (or other documents indicating legal status); and
- 3.** Joint Venture or Association Agreements (if applicable, but without showing any Financial Proposal information).

Form TECH-2A. Financial Capacity of the Consultant

[The Consultant’s financial capacity to mobilize and sustain the Services is imperative. The Consultant is required to provide information on its financial status. This requirement can be met by submission of one of the following: audited financial statements for the last three (3) years, supported by audit letters, OR certified financial statements for the last three (3) years, supported by tax returns.

Failure to submit either of the documents as evidence of financial capacity will result in the rejection of the Proposal.

If the Proposal is submitted by a joint venture, all parties of the joint venture are required to submit their financial statements. The reports should be submitted in the order of the Associate’s significance in the joint venture, greatest to least.

The MCA Entity reserves the right to request additional information about the financial capacity of the Consultant. A Consultant that fails to demonstrate through its financial records that it has the financial capacity to perform the required Services may be disqualified.]

Financial Information (US\$ X,000’s)	Historical information for the previous three (3) years (most recent to oldest or equivalence in (US\$ X,000’s)		
	Year 1 (Year)	Year 2 (Year)	Year 3 (Year)
Information from Balance Sheet			
(1) Total Assets (TA)			
(2) Current Assets (CA)			
(3) Total Liabilities (TL)			
(4) Current Liabilities (CL)			
Information from Income Statement			
(5) Total Revenue (TR)			
(6) Profits before Taxes (PBT)			
Net Worth (1) – (3)			
Current Ratio (2) / (4)			

Form TECH-2B. Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes of the Consultant

[Provide information on current or past proceedings, litigation, arbitration, action claims, investigations or disputes over the last five (5) years as shown in the form below.]

The Consultant, or a related company or entity or affiliate, has been involved in any proceeding, litigation, arbitration, action, claim, investigation or dispute within the past five (5) years the process or outcome of which the MCA Entity could reasonably interpret may impact or have the potential to impact the financial or operational condition of the Consultant in a manner that may adversely affect the Consultant's ability to satisfy any of its obligations under the Contract: No:____ Yes:_____ (See below)

Litigation, Arbitration, Actions, Claims, Investigations, Disputes During Last Five (5) Years		
Year	Matter in Dispute	Value of Award Against Consultant in US\$ Equivalent

Form TECH-3. Organization of the Consultant

[Provide a brief description of the background and organization of your firm/entity and of each Associate for this assignment. Include the organization chart of your firm/entity. The Proposal must demonstrate that the Consultant has the organizational capability and experience to provide home office project management of the contract as well as the necessary administrative and technical support to the Consultant's Project Team in country. The Proposal shall further demonstrate that the Consultant has the capacity to field and provide experienced replacement Personnel on short notice.

Maximum 10 pages

Form TECH-4. Experience of the Consultant

[Using the format below, provide information on each relevant assignment for which your firm, and each Associate for this assignment, was legally contracted either individually as a corporate entity or as one of the major companies within an association, for carrying out consulting services similar to the ones requested under the Terms of Reference included in this RFP. **This shall include all MCC-funded assignments of a similar nature.** Failure to include experience in any project where MCC funds were used may result in disqualification of the Proposal. The Proposal must demonstrate that the Consultant has a proven track record of successful experience in executing projects similar in substance, complexity, value, duration, and volume of services sought in this procurement.

Maximum 20 pages]

Assignment name:	Approx. value of the contract (in current US\$):
Country: Location within country:	Duration of assignment (months):
Name of client:	Total No. of staff-months of the assignment:
Address:	Approx. value of the services provided by your firm under the contract (in current US\$):
Start date (month/year): Completion date (month/year):	No. of professional staff-months provided by associated consultants:
Name of associated consultants, if any:	Name of proposed senior professional staff of your firm involved and functions performed (indicate most significant profiles such as project director/coordinator, team leader):
Narrative description of project:	
Description of actual services provided by your staff within the assignment:	

Name of Firm: _____

Form TECH-5A. References of the Consultant

[Provide contact information for at least three (3) references that can provide substantial input about:

- (a) The type of work performed
- (b) Confirm the quality of the work experience listed in Form TECH-4.

The MCA Entity reserves the right, at its sole discretion, to contact other sources as well as to check references and past performance, including, without limitation, any source listed in TECH-4. For each reference, list a contact individual, their title, address, facsimile, phone and e-mail address.]

[Maximum 3 pages]

Form TECH-5B. References of MCC-Funded Contracts

Each Consultant or member of a JV/Association making up the Consultant must fill in this form and include information about any and all MCC-funded contracts (either with MCC directly or with any Millennium Challenge Account Entity, anywhere in the world) to which the Consultant or member of a JV/Association making up the Consultant is or has been a party whether as a lead Consultant, affiliate, associate, subsidiary, Sub-Consultant, or in any other role.

Contracts with MCC				
Contract Number	Name and	Role in Contract	Total Contract Amount	Employer Name and Address
Contracts with an MCA-Entity				
Contract Number	Name and	Role in Contract	Total Contract Amount	Employer Name and Address

Form TECH-6. Description of Approach, Methodology and Work Plan for Performing the Assignment

In this section, the Consultant should provide a comprehensive description of how it will provide the required Services in accordance with the Terms of Reference (TOR) included in this RFP. Information provided must be sufficient to convey to the TEP that the Consultant has an understanding of the challenges in performing the required Services and that it has an approach, methodology and work plan to overcome those challenges.

Your Technical Proposal should be divided into the following three (3) chapters:

- (a) Proposed Methodology;
 - (b) Work Plan;
 - (c) Organization and staffing.
- (a) Approach and methodology of risks management **Technical Approach and Methodology**. In this chapter, you should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach. Also comment here on any specialized equipment and/or software of which may be necessary to perform the scope indicated in the Terms of Reference.
- (b) Work Plan. In this chapter, you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the MCA Entity), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work and Deliverables Schedule of Form TECH-10.
- (c) Organization and Staffing. In this chapter, you should propose the structure and composition of your team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical and support staff.

Note: Where the Terms of Reference includes tasks relevant to gender and social inclusion, the proposal should explicitly address how the Consultant will perform these tasks in the technical approach, and methodology, work plan, organization and staffing. We recognize that this type of expertise and experience may be outside of the normal work of some Consultants offering proposals, and thus call special attention to the importance of an adequately inter-disciplinary proposal and staffing plan.

Maximum 50 pages, including charts and diagrams]

Form TECH-7. Comments and Suggestions on the Terms of Reference & Assignment

[The MCA Entity welcomes comments and suggestions to improve the assignment to provide a better value for money. These comments and suggestions shall not be used for evaluation purposes, but may be discussed during negotiations. The MCA Entity is not bound to accept anything proposed. If the proposed modifications/suggestions would require changes in the offered price, it shall be noted as such, without giving the price of the change.

Maximum 5 pages]

A: On the Terms of Reference

[Present and justify here any modifications or improvements to the Terms of Reference you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities).]

B: On the Facilities

[Comment here on facilities to be provided by the MCA Entity.]

Form TECH-8. Team Composition and Task Assignments

Key Professional Personnel					
Name of Staff	Organization	Area Expertise	of	Position Assigned	Task Assigned

Form TECH-9. Staffing Schedule (Key Professional Personnel and Support Staff)

		Staff input (in the form of a bar chart) ¹													Total staff-month input		
			1 ²	2	3	4	5	6	7	8	9	10	11	N	Home	Field ³	Total
Foreign																	
1	[Home]																
	[Field]																
2	[Home]																
	[Field]																
3	[Home]																
	[Field]																
n	[Home]																
	[Field]																
													Subtotal				
Local																	
1	[Home]																
	[Field]																
2																	
n																	
Support Staff													Subtotal				
													Total				

1. For Key Professional Personnel, the input shall be indicated individually; for support staff it shall be indicated by category (e.g.: draftsmen, clerical staff, etc.).
2. Months are counted from the start of the assignment. For each Personnel, indicate separately staff input for home and field work.
3. Field work means work carried out at a place other than the Consultant's home office.

Full time input:

Part time input:

Form TECH-10. Work and Deliverables Schedule

	Task	Months											
		1	2	3	4	5	6	7	8	9	10	11	12
1.	Task 1: Investment and Turnaround Management Action Plan												
2.	Task 2: Drafting the Tender Package												
3.	Task 3: Bid Process until Contract Award												
4.	Task 4: Support during the post-Contract Award and until Operations Takeover												
5.	Task 5: Procurement of Services of MC Contract Monitor												
	Deliverables												
1.	Mobilization Plan												
2.	Inception Report												
3.	Communication Plan												
4.	Technical, Financial, Organizational, and Legal												

Section IV. A. Technical Proposal Forms

	Due Diligence												
5.	Workshop and Stakeholder Consultations												
6.	Transaction Structuring Report												
7.	Memo on the SBEE turnaround and management plan												
8.	Call for Expressions of Interest												
9.	Review of EOI Submittals												
10.	Request for Qualification												
11.	Bi-weekly Media Monitoring Reports												
12.	Draft Request for Bids												
13.	RFQ Evaluation												
14.	Final Request for Bids												
15.	Bidders' Conference												
16.	Inputs in the evaluation of the bids												
17.	Negotiated MC Agreement												
18.	Three (3) Monthly Reports												
19.	Final Closing Report												
20.	Post-Contract Award documentation												
21.	Draft Terms of Reference for MC Contract Monitor												
22.	Final Request for Proposals												
23.	Pre-proposal Conference												
24.	Inputs in the evaluation of the proposals												

Section IV. A. Technical Proposal Forms

25.	Negotiated MC Contract Monitor Agreement												
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[Indicate all main activities of the assignment, including deliverables and other milestones, such as the MCA Entity approvals. For phased assignments, indicate activities, deliverables and milestones separately for each phase. Duration of activities shall be indicated in the form of a bar chart. See TOR for the full list of deliverables. Above is a sample format (to be further completed by the Consultant based on the TOR requirements) that shall be used by the Consultant as an indicator of the proposed work load. The submission shall be evaluated as part of the Approach and Methodology.]

Form TECH-11. Curriculum Vitae (CV) for Proposed Key Professional Personnel

1. Proposed Position [only one candidate shall be nominated for each position]
Name of Firm [Insert name of firm proposing the staff]
Name of Personnel [Insert full name]
Date of Birth [Insert birth date]
Nationality [Insert nationality]
Education [Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment]
Membership in Professional Associations
Other Training [Indicate appropriate postgraduate and other training]
Countries of Work Experience [List countries where staff has worked in the last ten years]
Languages [For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing]
Language Speaking Reading Writing
Employment Record [Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.]
From [year]: To [year]:
Employer:
Position(s) held:
Detailed Tasks Assigned [List all tasks to be performed under this assignment]
Work undertaken that best illustrates capability to handle the tasks assigned: [Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11.]
Name of assignment or project:
Year:
Location:

Client:

Main project features:

Position held:

Activities performed:

(a) References:

[List at least three individual references with substantial knowledge of the person's work. Include each reference's name, title, phone and e-mail contact information.] [The MCA Entity reserves the right to contact other sources as well as to check references, in particular for performance on any relevant MCC-funded projects.]

(b) 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 with the **[Consultant]** in the above-mentioned Request for Proposal. I further declare that I am able and willing to work:

2. for the period(s) foreseen in the specific Terms of Reference attached to the above referenced Request for Proposal for the position for which my CV has been included in the offer of the Consultant and
3. within the implementation period of the specific contract.

Signature of Key Professional Personnel

If this form has NOT been signed by the Key Professional Personnel, then in signing below the authorized representative of the Consultant is making the following declaration.

“In due consideration of my signing herewith below, if the Key Professional Personnel has NOT signed this CV then I declare that the facts contained therein are, to the best of my knowledge and belief, a true and fair statement AND THAT I confirm that I have approached the said Key Professional Personnel and obtained his assurance that he will maintain his availability for this assignment if the Contract is agreed within the Proposal validity period provided for in the RFP.”

Signature of Authorized Representative of the Consultant

Day / month/ year

2. Technical Proposal Forms in French

Section IV. A : Formulaire de Proposition Technique

L'inscription de tout coût proposé dans ces formulaires techniques entraînera l'irrecevabilité de la proposition (voir sous-clause IC 12.4).

Formulaire TECH-1 Soumission de la proposition financière

Formulaire TECH-2A Capacité financière du Consultant

Formulaire TECH-2B Procès, litiges, arbitrages, actions en justice, plaintes, enquêtes et différends actuels et antérieurs impliquant le Consultant

Formulaire TECH-3 Organisation du Consultant

Formulaire TECH-4 Expérience du Consultant

Formulaire TECH-5A Références du Consultant

Formulaire TECH-5B Références des contrats financés par la MCC

Formulaire TECH-6 Description de l'approche, de la méthodologie et du plan de travail pour l'exécution de la mission

Formulaire TECH-7 Commentaires et suggestions sur les Termes de référence et la mission

Formulaire TECH-8 Composition des équipes et répartition des tâches

Formulaire TECH-9 Plan de dotation en personnel

Formulaire TECH-10 Calendrier des travaux et des livrables

Formulaire TECH-11 Curriculum Vitae (CV) du Personnel clé

Note : Les commentaires entre parenthèses qui apparaissent dans les pages suivantes sont destinés à vous aider dans la préparation de la proposition technique et ne doivent par conséquent pas apparaître dans la proposition technique que vous présentez.

Formulaire TECH-1. Formulaire de Soumission de la Proposition Technique

[Lieu, Date]

A l'attention de : Mr. Samuel O. BATCHO

National Coordinator

Millennium Challenge Account -Bénin II (MCA-BENIN II)

Adresse: Immeuble KOUGBLENOU, 3^{ème} étage
Domaine de l'OCBN, Quartier Zongo Nima
Derrière Compagnie Territoriale de la Gendarmerie du Littoral
01 BP 101 Cotonou, République du Benin

Email: info@mcabenin2.bj

Madame, Monsieur

Re: Sélection d'un Conseiller en Transactions en vue de la mise en place d'un Contrat de Gestion au profit de la la SBEE

RFP Ref: PP4-CIF-PRISP-06

Nous, soussignés, vous proposons nos services à titre de Consultant, pour la mission citée plus haut conformément à votre demande de propositions (DP) en date du **[Insérer la date]** et notre proposition technique.

Nous attestons par la présente que nous ne sommes pas engagés dans des activités interdites décrites dans la quinzième partie des Directives relatives à la passation des marchés du Programme de MCC, et que nous ne les facilitons et ne les permettons pas, et nous ne nous engagerons pas dans de telles activités interdites pendant toute la durée du Contrat, et nous ne les faciliterons et ne les permettrons pas. Par ailleurs, nous donnons notre garantie que les activités interdites décrites dans la quinzième partie des Directives relatives à la passation des marchés du Programme de MCC ne seront pas tolérées de la part de nos Sous-consultants et de nos employés respectifs. Enfin, nous reconnaissons que notre engagement dans de telles activités serait une cause valide de suspension ou de résiliation du Contrat.

Nous accusons réception de la Politique de MCC relative à la prévention, la détection et l'atténuation des conséquences des fraudes et de la corruption dans le cadre des activités de MCC⁴. Nous avons pris des mesures pour nous assurer qu'aucune personne agissant pour notre

⁴ Disponible sous www.mcc.gov/resources/doc/policy-fraud-and-corruption

compte ou en notre nom ne s'est engagée dans des pratiques de corruption ou de fraude telles que décrites dans la clause 3 des IC. Dans cette optique, nous certifions que :

- (d) Les coûts figurant dans la proposition ont été définis indépendamment, sans intention de restreindre la compétition, sans aucune consultation, communication ou accord avec d'autres soumissionnaires ou concurrents relatif :
 - i. Auxdits coûts ;
 - ii. À l'intention de soumissionner une proposition ;
 - iii. Aux méthodes ou facteurs de calcul des coûts proposés.
- (e) Nous ne dévoilerons pas volontairement les coûts figurant dans cette proposition, directement ou indirectement, à d'autres soumissionnaires ou concurrents avant le dépouillement des propositions ou l'adjudication du Contrat, sauf à y être obligé par la loi ;
- (f) Nous n'essayons et n'essaierons pas de pousser un candidat à soumissionner ou à ne pas soumissionner une proposition dans le but de limiter la concurrence.

Nous déposons la présente proposition, constituée des présentes propositions technique et financière scellées et contenues chacune dans une enveloppe/un colis clairement marqué(e).

Nous soumissionnons conjointement avec :

[Insérer la liste comportant le nom et l'adresse complets de chaque Consultant associé].⁵

Nous attestons par la présente que toutes les informations et déclarations contenues dans la proposition sont exactes et acceptons que toute erreur qu'elles contiendraient puisse entraîner notre disqualification.

Nous vous faisons tenir ci-joint des informations étayant notre admissibilité, conformément à la section III de la DP.

Si les négociations se déroulent pendant la période de validité initiale de la proposition, nous nous engageons à mener les négociations sur la base du Personnel clé désigné dans notre Proposition.

Notre proposition a pour nous force obligatoire et est susceptible de modifications suite aux négociations du Contrat, et nous nous engageons, si nous sommes déclarés adjudicataire, à démarrer les services de Consultants relatifs à la mission au plus tard à la date indiquée dans la DP.

Nous comprenons et acceptons sans condition que, conformément à la clause 28.1 des IC, toute contestation ou remise en cause de la procédure ou des résultats de cette demande de propositions pourra seulement être portée à l'attention du Système de contestation des soumissionnaires (SCS) de l'Entité MCA.

⁵ [Supprimer si aucun regroupement n'est envisagé.]

Il est entendu que vous n'êtes pas tenus d'accepter les propositions que vous recevez.

Sincères salutations,

[Signataire autorisé]

**[Nom et fonction du
signataire]**

[Nom du Consultant]

[Adresse du Consultant]

Annexes :

1. Procuration écrite confirmant que le signataire de la proposition est dûment autorisé à signer la proposition au nom du Consultant et de ses associés ;
2. Acte(s) constitutif(s) (ou autres documents justifiant le statut juridique) ;
3. Accords de constitution de coentreprise ou de groupement (le cas échéant, mais sans dévoiler d'informations sur la proposition financière).

Formulaire TECH-2A. Capacité Financière du Consultant

[La capacité financière du Consultant à se mobiliser et à exécuter les Services est capitale. Le Consultant est tenu d'inclure les informations sur sa situation financière. Pour ce faire, il peut déposer les états financiers audités des trois (3) dernières années plus les lettres d'audit OU les états financiers certifiés des trois (3) dernières années plus les déclarations d'impôts.

Le non-dépôt de l'un ou l'autre des documents ci-dessus comme preuve de sa capacité entraînera le rejet de sa proposition.

Si la proposition est soumissionnée par une coentreprise, chacune des entités la composant doit présenter ses états financiers. Les rapports doivent être présentés suivant l'ordre d'importance décroissant des associés au sein de la coentreprise.

L'Entité MCA se réserve le droit de demander des informations supplémentaires sur la capacité financière du Consultant. Tout Consultant incapable de démontrer à travers ses états financiers qu'il est financièrement en mesure d'exécuter les Services requis peut être disqualifié.]

Informations Financières (X 000 USD)	Information historique pour les trois (3) derniers exercices (des plus récents aux plus anciens (X 000 USD))		
	Exercice 1 (Exercice)	Exercice 2 (Exercice)	Exercice 3 (Exercice)
Informations extraites du Bilan			
(1) Total Actifs (TA)			
(2) Actifs Actuels (AA)			
(3) Total Passif (TP)			
(4) Passif Actuel (PA)			
Informations extraites de la Déclaration de revenus			
(5) Total Revenus (TR)			
(6) Bénéfices avant Impôt (BAI)			

Section IV. A. Technical Proposal Forms

Valeur Nette (1) – (3)			
Ratio Actuel (2) / (4)			

Formulaire TECH- 2B. Procès, litiges, arbitrages, actions en justice, plaintes, enquêtes et différends actuels ou antérieurs impliquant le Consultant

[Fournir des informations sur les procès, litiges, arbitrages, actions en justice, plaintes, enquêtes et différends actuels ou antérieurs des cinq (5) dernières années comme indiqué sur le formulaire ci-dessous.]

Le Consultant, ou une société, une entité ou une filiale apparentée, a-t-il été, au cours des cinq (5) dernières années, impliqué dans un procès, un litige, un arbitrage, une action en justice, une plainte, une enquête ou un différend dont la procédure ou l'issue pourrait raisonnablement être interprétée par l'Entité MCA comme pouvant avoir un impact sur l'état financier ou opérationnel du Consultant d'une manière pouvant affecter négativement sa capacité à satisfaire à l'une quelconque de ses obligations en vertu du Contrat ? Non : ____ Oui : _____ (voir ci-après)

Litiges, arbitrages, actions en justice, plaintes, enquêtes et différends au cours des cinq (5) dernières années

Année	Objet du contentieux	Valeur de la sentence contre le Consultant en équivalents de USD :

Formulaire TECH-3. Structure du Consultant

[Fournir un résumé du profil et de l'organisation de votre cabinet/entité et de chacun de vos associés dans le cadre de cette mission. Inclure l'organigramme de votre cabinet/entité. La proposition doit montrer que le Consultant dispose des capacités organisationnelles et de l'expérience nécessaires pour fournir au siège un système de gestion de projet relatif au Contrat et à son équipe projet dans le pays un appui administratif et technique. La proposition doit en outre montrer que le Consultant peut travailler hors siège et fournir rapidement du personnel remplaçant expérimenté.

Maximum 10 pages

Formulaire TECH-4. Expérience du Consultant

[Fournir dans le tableau ci-dessous des informations sur chaque mission pertinente pour laquelle votre cabinet et chacun de vos associés pour la mission ont été officiellement recrutés à titre individuel comme société ou comme l'un des cabinets chefs de file au sein d'un groupement, pour accomplir des services de Consultants similaires à ceux mentionnés dans les Termes de référence de la présente DP, **y compris les missions de nature similaires financées par MCC.** La non-fourniture des informations sur l'expérience dans un quelconque projet financé par MCC peut entraîner le rejet de la proposition. La proposition doit montrer que le Consultant a fait ses preuves dans l'exécution de projets similaires quant à la substance, à la complexité, à la valeur, à la durée et au volume de services liés à cette demande de propositions.

Maximum 20 pages]

Dénomination de la mission :	Montant approximatif du Contrat (en USD courant) :
Pays : Localisation dans le pays :	Durée de la mission (en mois) :
Nom du client :	Nombre personnel-mois total de la mission :
Adresse :	Montant approximatif des services fournis par votre cabinet en vertu du Contrat (en USD courant) :
Date de début (mois/année) : Date d'achèvement (mois/année) :	Nombre personnel professionnel-mois fourni par les consultants associés :
Nom des consultants associés (le cas échéant) :	Nom des cadres professionnels supérieurs de votre cabinet impliqués et tâches accomplies (indiquer les meilleurs profils de cadres, par exemple directeur/coordonnateur de projet, chef d'équipe) :
Description du projet :	
Description des services réellement fournis par votre personnel dans le cadre de la mission :	

Nom du cabinet : _____

Formulaire TECH-5A. Références du Consultant

[Fournir les contacts d'au moins trois (3) références à même de donner les informations substantielles suivantes :

- (a) Le type de travaux exécutés ;
- (b) Confirmer la qualité de l'expérience professionnelle inscrite dans le formulaire TECH-4.

L'Entité MCA se réserve le droit, à sa seule discrétion, de contacter d'autres sources et de vérifier les références et les performances passées d'un Consultant, y compris, sans être exhaustif, les sources énumérées dans le formulaire TECH-4. Pour chaque référence, citer une personne à contacter, sa fonction, son adresse, son fax, son numéro de téléphone et son adresse électronique.]

[Maximum 3 pages]

Formulaire TECH-5B. Références sur les contrats financés par MCC

Chaque consultant ou membre d'une co-entreprise/Association constituant le Consultant doit remplir ce formulaire et inclure les informations sur tous les contrats financés par MCC (soit avec le MCC directement ou avec une Entité MCA, partout dans le monde) à laquelle le Consultant ou un membre d'une co-entreprise/Association qui composent le Consultant est ou a été partie que ce soit en consultant principal, affilié, associé, filiale, Sous- Consultant, ou dans tout autre rôle.

Contrats avec MCC			
Nom du contrat et numéro	Rôle dans le contrat	Montant total du contrat	Nom et adresse de l'Employeur
Contrats avec les entités MCA			
Nom du contrat et numéro	Rôle dans le contrat	Montant total du contrat	Nom et adresse de l'Employeur

Formulaire TECH-6.

Description de l'approche, de la méthodologie et du plan de travail pour l'exécution de la mission

[Remarque pour l'Entité MCA : ce modèle est fourni à titre indicatif uniquement. Les instructions s'appliquant au Consultant et le contenu attendu de lui doivent être adaptés par l'Entité MCA selon les objectifs de la demande de propositions et les critères d'évaluation.]

Le Consultant doit fournir dans cette section une description générale de sa stratégie pour fournir les Services requis conformément aux Termes de référence (TdR) inclus dans la DP. Ces informations doivent être suffisamment complètes pour convaincre le Panel d'évaluation technique que le Consultant maîtrise les défis liés à l'exécution des Services requis et que son approche, sa méthodologie et son plan de travail pourront lui permettre d'y faire face.

Votre proposition technique doit comporter les trois (3) chapitres suivants :

- (a) Approche technique et méthodologie ;
 - (b) Plan de travail ;
 - (c) Organisation et dotation en personnel.
- (a) Approche technique et méthodologie Dans ce chapitre, vous devez expliquer votre compréhension des objectifs de la mission, votre approche par rapport aux services, votre méthodologie pour exécuter les activités et atteindre les résultats escomptés, ainsi que le degré de précision desdits résultats. Vous devez relever les difficultés à résoudre et leur ampleur, et décrire l'approche technique que vous entendez adopter pour régler ces difficultés. Vous devez également décrire les méthodologies que vous comptez adopter et souligner la compatibilité de ces méthodologies avec votre approche. Vous devez par ailleurs décrire les équipements et/ou logiciels indispensables pour assurer les prestations mentionnées dans les Termes de référence.
- (b) Plan de travail Dans ce chapitre, vous devez proposer les tâches principales de la mission, leurs contenus et leur durée, le découpage en phases et les relations entre elles, les étapes (y compris les approbations provisoires par l'Entité MCA) et les dates de soumission des rapports. Le plan de travail proposé doit s'adosser sur l'approche technique et la méthodologie, et mettre en évidence la compréhension par le Consultant des TdR et sa capacité à les traduire en un plan de travail viable. Vous incluez dans ce chapitre la liste des documents finaux, y compris les rapports, dessins et tableaux qui constitueront le résultat final. Le plan de travail doit respecter le calendrier des travaux et des livrables du formulaire TECH-10.
- (c) Organisation et dotation en personnel Ici, vous devez proposer la structure et la composition de votre équipe. Vous devez énumérer les principales rubriques de la mission, les experts clés responsables et le personnel technique et d'appui proposé.

Note : Concernant les points où les Termes de référence parlent des tâches en rapport avec le genre et l'inclusion sociale, la proposition doit clairement décrire comment le Consultant compte

s'y prendre pour s'y conformer dans l'approche technique, la méthodologie, le plan de travail, l'organisation et la dotation en personnel. Il est entendu que ce type de compétences et d'expérience peut ne pas figurer dans les prestations normales de certains Consultants, et, par conséquent, il faut accorder une attention particulière à l'importance d'une proposition interdisciplinaire et d'un plan d'engagement de personnel adéquats.

Maximum 50 pages, tableaux et diagrammes inclus.

Formulaire TECH-7.

Commentaires et suggestions sur les Termes de référence et la mission

[Tous commentaires et suggestions sont les bienvenus pour permettre à l'Entité MCA d'optimiser la mission en vue d'un meilleur rapport qualité/prix. Ces commentaires et suggestions ne doivent pas servir à l'évaluation, mais peuvent faire l'objet de discussion pendant les négociations. L'Entité MCA n'est pas tenue d'accepter les propositions. Si les modifications/suggestions proposées engendrent des changements dans le prix proposé, cela doit être noté, sans indication sur la valeur dudit changement.

Maximum 5 pages]

A: Sur les Termes de référence

[Présenter et justifier ici toute modification ou amélioration des Termes de référence que vous proposez pour optimiser la capacité d'exécution de la mission (par exemple, supprimer certaines activités que vous jugez inutiles ou en ajouter ou proposer un autre découpage des activités).]

B: Sur le personnel et les installations

[Insérer vos commentaires sur le personnel et les installations à fournir par l'Entité MCA.]

Formulaire TECH-8. Composition de l'équipe et Répartition des Tâches

Personnel clé				
Nom de l'employé	Organisation	Domaine d'expertise	Poste d'affectation	Tâches assignées

Formulaire TECH-9. Programme de dotation en personnel (Personnel clé et personnel d’appui)

		Effectif du personnel (sous forme de diagramme en bâtons) ¹													Nombre personnel-mois total			
			1 ²	2	3	4	5	6	7	8	9	10	11	N	Siège	Terrain ³	Total	
Personnel étranger																		
1		[Siège]																
		[Terrain]																
2		[Siège]																
		[Terrain]																
3		[Siège]																
		[Terrain]																
n		[Siège]																
		[Terrain]																
										Sous-total								
Personnel local																		
1		[Siège]																
		[Terrain]																
2																		
n																		
Personnel d’appui										Sous-total								
										Total								

1. L’effectif doit être fourni individuellement pour le Personnel clé et par catégorie pour le personnel d’appui (par exemple : rapporteurs, personnel administratif).
2. Les mois comptent à compter du démarrage de la mission. Pour chaque catégorie d’employés, indiquer séparément l’effectif du personnel pour le travail au siège et sur le terrain.

- 3.** Le travail de terrain désigne les travaux menés hors du siège du Consultant.
- | | |
|---------------------------------------|---|
| Effectif du personnel à plein temps : | Effectif du
personnel à temps
partiel : |
|---------------------------------------|---|

Formulaire TECH-10. :

Formulaire TECH-10 Calendrier des travaux et des livrables

	Tâche	Mois											
		1	2	3	4	5	6	7	8	9	10	11	12
1	Tâche 1 : Plan d’actions de gestion du redressement et des investissements												
2	Tâche 2 : Elaboration de la version provisoire du dossier d’appel d’offres												
3	Tâche 3 : Processus d’appel d’offres aboutissant à l’attribution du contrat												
4	Tâche 4 : Assistance après l’attribution du contrat jusqu’à la Prise en charge des Opérations par le signataire du Contrat de gestion												
5	Tâche 5 : Acquisition de services de consultant pour le suivi du CG												
	Livrables												

Section IV. A. Technical Proposal Forms

1.	Plan de Mobilisation												
2.	Rapport de démarrage												
3.	Plan de Communication												
4.	Etudes préalables d'ordre organisationnel et juridique												
6.	Atelier et concertations avec les parties prenantes												
7.	Rapport de structuration des transactions												
8.	Mémo sur le plan de gestion et de redressement de la SBEE turnaround and management plan												
9.	Appel à Manifestation d'Intérêt												
10.	Examen des soumissions de la Manifestation d'Intérêt												
11.	Demande de Qualification												
12.	Rapports bi-hebdomadaires de Suivi par les Médias												
13.	Ebauche de la Demande de Soumissions												
14.	Evaluation de la Demande de Qualification (DQ)												
15.	Version Finale de la Demande de Soumissions (DS)												
16.	Conférence des Soumissionnaires												
17.	Contributions à l'évaluation												

Section IV. A. Technical Proposal Forms

	des soumissions												
18.	Négociations de l'Accord du CG												
19.	Trois (3) Rapports Mensuels (après Attribution du Contrat) plus Rapport de Clôture définitive												
20.	Documentation sur le processus après l'attribution du Contrat documentation												
21.	Version provisoire des TdR pour le consultant en Suivi du CG Monitor												
22.	Version finale de la DP												
23.	Conférence préalable à la soumission des propositions												
24.	Contributions à l'évaluation des propositions												
25.	Négociations de l'Accord avec le consultant en Suivi du CG												

[Indiquer toutes les principales activités de la mission, y compris les livrables et les autres étapes, telles que les approbations de l'Entité MCA. Pour les missions échelonnées, indiquer séparément les activités, les livrables et les étapes pour chaque phase. Indiquer la durée des activités sous forme de diagramme en bâtons. Consulter les TdR pour la liste complète des livrables. L'exemple type fourni ci-dessus (à remplir par le Consultant suivants les TdR) servira pour le Consultant d'indicateur pour la charge de travail proposée. La soumission sera évaluée dans le cadre de l'Approche technique et de la méthodologie.]

**Formulaire TECH-11 Curriculum Vitae (CV) du personnel
professionnel clé proposé**

1. Position proposée [un seul candidat sera désigné pour chaque position]
2. Nom du cabinet [Insérer le nom du cabinet proposant le personnel]
3. Nom de l'employé [insérer le nom complet]
4. Date de naissance [Insérer la date de naissance]
5. Nationalité [Insérer la nationalité]
6. Formation [Indiquer pour chaque employé les établissements fréquentés et toute formation spécialisée suivie, accompagnée du nom des institutions, des diplômes obtenus et des dates d'obtention]
7. Appartenance aux groupements professionnels
8. Autres formations [Indiquer les diplômes supérieurs et toute autre formation]
9. Pays de l'expérience professionnelle [Citer les pays où l'employé a servi au cours des 10 dernières années]
10. Langues [Pour chaque langue, indiquer le niveau de compétence : bon, passable ou mauvais à l'oral, à la lecture et à l'écrit]
Langue À l'oral À la lecture À l'écrit
11. Dossier récapitulatif des embauches [À partir de la position actuelle de chaque employé, citer dans l'ordre inverse les emplois occupés depuis l'obtention du diplôme, en donnant pour chaque emploi (voir modèle ci-dessous) les dates de début et de cessation d'emploi, le nom de l'employeur et les postes occupés.]
De [année] : À [année] :
Employeur :
Poste(s) occupé(s) :
12. Détails des tâches assignées [Citer toutes les tâches à accomplir en vertu de la présente mission]
13. Les travaux réalisés qui illustrent le mieux la capacité à réaliser les tâches assignées :

Nom de la mission ou du projet :
Année :

Lieu :

Client :

Caractéristiques
principales du projet :
Poste occupé :

Activités réalisées :

14. Références :

[Citer au moins trois références individuelles maîtrisant le travail accompli par l'employé. Inclure pour chaque référence son nom, sa fonction, son numéro de téléphone et son adresse électronique.] [L'Entité MCA se réserve le droit de contacter d'autres sources et de vérifier les références de l'employé, en particulier pour ses performances antérieures dans les projets financés par MCC.]

15. Certification :

Je, soussigné, certifie que, à ma connaissance, le présent CV décrit exactement ma personne, mes qualifications et mon expérience. Je reconnais que toute déclaration inexacte faite de manière délibérée qu'il contiendrait peut entraîner ma disqualification ou ma radiation, si je suis retenu.

Je, soussigné, m'engage par la présente à participer aux côtés de/du **[Consultant]** à la demande de propositions susmentionné. Je déclare en outre que je suis apte et disposé à travailler :

16. pour la/les périodes définies dans les Termes de référence spécifiques joints à la demande de propositions ci-dessus référencé au poste pour lequel mon CV a été inclus dans la proposition du Consultant et

17. pendant la période d'exécution du Contrat.

Signature du membre du Personnel clé

Si le formulaire NE porte PAS la signature du membre du Personnel clé, alors en signant ci-dessous, le représentant habilité du Consultant formule la déclaration suivante :

« Compte dûment tenu de ma signature apposée ci-dessous, si le membre du Personnel clé N'a PAS signé ce CV, je déclare en conséquence que les informations qu'il contient sont, à ma connaissance, vraies et exactes ET JE confirme qu'après m'être entretenu avec lui, j'ai obtenu l'assurance qu'il restera disponible pour cette mission si le Contrat est adjugé sur la base de la période de validité figurant dans la proposition, définie dans la DP. »

Signature du représentant habilité du Consultant

Jour / mois / année

Section IV. B. Financial Proposal Forms

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal according to the instructions provided under Sub-Clause 12.5 of Section I, Instructions to Consultants.

1. Financial Proposal Forms in English

FIN-1 Financial Proposal Submission Form

FIN-2 Price Summary

FIN-3 Breakdown of Price by Activity

FIN-4 Breakdown of Price by Remuneration

Note: Comments in brackets on the following pages serve to provide guidance for the preparation of the Financial Proposal and therefore should not appear on the Financial Proposals to be submitted.

Form FIN-1. Financial Proposal Submission Form

[Location, Date]

To: **Mr. Samuel O. BATCHO, National Coordinator of Millennium Challenge Account -BENIN II (MCA-BENIN II)**

Address: Immeuble KOUGBLENOU, 3^{ème} étage
 Domaine de l'OCBN, Quartier Zongo Nima
 Derrière Compagnie Territoriale de la Gendarmerie du Littoral
 01 BP 101 Cotonou, Republic du Benin

Email: info@mcabenin2.bj

Ladies and Gentlemen:

**Re: Selection of Transaction Advisor for a Management Contract with SBEE
 RFP Ref: PP4-CIF-PRISP-06**

We, the undersigned, offer to provide the consulting services for the above mentioned assignment in accordance with your Request for Proposal (RFP) dated [Insert Date] and our Technical Proposal.

Our attached Financial Proposal is for the fixed price of [Insert amount(s)⁶ in words and figures].

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, as indicated in Paragraph ITC 16.1 of the PDS.

Commissions and gratuities paid or to be paid by us to agents relating to this Proposal and Contract execution, if we are awarded the Contract, are listed below:⁷

Name and Address of Agents	Amount and Currency	Purpose of Commission or Gratuity

We understand you are not bound to accept any Proposal you receive.

Yours sincerely,

⁶ Amount must coincide with the ones indicated under total price of Form FIN-2.

⁷ If applicable, replace this paragraph with "No commissions or gratuities have been or are to be paid by us to agents relating to this Proposal and Contract execution".

Authorized Signatory

Name and title of Signatory

Name of Consultant

Form FIN-2. Price Summary

Re: Selection of Transaction Advisor for a Management Contract with SBEE RFP Ref: PP4-CIF-PRISP-06

	Price ¹	
	US\$	[Local Currency]
Total Price of Financial Proposal		

1. Indicate the total price to be paid by the MCA Entity in each currency. Such total price must coincide with the sum of the relevant sub-totals indicated in Form FIN-3. (Tax provisions relevant to this RFP are set out in Section VI, General Conditions of Contract.)
2. If the RFP contains options, the options will be fully priced and evaluated at 100%.
3. Provide **fully loaded prices** (including any international travel, communication, local transportation, office expenses, and shipment of personal effects, direct and indirect rates and profits).
4. See PDS ITC 12.5 regarding travel-related expenses.

Form FIN-3. Breakdown of Price by Activity

Re: Selection of Transaction Advisor for a Management Contract with SBEE
RFP Ref: PP4-CIF-PRISP-06

[Information to be provided in this Form shall only be used to establish payments to the Consultant for possible additional services requested by the MCA Entity and/or for the purpose of verification of the market reasonableness of the prices offered. Please complete for each phase.]

Group of Activities by Phase	Description ²	
	Price ³	
	US\$	Local Currency
Task 1: Investment and Turnaround Management Action Plan		
Task 2: Drafting the Tender Package		
Task 3: Bid Process until Contract Award		
Task 4: Support during the post-Contract Award and until Operations Takeover		
Task 5: Procurement of Services of MC Contract Monitor		
Total		

- Form FIN-3 shall be completed for the whole assignment. In case some of the activities require different modes of billing and payment (e.g.: the assignment is phased, and each phase has a different payment schedule), the Consultant shall fill a separate Form FIN-3 for each group of activities. Include base and option years.
- A short description of the activities whose price breakdown is provided in this Form.
- Provide **fully loaded prices** (including international travel, communications, local transportation, office expenses, and shipment of personal effects, direct and indirect rates and profit).
- See PDS ITC 12.5 regarding travel-related expenses.

Form FIN-4. Breakdown of Remuneration

Re: Selection of Transaction Advisor for a Management Contract with SBEE RFP Ref: PP4-CIF-PRISP-06

[Information to be provided in this form shall only be used to establish price reasonableness and to establish payments to the Consultant for possible additional services requested by the MCA Entity.]

Name ²	Position ³	Person-Month Fully Loaded Rate ⁴		
Foreign Staff			US\$	[Local Currency]
		Home		
		Field		
		Home		
		Field		
		Home		
		Field		
Local Staff				
		Home		
		Field		
		Home		
		Field		
		Home		
		Field		

1. Form FIN-4 shall be filled in for the same Key Professional Personnel and other Personnel listed in Forms TECH-8 and 9.
2. Professional Personnel shall be indicated individually; support staff shall be indicated by category (e.g., draftsmen, clerical staff).
3. Positions of the Key Professional Personnel shall coincide with the ones indicated in Forms TECH-8 and 9.
4. Indicate separately person-month rates for home and field work. Provide fully loaded prices (including international travel, communication, local transportation, office expenses, and shipment of personal effects, direct and indirect rates and profit).
5. See PDS ITC 12.5 regarding travel-related expenses.

2. Financial Proposal Forms in French

Section 4 B. Formulaires de Proposition Financière

Les formulaires type des propositions financières servent à l'élaboration des propositions financières, conformément aux dispositions de la sous-clause 12.5 de la section I, Instructions aux Consultants.

Formulaire FIN-1 Formulaire de soumission de la proposition financière

Formulaire FIN-2. Résumé des prix

Formulaire FIN-3. Ventilation des prix par activité Formulaire

Formulaire FIN-4. Ventilation des prix par rémunération

Note : Les commentaires entre parenthèses qui apparaissent dans les pages suivantes sont destinés à vous aider dans la préparation de la proposition financière et ne doivent par conséquent pas apparaître dans la proposition financière que vous présentez.

Formulaire FIN-1. Formulaire de Soumission de la Proposition Financière

[Lieu, Date]

A l'attention de : Mr. Samuel O. BATCHO

National Coordinator

Millennium Challenge Account -Bénin II (MCA-Bénin II)

Adresse: Immeuble KOUGBLENOU, 3^{ème} étage
 Domaine de l'OCBN, Quartier Zongo Nima
 Derrière Compagnie Territoriale de la Gendarmerie du Littoral
 01 BP 101 Cotonou, République du Benin

Email: info@mcabenin2.bj

Madame, Monsieur

Re: Sélection d'un Conseiller en Transactions pour la mise en place d'un Contrat de Gestion au profit de la SBEE

RFP Ref: PP4-CIF-PRISP-06

Nous, soussignés, vous proposons nos services à titre de consultant, pour la mission citée plus haut conformément à votre Demande de propositions (DP) en date du **[Insérer la Date]** et notre Proposition Technique.

Notre Proposition financière ci-jointe est fixée au prix de **[Insérer le montant⁸ en toutes lettres et en chiffres]**.

Notre Proposition financière nous lie et est soumise aux modifications résultant des négociations du Contrat, jusqu'à expiration de la période de validité de la proposition, comme indiqué au Paragraphe IT 16.1 des DPO.

Les commissions ou gratifications, le cas échéant, que nous avons payées ou que nous comptons payer à des représentants en lien avec cette Proposition et avec l'exécution du Contrat si le Marché nous est adjudgé, sont indiquées ci-dessous :⁹

Nom et Adresse des Représentants	Montant et Devise	Objet de la commission ou gratification

Il est entendu que vous n'êtes pas tenus d'accepter les Propositions que vous recevez.

⁸Le montant doit coïncider avec ceux indiqués sous le prix total du Formulaire FIN-2.

⁹Le cas échéant, remplacer ce paragraphe par "Nous n'avons payé ou ne devons payer aucune commission ou gratification à des représentants en lien avec cette Proposition et l'exécution du Contrat".

Sincères salutations,

Signataire Autorisé

Nom et fonction du Signataire :

Nom du Consultant

Formulaire FIN-2. Récapitulatif des Prix

Re: Sélection d'un Conseiller en Transactions en vue de la mise en place d'un Contrat de Gestion au profit de la SBEE

RFP Ref: PP4-CIF-PRISP-06

	Prix ¹	
	USD	[Devise locale]
<i>Période de base</i>		
Prix total de la proposition financière		

1. Indiquer le prix total à payer par l'Entité MCA dans chaque devise. Ce prix total doit coïncider avec le montant des sous-totaux pertinents indiqués dans le Formulaire FIN-3. (Les dispositions fiscales correspondant à cette DP sont reprises dans la Section VI, Contrat et Conditions générales.)
2. Si la DP contient des options, celles-ci doivent être intégralement valorisées et évaluées à 100%.
3. Fournir des **prix complets** (avec les déplacements internationaux, la communication, les transports locaux, les dépenses de bureau, l'expédition des effets personnels, les taux directs et indirects et les bénéfices).
4. Voir DPO IT 12.5 en ce qui concerne les dépenses liées aux voyages.

Formulaire FIN-3. Ventilation des Prix par Activité¹

Re: Sélection d'un Conseiller en Transactions en vue de la mise en place d'un Contrat de Gestion au profit de la SBEE RFP Ref : PP4-CIF-PRISP-06

[Les informations présentées dans ce Formulaire seront utilisées uniquement pour définir les paiements au Consultant au titre des services supplémentaires demandés par l'Entité MCA et /ou dans le but de vérifier que les prix proposés sont raisonnables. Veuillez remplir pour chaque phase.]

Groupe d'Activités par Phase ²	Description ³	
	Prix ⁴	
	USD	Monnaie locale
Tâche 1 : Plan d'actions de gestion du redressement		
Tâche 2 : Elaboration de la version provisoire du dossier d'appel d'offres		
Tâche 3 : Processus d'appel d'offres aboutissant à l'attribution du contrat		
Tâche 4 : Assistance après l'attribution du contrat jusqu'à la Prise en charge des Opérations par le signataire du Contrat de gestion		
Tâche 5 : Acquisition de services de consultant pour le suivi du CG		
Total		

Le Formulaire FIN-3 doit être rempli pour la totalité de la mission. Au cas où certaines des activités exigeraient des modes de facturation et de paiement différents (par exemple lorsque le marché est phasé et que chaque phase fait l'objet d'un échéancier différent), le Consultant remplira un Formulaire FIN-3 différent pour chaque groupe d'activités. Inclure les années de base et les années d'option(s).

Une brève description des activités dont le prix ventilé apparaît dans le présent Formulaire.

Fournir des **prix complets** (qui tiennent compte notamment des déplacements internationaux, communications, transports sur place, charges administratives, expédition d'effets personnels, charges et bénéfices directs et indirects coûts et bénéfices directs et indirects).

Cf. DPDP 12.5 pour les dépenses liées aux déplacements.

Formulaire FIN-4. Ventilation de la Rémunération

Re: Sélection d'un Conseiller en Transactions en vue de la mise en place d'un Contrat de Gestion au profit de la la SBEE

RFP Ref: PP4-CIF-PRISP-06

[Les informations fournies dans ce Formulaire ne peuvent être utilisées qu'aux fins d'établir le caractère raisonnable du prix et les paiements au Consultant pour d'éventuels services supplémentaires demandés par l'Entité MCA.]

Nom ²	Fonction ³	Taux Plein par Personne et par Mois ⁴		
Personnel Étranger		USD		[Devise Locale]
		Siège		
		Terrain		
		Siège		
		Terrain		
		Siège		
Personnel Local		Terrain		
		Siège		
		Terrain		
		Siège		
		Terrain		
		Siège		

1. Le Formulaire FIN-4 doit être complété pour le Personnel clé et les autres membres du Personnel repris dans les Formulaires TECH-8 et 9.
2. Le Personnel professionnel doit être indiqué individuellement ; le personnel de soutien doit être indiqué par catégorie (par exemple : rapporteurs, personnel administratif).
3. Les fonctions du Personnel clé doivent coïncider avec celles indiquées dans les Formulaires TECH-8 et 9.
4. Indiquer séparément les taux par personne et par mois pour le travail au siège et sur le terrain. Fournir des prix complets (avec les déplacements internationaux, la communication, les transports locaux, les dépenses de bureau, l'expédition des effets personnels, les taux directs et indirects et les bénéfiques).
5. Voir DPO IT 12.5 en ce qui concerne les dépenses liées aux voyages.

Section V. Terms of Reference

The RFP is issued in English but the proposals are to be submitted in French. This is the reason the English and French versions of the TOR are provided.

In case of discrepancy between the two versions, the English version of the TOR shall prevail.

English version

TERMS OF REFERENCE FOR:

Selection of Transaction Advisor for a Management Contract with SBEE

A. BACKGROUND

The Millennium Challenge Corporation (“MCC”) is a United States government-owned corporation created under Title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 and is responsible for the stewardship of the Millennium Challenge Account. MCC works with developing countries to promote sustainable economic growth to reduce poverty. Eligible countries develop specific investment programs to be funded by MCC through a grant agreement or compact over a five-year period and implemented by the country partner.

On September 9, 2015, acting on behalf of the United States Government (“USG”), MCC signed a second Compact (“Compact”) with the Government of Benin (the “Government” or “GoB”) focused on the electric power sector. The Compact, comprised of a US\$375 million grant from the USG and a \$28 million matching contribution from the GoB, aims to strengthen Benin’s national utility, attract private sector investment, and fund infrastructure investments in electric generation and distribution as well as off-grid electrification for poor and unserved households. The Compact in its entirety can be found at www.mcc.gov. Annex I to the Compact contains a detailed program description.

The Benin Compact will be implemented for a five-year period and is expected to enter into force¹⁰ in spring 2017. A Millennium Challenge Account entity, Millennium Challenge Account-Benin II (“MCA-Benin II” or “MCA”), has been established to implement the Compact program. MCA-Benin II has been established as a legal entity in Benin and is governed by a public-private Board of Directors accountable to the President of the Republic of Benin.

The GoB, as part of their Compact with MCC, intends to pursue a management contract (“hereafter referred to as “MC”) for Benin’s national electric utility company, the Société Béninoise d’Énergie Électrique (“SBEE”) in order to meet the requirements of the country’s rapidly growing electricity

¹⁰ Entry into Force (“EIF”) marks the beginning of MCC’s Compact effectiveness period.

sector. The main objectives of the MC are to: (i) improve governance and management of the operations and business processes of the distribution utility; (ii) improve service quality for electricity consumers; (iii) create a profitable utility that is financially viable; and (iv) increase internal capabilities of local staff.

MCA-Benin II, serving as the client, will hire the Transaction Advisor (“TA”) for the MC. In order to perform services under this contract, the Consultant will also be expected to work in close consultation with certain GoB ministries and agencies and non-GoB entities that will partner with MCA-Benin II to implement the Compact program (each an “Implementing Entity” or “IE”). Each of the Implementing Entities will sign an Implementing Entity Agreement (“IEA”) with MCA-Benin II. Specifically, the Consultant will work closely with the IEs and institutions listed below in the execution of this Terms of Reference (“ToR”).

B. OBJECTIVES OF THE ASSIGNMENT

The objective of this TA assignment is to support the end-to-end process of designing a MC and the bidding, negotiation and contracting process of a MC for SBEE, as well as to provide support to the GoB in defining and planning its oversight of the MC. The design of the MC will draw upon recent consultant work pertaining to SBEE and Benin’s electricity sector more broadly, including an ongoing tariff study being prepared by IdeaConsult and a generation company study being prepared by Tractabel, both under the MCC Compact. Further, and as part of the assignment, the TA will develop an investment and turnaround management action plan for SBEE to be incorporated into the terms of the MC that will draw upon the performance contract (“Contrat Plan”), to be signed between the GoB and SBEE in 2017, as well as the planned investments in Benin’s electricity sector as defined by the recently adopted master plan for the electricity sector.¹¹ Drawing on *inter alia* Benin’s Master Plan, the Contrat Plan, planned investments by donors, and priorities of the SBEE Board, the TA will define and establish Key Performance Indicators (“KPIs”) in the MC contract, and define any financing gap that may be identified.

The TA will work in close coordination with MCA-Benin, SBEE, the Ministry of Energy, Water, and Mines (“MEEM”), the Ministry of Economy and Finance (“MEF”), electricity sector donors, and other stakeholders in the performance of its activities under this assignment. To ensure this coordination, the TA will organize workshops with SBEE, relevant donors, and other stakeholders, as identified by the GoB, in order to ensure buy-in on the proposed management contract structure and ensure that the work of other donors is considered in its structure.

C. IMPLEMENTATION ARRANGEMENTS

1. Accountable Entity

MCA-Benin II is the Government’s accountable entity (“AE”) responsible to the Government and MCC for the implementation of the Compact. MCA will procure all goods and services under the Compact, and will enter into contracts and administer all such contracts with the service providers. MCA is also responsible for managing political processes, reporting quarterly and annual performance

¹¹ Technical work on the Master Plan was completed in 2015 and a condensed version of the plan was prepared in 2016 (Plan Directeur de Développement du Sous-Secteur de l’Énergie Électrique au Bénin: Document Synthèse de L’étude et Plan d’Actions Actualisé, Août 2016). The Council of Ministers is expected to approve the condensed version of the Master Plan in early 2017.

data, implementing the Monitoring and Evaluation (“M&E”) Plan, and public relations.

To carry out the management responsibilities related to the program, in addition to the TA called for in this ToR, MCA-Benin II will utilize professional firms to assist with various technical and managerial functions. These will include the following:

- **Fiscal Agent (“FA”):** The Fiscal Agent is a contractor hired by MCA responsible for handling all the funds provided by MCC. The FA will provide data and information on targets for key process milestones, mainly the commitments and disbursements on key contracts.
- **Procurement Agent (“PA”):** The Procurement Agent is a contractor hired by MCA responsible for managing all the procurement activities associated with the Compact.
- **Program Environmental, Social, and Management Consultant (“PESMC”):** The PESMC will provide program management services to MCA, including design reviews, resettlement planning and implementation, environmental management, construction management, tracking of financial and other contract performance, and support for program close-out.
- **Consultants:** MCA-Benin II has engaged, or will engage, a number of specialized consultancies to deliver studies and other forms of support and assistance to further the objectives of the Compact.
- **Design Consultants:** MCA-Benin II has engaged, or will engage, several engineering consultants to prepare detailed designs and Environmental and Social Impact Assessments (“ESIAs”) as well as construction tender documents and provide construction supervision services. All consultants providing such services will be referred to as Design Consultants.
- **Contractors:** MCA-Benin II will procure a number of contractors who will be engaged to implement the Compact projects under design-bid-build, design-build, or other alternative delivery mechanisms.

2. Implementation Arrangements

MCA-Benin II will sign IEAs with Implementing Entities that will support or facilitate implementation of the Compact. Such may include, but not be limited to, technical input, providing data, participating in reviews, and providing approvals. The following is an overview of the roles and responsibilities of the IEs for the Benin Power Compact most relevant to this consultancy and with whom the TA is expected to liaise:

- **Ministère de l’Energie, de l’Eau et des Mines (“MEEM”):** MEEM provides policy oversight over the electric power sector in Benin and will be an IE under the Compact and will be responsible for supporting the implementation of aspects of Compact projects on behalf of MCA.
- **Ministère de l’Economie et Finances (“MEF”) :** MEF acts as the Principal Representative of the Government of Benin for the MCC Compact, and is represented on the Boards of Directors for MCA-Benin II and SBEE. MEF will also be responsible for any government subsidies to be provided to SBEE in the context of the Contrat Plan.
- **Autorité de Régulation de l’Electricité au Bénin (“ARE”):** ARE regulates the electric power sector in Benin and will be an IE under the Compact and will be responsible for supporting the implementation of specified activities under the Policy Reform and Institutional Strengthening Project on behalf of MCA, per an IEA between MCA and ARE.
- **Communauté Electrique du Bénin (“CEB”):** CEB is a bi-national organization, owned jointly by the Governments of Benin and Togo, established in 1968 that provides generation, import, and transmission to the two countries. CEB will be an IE under the Compact and will

be responsible for supporting the implementation of specified activities under the Electricity Distribution Project on behalf of MCA.

- **Société Béninoise d'Énergie Électrique ("SBEE"):** SBEE is the national electricity distribution company and will be an IE under the Compact and will be responsible for supporting the implementation of Compact projects, most notably the Electricity Distribution and some aspects of the Electricity Generation Projects and aspects of the Policy Reform and Institutional Strengthening Project on behalf of MCA.

For a more extensive discussion of the structure of the power sector in Benin, refer to Annex A to this ToR - Overview: Electricity Sector of Benin.

D. BENIN POWER COMPACT

The second compact between the GoB and MCC focuses on the lack of electricity infrastructure, a binding constraint to economic growth in Benin, where an insufficient quantity and quality of electricity results in reduced productivity, output, and investment for businesses, less effective delivery of public and social services, and diminished well-being and economic opportunity for households.¹² The root causes of these problems lay not only in the poverty of the country but in the policies, institutions, and actors comprising the sector.

The Compact aims at addressing these core problems through policy reforms and institutional strengthening, large-scale investments in energy generation and distribution infrastructure, as well as off-grid electrification and is comprised of the following four projects:

- **Policy Reform and Institutional Strengthening Project:** This project will advance far-reaching policy reforms and strengthen institutions through improved regulation, tariff reform, utility operations and management, energy efficiency, and private investment in power generation. The project advances the Compact's policy reform agenda, including planned conditions precedent ("CPs"). The funding for the TA services and for the MC comes from the budget for this project.
 - **Policy, Regulation, and Institutional Support Activity:** This activity aims to improve the overall governance of the electricity sector in Benin by improving regulation; establishing a tariff policy, plan, and periodic tariff adjustments; increasing energy efficiency; and strengthening the policy and institutional framework for IPPs.
 - **Utility Strengthening Activity:** This activity aims to ensure the operational independence of SBEE and improve its core business functions (i.e., maintenance and accounting) and build capacity so as to become more financially viable and better able to serve its customers. Together with the sector-wide improvements from the Policy, Regulation and Institutional Support Activity, this activity is expected to help improve key aspects of SBEE's operations and to result in its ability to better provide power to consumers of all income classes.

¹² Benin completed its first compact in October 2011. The \$307 million program included the following projects: (i) modernizing and expanding the Port of Cotonou; (ii) promoting land security; (iii) improving access to capital for micro- and medium-sized enterprises; and (iv) creating a more efficient judicial system.

- **Public Information and Education Activity:** This activity aims to inform the public about energy sector policy reforms and to change energy use behavior through information and education about energy efficiency, renewable electricity sources and related topics.
- **Electricity Generation Project:** This project will increase the amount of effective installed generating capacity in Benin by 78 megawatts (“MW”) – equivalent in capacity to one-third of the country’s current peak demand – while helping the country decrease its reliance on unreliable energy imports. This will be achieved through the installation of 45 MW of solar photovoltaic generation and the rehabilitation of 33 MW of thermal and hydroelectric generation infrastructure that will complement the solar investment. The Electricity Generation Project, as originally designed, was comprised of the following three Activities:
 - **Photovoltaic Generation Activity:** Through a feasibility study conducted during compact development, four suitable sites were identified for the installation of photovoltaic power plants to meet local demand and feed into Benin’s electricity network. The sites were selected based on their location in relation to the Benin power grid and substations, as well as their available solar resources, and then evaluated based on which would present the least potential environmental, social, and resettlement impacts. The four sites selected will produce a total of 45 MW of new solar generation. The planned installed capacity for each site is as follows:
 - Natitingou: 5 MW
 - Djougou: 10 MW
 - Parakou: 15 MW
 - Bohicon: 15 MW

The implementation approach for the Photovoltaic Generation Activity is likely to be via an Independent Power Provider (“IPP”) approach. If this is the case, MCA-Benin II would need to procure a separate IPP Transaction Advisor to assist with technical, financial, and legal aspects of the deal.

- **Thermal Generation Activity:** Under this activity, a total of 32 MW of small thermal generation units had been identified to be rehabilitated to complement the solar generation plants by providing electric power to meet nighttime peak demand. However, the Government, as part of its emergency energy plan, has decided to undertake the rehabilitation using its own funds. Therefore, a feasibility study will be undertaken by MCC and MCA to assess opportunities for investment using Compact funding in a new medium-scale thermal generation plant.
- **Hydroelectric Generation Activity:** This activity would rehabilitate an existing run-of-the-river hydropower facility that would provide power in one of the poorest and most remote areas of Benin (Yéripao/Natitingou). The existing generating unit has not produced any power in approximately three years. Work at the site would entail the rehabilitation of a 0.505 MW 2-jet Pelton turbine and the installation of a second turbine of equal capacity. It is expected that MCA-Benin II will procure the services of a Design Consultant and a Contractor or a Design-Build Contractor to complete technical designs, environmental and social impact management and mitigation documents, and rehabilitation/installation.
- **Electricity Distribution Project:** This project will modernize Benin’s electricity

distribution infrastructure to expand grid capacity to accommodate future growth, improve reliability, and reduce losses and outages. The project will improve the grid serving Cotonou, the commercial capital, selected regional networks as a complement to proposed solar generation investments, as well as on a national level by building a modern distribution dispatch and control center to more effectively manage the network, including intermittent power from renewable sources. The Electricity Distribution Project is comprised of the following three Activities:

- **Regional Grid Strengthening Activity:** This activity will replace lines, upgrade substations, install new switchgear connections and build new substations where needed to complement investments in solar power generation (contemplated as part of the Electricity Generation Project) in the cities of Natitingou, Parakou and Djougou. This activity would also build a new 63 kV connection from Porto Novo to Akpakpa, and build a new substation to improve network capacity and reliability in Benin's second largest city.
- **Cotonou Grid Strengthening Activity:** This activity would improve reliability of the network in response to the anticipated increase in demand through a variety of infrastructure projects identified as priorities by feasibility studies, including new lines, switchgears, new substations, and city network extension.

MCA-Benin II is in the process of procuring a Design Consultant to prepare detailed designs, ESIA's, and all construction tender documents for both the Regional Grid Strengthening Activity and the Cotonou Grid Strengthening Activity.

- **National Electricity Dispatch Activity:** This activity would build a national distribution control center ("NDCC"), a necessary requirement to accommodate the planned photovoltaic generation, and to provide real-time network monitoring, control, and data collection. This Activity will be implemented under a design-build approach.
- **Off-grid Electricity Access Project:** This project will expand access to electricity in a country where only one-third of the population has electricity through funding of an off-grid clean energy grant facility along with policy and institutional strengthening to support the entire off-grid power sector in Benin. It is comprised of the following two activities:
 - **Off-Grid Clean Energy Facility ("OGCEF"):** The facility would finance off-grid clean energy solutions (e.g., small-scale biomass, solar and hybrid systems) for communities, continuity of service for critical public infrastructure (such as hospitals and water supply), renewable energy resource devices for individual families, including for the purpose of reducing women's time and labor burdens (e.g., household photovoltaic units), and energy efficiency measures nationwide. The facility would seek to leverage MCC's resources through partnerships with private companies, Non-Governmental Organizations ("NGOs"), communities, or other entities that demonstrate viable off-grid, clean energy solutions for Benin. A facility manager will select the most promising partners based on a strict set of criteria, including that each proposal must meet an economic rate of return of ten percent or higher.

- **Enabling Environment for Off-Grid Electricity:** Given that OGCEF envisions a funding window dedicated to village-scale solutions (i.e., mini-grids), it is imperative that a policy and legal framework be developed addressing an off-grid approach to rural electrification in Benin. To date, the preferred approach to electrification has been grid extension but there is a growing awareness of the limitations of that approach. To accelerate the rate of electrification, it has become clear that some of the obstacles to off-grid electrification have to be removed; hence this project. This activity will complement the OGCEF by establishing a clear and transparent framework for off-grid electrification to clarify regulation, ownership, operations, tariffs, subsidies and other issues pertaining to mini-grids.

E. GOVERNMENT OF BENIN DECISION REGARDING MANAGEMENT CONTRACT

Many of the Compact activities described above were designed to improve the performance of SBEE, a key pre-condition to meeting the overall objective of the Benin Power Compact, which is to improve the quantity and quality of supply of electricity in Benin. The Compact strengthens SBEE through the following initiatives:

- To improve the governance and management of SBEE, as CPs to EIF of the Compact, the GoB must sign a Contrat Plan with SBEE, install a qualified Board of Directors for the utility, and competitively recruit a new Director General.
- To strengthen the finances of SBEE, the GoB must make progress on its arrears to the utility as a condition precedent to EIF of the Compact; further, among the CPs to the release of \$80 million in Compact funding (to be used for the construction of solar photovoltaic plants) is a requirement for the GoB to be in substantial compliance with a Tariff Plan to be developed and implemented pursuant to the Compact, which will establish a course of action to move SBEE over time to full cost-recovery tariffs.
- To strengthen the operations of SBEE, the Utility Strengthening Activity was designed to improve maintenance capabilities, including training, provision of vehicles, tools, equipment, spare parts, and development of a maintenance management system. The activity would also provide for financial and accounting improvements through capacity building and investments in information technology infrastructure, implementation of a stock management system, and support for reconciliation of customer accounts and other elements of SBEE's accounting system.
- To improve SBEE's asset base, the Compact provides for distribution system improvements, as noted above, along with increased national power generation (to be built either through an IPP arrangement or as a government asset).
- To support SBEE in its core mission of electricity distribution, the Compact is funding an ongoing study to assess the optimal arrangement for the ownership and operations of GoB (direct and indirect) generation assets which may lead to the creation of a national generation company that would assume responsibility for all of the generation assets currently owned or operated by SBEE, if the GoB decides to pursue such a course of action.

The combined intent of these measures in the Compact was to insulate the utility from political pressure and interference into operational matters, instill more professional and results-oriented leadership, and to then support that leadership with the management systems, software, staff training, equipment, and infrastructure necessary for SBEE to become a higher-performing utility. At the time the Compact was developed, these measures were viewed by the MCC and GoB teams as the furthest extent to which utility reform would be possible, and, therefore, more extensive private sector participation – whether through a management contract, leasing, concession, partial or full privatization or other modality – was not considered.

However, the Government of President Patrice Talon, which assumed power in April 2016, has decided to pursue a management contract for SBEE, and has requested MCC support in doing so. The Government remains committed to undertaking other utility-related reforms in the Compact, including the signing of a Contrat Plan (expected in early 2017), installation of a qualified Board of Directors for SBEE, payment of government arrears to the utility, tariff reform, and consideration of establishing a national electricity generation company (decision expected summer 2017). The condition precedent in the Compact for the competitive recruitment of a new Director General will be revised to accommodate as that executive function would now be fulfilled by the MC.

President Patrice Talon has committed to serving only one five-year term and hence is committed to achieving results in a very short period of time. For the electricity sector, the Government views the MC as a necessary pre-condition to improved and more sustainable service delivery. As a result, the TA will be working on a demanding schedule with very high political visibility reaching up to the level of the Head of State.

F. SCOPE OF THE ASSIGNMENT

The TA's activities will involve provision of services in three phases:

- **Phase 1: Due Diligence and Transaction Structuring** – expected to last three months. The TA will prepare a Transaction Structure Report (“TSR”). The TSR will include a report summarizing the detailed legal, financial, and technical due diligence for the MC, as well as the results of market soundings. The TA will facilitate workshops with relevant decision-makers throughout this phase to discuss the TSR's recommendations and to facilitate the decision-making process to proceed to Phase 2.
- **Phase 2: Transaction Implementation** – expected to take six months to reach a negotiated agreement. The TA will assist MCA/SBEE/GoB with marketing the transaction to potential contractors, drafting the documents (including the Request for Bids (“RFB”), contractual documentation, and support the MC procurement process through evaluation of bids, answering questions from Bidders and achieving Contract Award. The TA will also assist MCA/SBEE/GoB during the post-Contract Award up to appointment of an MC Contract Monitor Consultant as further explained below.
- **Phase 3: Oversight Arrangements** -- The TA will assist MCA/SBEE/GoB with the definition and procurement of the services of an MC Contract Monitor Consultant to assist the SBEE Board during the term of the management contract in measuring and monitoring the performance of the Management Contractor.

PHASE 1: DUE DILIGENCE AND TRANSACTION STRUCTURING

The main purpose of this phase is to: (i) undertake a detailed technical, legal and financial due diligence of SBEE using existing data and limited additional investigations; (ii) undertake a market sounding of potential management contractors; (iii); analyze contract options and present a recommended contract term sheet; (iv) prepare a communications plan, and support the MCA/SBEE/GoB communications teams; and (v) facilitate workshop(s) to review the findings with stakeholders (including MCA, GoB, SBEE, and donors) to obtain final comments on the contracting process prior to proceeding to Phase 2.

The following paragraphs detail the main advisory services that the TA shall provide to complete Phase 1.

Task 1: Investment and Turnaround Management Action Plan

Sub-task 1.1: Project Kick-off

Prior to project kick-off, the TA will fully mobilize its staff. During this mobilization period, the TA will assemble its core team. The TA is also expected to undertake a preliminary project kick-off before the mobilization of its full team in Benin and prepare a Mobilization Plan. This preliminary kick-off (with MCA) will focus primarily on data collection, coordination with GoB, the project schedule, and preparation for the full project kick-off.

A project kick-off meeting with the TA full team will be held in Cotonou where the TA will discuss with the MCA/SBEE/GoB, amongst other things, the work plan, project schedule, data requirements, the approval protocols for deliverables and the preferred protocol for communication between MCA/SBEE/GoB and the TA. The project kick-off should also mark the start of the due diligence process.

Sub-task 1.2: Assessment of SBEE current operations, financial situation, and organizational structure

This sub-task shall include:

Technical Due Diligence

- Collation and synthesis of due diligence undertaken on the sector and SBEE.¹³
- Prepare the definition of SBEE's service area and asset list (as available) for inclusion in the MC.
- Analysis of key performance indicators, in particular those which may be included in the MC, drawing from the GoB-SBEE Contrat Plan, or other sources.
- Review SBEE's operations against the benchmark of the International Finance Corporation's ("IFC") Performance Standards ("PS").¹⁴
- Review and, if necessary, update and fine-tune SBEE's financial model (under development by a separate consultancy for the Tariff Study¹⁵), including technical inputs to the model such

¹³ MCC conducted due diligence of Benin's electric power sector during Compact development from 2013-2015, including policy and institutional assessments (conducted by TetraTech), feasibility studies of proposed distribution and generation investments (conducted by Cardno/Fichtner) as well as a national survey of the willingness to pay for electric power. These reports and others produced following Compact signing will be made available to the TA.

¹⁴ It is important to note that the PESMC (described above) will have responsibility under the Compact for assisting SBEE to put into place an Environmental and Social, Health and Safety Management System ("ESHSMS"). To the extent that the PESMC's early work on developing the ESHSMS for SBEE, i.e., the initial environmental scan of SBEE's environmental policies, procedures, and operations, precedes the TA's technical due diligence, the TA may benefit from that review. In addition, the management contract will, as one of the action items, make reference to the need for SBEE's ongoing compliance with the ESHSMS once it has been fully developed with the aid of the PESMC and adopted by the SBEE management and Board. It should further be noted that, during Compact development, MCC funded initial ESAs as part of the feasibility studies of proposed distribution and generation investments (conducted by Cardno/Fichtner), as well as a resettlement policy framework and additional field work conducted by MCC and its due diligence consultants. Available reports will be made available to the TA.

¹⁵ A financial model for SBEE was also recently developed under work funded by Agence Francaise de Developpement ("AFD") through Nodalis Conseil, Atelier De Presentation / Restitution Du Modele Technico-Financier Pour La Societe Béninoise d'Energie Electrique, March 2015.

as SBEE's capex/opex and demand forecasts.

- Review (i) SBEE's commercial issues; (ii) the status and needs of SBEE management information systems and information technology systems; (iii) the finance and administration of SBEE, including procurement functions, resources and responsibilities; and (iv) review and assess SBEE's institutional and organizational structure, including staff capabilities and skills required.¹⁶ As part of the review of SBEE's organizational structure and staffing, the TA will be provided with the results of an analysis of recruitment, hiring, training, and promotion policy and practice to ensure equal opportunity for men and women at the institution. It is expected that the recommendations of this separate analysis will be integrated into utility reforms and performance goals in the MC as per the gender integration aspect of the Utility Strengthening Activity under the Compact.
- Identify CPs that would need to be met prior to a MC taking operational control of SBEE.
- Review and check the data on SBEE that will be provided for the virtual [and physical] data room[s] to be made available to potential bidders during the bidding process in the implementation stage (Phase 2).

Financial Due Diligence

- Review SBEE's financial statements and note where changes are needed to adhere to International Financial Reporting Standards ("IFRS") and their interpretation as adopted by the International Accounting Standard Board ("IASB").
- Undertake a financial review of SBEE's audited and unaudited financial statements (management accounts shall be used where audited financials are not available) for the last four financial years (as available).

Sub-task 1.3: Transaction Structuring

In order to draft the tender documents in Phase 2, there are a number of issues to be explored in advance and in depth by the TA with the relevant parties in Benin. Such issues include the following:

- What are the prime objectives of the contract?
- What is the intended scope of services?
- What authority will the MC have and to what extent will the MC be responsible for setting SBEE strategy?
- How many people will be employed by the contract and in what roles?
- How should performance targets be set and measured, what are the critical indicators and how often should they be reported?
- What should be the approach to capability building?
- What would be the duration of the contract and structure (base and options)?¹⁷
- What would be the estimated value of the contract?

¹⁶ A 2013 assessment of SBEE's human resources (Rapport Final, GECA Prospective) found that technical staff comprise only one-third of SBEE's personnel, and that substantial training, equipment, and other capacity building are needed to improve the performance of SBEE's staff.

¹⁷ A standard term of management contract would be five years, consisting of a three year base period and two year option period. Given the timing of the management contract in the context of the term of the Compact, if the option were to be exercised, it would extend post-compact and, therefore, an alternative source of funding for the management fees for years four and five would have to be explored as a topic for consideration in the TSR.

- What should be the form of remuneration?
- Who would be involved in oversight of the MC and what would be the reporting requirements?

These questions shall be addressed through a series of structured interviews and facilitated workshops to arrive at a consensus position on the issues.

Sub-task 1.3 will also include a ‘needs assessment’ that will identify any skills deficiencies within SBEE that should be addressed in the MC or through donor investments. This assessment will help shape the resourcing requirements set forth in the MC and should take into consideration planned donor programs to build and expand capacity, including the MCC Compact Policy Reform and Institutional Strengthening Project (with its Policy, Regulation and Institutional Support Activity and Utility Strengthening Activity) as well as the European Union’s (“EU”) Renforcement des Capacités des Acteurs du Secteur Electrique du Bénin (“RECASEB”) project or other programs planned by AFD and the World Bank. The aforementioned scopes of work will be provided to the TA during the due diligence period.

This sub-task will also require an assessment as to structuring the contracting and oversight for the MC. The MCA, working through the Procurement Agent, would manage the procurement process for securing the MC and MC Contract Monitor (as further examined below). The MCA is generally the primary contracting party under the Compact. The TA will examine and advise on the the preferred and an alternative contracting and oversight mechanisms for the MC, that may include individual or shared responsibility between the MCA and SBEE. In so advising, the TA will examine whether SBEE’s current legal framework, to include SBEE constituent and governance documents, terms, structures and procurement procedures, as well as GoB regulation and policy, is adequate for implementing the MC and ensuring robust oversight over the same. This analysis will take the form of a ‘gap’ assessment and will include recommendations on what, if any, new or modified legal instruments are required. This sub-task will also identify any approvals required within the GoB to put the MC in place.

At critical points in the process (at least during the mid-point and conclusion of Phase 1, but additional times may be necessary), a workshop will take place with SBEE and key stakeholders to lay out progress on the task and to obtain relevant input for incorporation into the plan for the management contract. As necessary to finalize the plan, individual stakeholder consultations may also take place.

Sub-task 1.4: Investment and turnaround management action plan

Development of an investment and turnaround management action plan, which – if implemented – will see a “turnaround” of SBEE in improvements in financial and operational terms over the next five years, and in so doing improve the availability and reliability of electric power supply to consumers. Broadly, such plans will focus on:

- Identification of best practice initiatives to be implemented.
- Development of an investment plan associated with identified initiatives.
- Development of implementation plan (short term, medium term and long term).
- Development of KPIs for monitoring progress of the initiatives and SBEE performance, and also associated targets.

SBEE presently has funding allocated for \$110 million of distribution infrastructure improvements

under the MCC Compact (Regional Grid Strengthening Activity and the Cotonou Grid Strengthening Activity)¹⁸ as well as development of the NDCC.¹⁹ In addition, the EU, AFD, and European Investment Bank (“EIB”) are jointly funding a €58 million project for the restructuring and extension of SBEE’s network in Abomey-Calavi and the Atlantic Department.²⁰ Beyond that, as SBEE does not possess the requisite funds to meet the balance of the likely investment plan, this sub-task will require identifying potential funding sources and compiling those committed and uncommitted resources as part of the information to be provided in the Request for Qualification (“RFQ”).

The MC will be responsible for implementing the above-mentioned plans over a period of five years (likely three years with a two-year option). The MC will be provided flexibility to add more initiatives and amend the recommended initiatives with approval from a Steering Committee, which will be formed to monitor the MC’s performance. This Steering Committee will be made up of the SBEE Board, the Donors (comprised of MCA, the World Bank, AFD, and EU) and an MC Contract Monitor Consultant.

PHASE 2: TRANSACTION IMPLEMENTATION

The main purpose of this phase is to: (i) assist MCA/SBEE/GoB in marketing the transaction to potential private partners; (ii) assist in the pre-qualification of bidders; (iii) assist with the competitive tendering process through to Contract Award; and (iv) provide assistance as required through to the commencement of the MC.

The main advisory services that the TA will provide to complete Phase 2 are:

Task 2: Drafting the Tender Package

Development of the draft MC tender package, which will include the following documentation:

- Data Room rules for prospective bidders governing use of the virtual [and physical] data room[s], and bidder confidentiality undertakings.
- Market sounding, including conducting preliminary informal survey of potential MC partners to establish base level of interest.
- Expression of Interest (“EOI”), including the design of a process to gain market reaction to a potential RFB.
- Request for Qualification (“RFQ”), including the design of the pre-qualification process and criteria and drafting the pre-qualification procedures. The criteria should emphasize, among other points: (i) experience and plan for capacity building; and (ii) experience operating electricity distribution utilities in similar environments.
- MC documents, which are presently anticipated to include: (i) Request for Bids including the

¹⁸ A request for proposals for the design, supervision, and monitoring of distribution works planned for funding under the Compact was released on May 27, 2016 and is expected to be awarded in January 2017.

¹⁹ A design-build RFB for the construction of a national dispatch center, to include SCADA, is expected to be released by MCA-Benin II in the first quarter of 2017.

²⁰ Engineering designs are complete for the AFD/EU/EIB project (Projet Restructuration et extension des réseaux de la SBEE dans la commune d'Abomey-Calavi et le Département de l'Atlantique) and the bidding period for works is currently underway.

Instructions to Bidders and Information Memorandum; and (ii) MC Agreement.

The TA will also update all bidding and contractual documents as required, to include revisions to the bidding documents from funders of the MC as well as input from prospective bidders.

When drafting the MC documentation, the TA should:

- Allocate legal risks with reference to what is likely to be commercially acceptable and in accord with market practice as evidenced in comparable transactions, in light of discussions with MCA/SBEE/GoB.
- Point out material legal risks or potential liabilities which MCA/SBEE/GoB should understand, consider and approve, such as unusual or onerous risk-allocation, uncertainties relating to the operability or enforceability of the MC agreement(s).
- Develop a process that allows potential bidders to tailor their turnaround plans based on their additional due diligence and on-the-ground assessment.
- Incorporate, where possible, the guidance of the SBEE governance consultant tasked with facilitating the development of a Contract Plan between SBEE and GoB.
- Allow bidders to present their abilities to invest in capital expenditures, for which they would receive additional consideration.

When drafting the MC documentation, the TA should also take into account these points:

a) MCC critical principles:

MCC's enabling legislation includes the requirement that all program procurements, such as for the MC, are open, fair and competitive, and use procedures in a transparent manner. MCC has developed and requires the use of the PPG under the Compact to ensure compliance with this legal requirement. The TA will have to structure the procurement of the MC in compliance with such, or propose an alternative procurement method that otherwise satisfies the principles of the PPG, including satisfaction of:

- MCC Program Procurement Principles
- Eligibility
- GOE determination
- Anti-Corruption, Anti-Money Laundering, Terrorist Financing, and Trafficking in Persons Statutes

Other mandatory principles, terms and conditions would be required in the procurement documents as detailed below and will be subject to MCC approval.

b) Content of the procurement document

It is mandatory that the procurement documents prepared by the TA and subsequently the management contract negotiated with the successful bidder include clauses that are specific and common in all projects funded in whole or in part by MCC. Their exact wording shall fully conform to the text of the equivalent clauses included in the most recent version of the standard procurement document approved by MCC, valid at the time of procurement. Please refer to the current versions of these documents. Any deviations from the established wording will have to be approved by MCC.

The mandatory clauses refer to:

- The General Provisions (Annex D)
- Government-Owned Enterprises;
- Eligibility;
- Cost and Price Reasonableness;
- Past Performance / Reference Check;
- Bid Challenge;
- Social and Gender Integration Plan;
- Prohibition of Harmful Child Labor;
- Prohibition of Trafficking in Persons;
- Prohibition of Sexual Harassment;
- Taxation and Tax Exemption.

c) Qualification criteria

TA will propose the most appropriate qualification criteria according to the nature of the project, prevailing market conditions, international practice and Government's best interest.

Qualification criteria may include considerations of bidders':

- Experience in operating in comparable markets;
- Financial standing;
- Minimum operating revenue from a similar operation run by the bidder;
- Quality of similar services.

d) Evaluation criteria

Depending on the nature of the PPP transaction, evaluation criteria proposed by the TA may include considerations of:

- The lowest lifecycle cost to the Government for managing/operating the respective utility.

Task 3: Bid Process until Contract Award

Supporting MCA/SBEE/GoB in managing the tender process, working in close collaboration with the PA, to include (i) assisting with the publication of notices to bidders, and (ii) assisting with drafting responses to requests for clarification including the following activities:

- Identify potential investors and market the MC opportunity to international and regional companies.
- Assist MCA/SBEE/GoB in coordinating the pre-qualification process, including the evaluation of bidders.
- Advise MCA/SBEE/GoB on all transaction-structuring issues to obtain key decisions throughout the process.
- Assist in establishing a virtual [and physical] data room[s], the data room rules, and bidder confidentiality undertakings.
- Assist MCA/SBEE/GoB in conducting a fair and transparent bidding process compliant with

the MCC Program Procurement Guidelines²¹, addressing such issues as how bids will be structured, permissible bid combinations, etc. The process will also include finalizing the selection process, including the bid evaluation criteria.

- Assisting MCA/SBEE/GoB in providing information to bidders and responding to any questions bidders may have.
- Assist MCA/SBEE/GoB in organizing a Bidders' conference, preferably in Cotonou and/or in Europe (European location to be specified later; likely to be Paris) depending on market demand. If held in Cotonou, it could include on-ground site visits and due diligence of SBEE over a 2-3 day period.
- Assist MCA/SBEE/GoB in the evaluation of the proposals and in negotiations with the Preferred Bidder until the date on which the MC is signed with the ultimate contract awardee.

Task 4: Support during the post-Contract Award and until Operations Takeover

After Contract Award is achieved, the TA will assist MCA/SBEE/GoB from Contract Award until Operations Takeover. The tasks would include:

- Any necessary advice in relation to implementing the transfer of operations to the selected management contractor and in addressing any significant closing issues that may arise.
- Assisting in the MC CP satisfaction process to accomplish Operations Takeover.
- Advising on and drafting any CP waivers.
- Any other legal assistance needed to reach Operations Takeover plus three (3) months thereafter (to assist in orientation of the MC Contract Monitor).

The TA will carry out any necessary analysis and any other relevant tasks that may be identified in the course of the MC procurement and will produce a high-quality work product in accordance with international best practices.

PHASE 3: OVERSIGHT ARRANGEMENTS

As the success of the MC will partially depend on third-party validation, the TA will also draft a TOR for a MC Contract Monitor Consultant that MCA/SBEE/GoB will use to procure a consultant to oversee and advise the SBEE Board on the performance of the Management Contractor.

The activities of Phase 3 will run in parallel with Phase 2. The main advisory services that the TA will provide to complete Phase 3 are:

Task 5: Procurement of Services of MC Contract Monitor

Sub-task 5.1: Shape the scope of the MC Contract Monitor

The role of the MC Contract Monitor is envisioned as overseeing the MC during its initial term of three (3) years in order (i) to evaluate the performance of the MC and SBEE under the management contract in accordance with its terms and conditions for the benefit of the SBEE

²¹ Available at www.mcc.gov

Board of Directors and (ii) to advise MCA-Benin with respect to all related matters, so that it can make timely decisions not only with respect to all disbursements under the MC but also any disagreement or dispute between the parties that may arise. As such, it is envisioned that the duties of the MC Contract Monitor would include the following:

- Review the regular reporting required by the MC and conduct periodic testing and analysis as may be necessary to validate the reported progress toward particular indicators;
- Review and evaluate plans and budget developed by the MC for reasonableness in order that the SBEE Board may understand how well the MC is performing relative to existing plans and budgets and its obligations under the management contract; and
- In the case of disagreements over contract performance or payments to the MC, the monitor will be expected to inform and advise MCA-Benin in a manner that will assist it to determine how best to resolve the disagreement.

The TA shall assist MCA-Benin and stakeholders in articulating and finalizing the scope of services for the MC Contract Monitor. This would be done through structured interviews and a facilitated workshop to arrive at a consensus position on the scope of services and reporting relationship for the Contract Monitor, culminating with drafting the Request for Proposal (“RFP”) for the Contract Monitor services.

Sub-task 5.2: Assist with procurement of Contract Monitor

The TA shall support MCA-Benin and the PA with the procurement of the services for the MC Contract Monitor by providing technical support in responding to questions that may arise from prospective consultants, developing evaluation criteria, supporting the evaluation panel, and advising on contract negotiation matters.

G. DELIVERABLES

The TA will prepare the following set of work outputs:

Deliverable Schedule	Due Date
Phase 1 (Kick-off meetings in Cotonou = S)¹	
Mobilization Plan	S + 1 week
Inception Report	S + 3 weeks
Communication Plan	S + 2 months
Technical, Financial, Organizational, and Legal Due Diligence	S + 2.5 months
Workshop and Stakeholder Consultations	S + 3 months
Transaction Structuring Report	S + 3 months
Memo on the SBEE turnaround and management plan	S + 3 months
Phase 2	
Call for Expressions of Interest	S + 2 months
Review of EOI Submittals	S + 3 months
Request for Qualification	S + 3 months
Bi-weekly Media Monitoring Reports	Start S + 3 months, Bi-weekly basis
Draft Request for Bids	S + 4 months
RFQ Evaluation	S + 5 months

Final Request for Bids	S + 5 months
Bidders' Conference	S + 7 months
Inputs in the evaluation of the bids	S + 8 months
Negotiated MC Agreement	S + 9 months
Three (3) Monthly Reports (post-Contract Award) plus final Closing Report	S + 10, 11 ,12 months
Post-Contract Award documentation	TBD
Phase 3	
Draft Terms of Reference for MC Contract Monitor	S + 3 months
Final Request for Proposals	S + 4 months
Pre-proposal Conference	S + 5 months
Inputs in the evaluation of the proposals	S + 8 months
Negotiated MC Contract Monitor Agreement	S + 9 months

For the purpose of presenting the project schedule, the start date is defined when the TA team is mobilized to attend the kick-off meetings in Cotonou. As indicated below, it is recognized that this timeline may need to be revisited if there are delays in securing the necessary MCA/SBEE/GoB approvals, or if negotiating and executing the MC Agreement takes longer than anticipated.

The TA will present deliverables according to the schedule presented above. All draft deliverables will be submitted electronically and all final deliverables will be submitted electronically and in five (5) hard copies to be delivered to MCA-Benin II in Cotonou. All deliverables will be submitted in French. Packaging and packing for all items delivered hereunder will be in accordance with commercial practice and adequate to ensure acceptance by common carrier and safe arrival at destination. The contract number will be placed on each package, report, or other deliverable.

In general, all electronic documentation will be accessible via: (1) MS Windows based MS Office 2010 (or later) products, including Word for text, Excel for spreadsheets and data tables, PowerPoint for presentations and Project for schedules; (2) AutoCAD 2002 (or later) and in PDF format for original drawing files; (3) JPG format for digital photos; and (4) ArcView files for GIS data as well as PDF vesions. Any raw data not submitted through spreadsheets should be submitted in either Microsoft Access (*.accdb file), STATA (*.dta file), or SPSS (*.sav file). Any other format(s) must be agreed upon by MCA-Benin II in advance of submission.

H. PERIOD OF PERFORMANCE AND PAYMENT SCHEDULES

The period of performance shall be twelve (12) months. The proposed payment schedule is as per below:

Deliverable Schedule	Due Date	Payment (%)
Phase 1		
Inception Report	S + 3 weeks	5%
Communication Plan	S + 2 months	5%
Technical, Financial, Organizational, and Legal DueS	S + 2.5 months	5%
Transaction Structuring Report and memo on turnaround and management plan	S + 3 months	10%
Phase 2		
Call for Expressions of Interest	S + 2 months	5%

Request for Qualification	S + 3 months	5%
Draft Request for Bids	S + 4 months	10%
RFQ Evaluation	S + 5 months	5%
Final Request for Bids	S + 5 months	10%
Inputs in the evaluation of the bids	S + 8 months	5%
Negotiated MC Agreement	S + 9 months	10%
Final Closing Report	S + 12 months	5%
Phase 3		
Draft Terms of Reference for MC Contract Monitor	S + 3 months	5%
Final Request for Proposals	S + 4 months	5%
Inputs in the evaluation of the proposals	S + 8 months	5%
Negotiated MC Contract Monitor Agreement	S + 9 months	5%

I. APPROVALS AND REPORTING REQUIREMENTS

In summary, the following key approvals are required by MCA/SBEE/GoB and MCC, as the funder of the proposed management contract. The schedule assumes two (2) weeks for each approval; any delay in these approvals will require a review of the schedule:

- Request for Qualification (RFQ): S + month 3
- Draft Request for Bids (RFB): S + month 4
- Shortlist and notification to Bidders: S + month 5
- Final RFB: S + month 6
- Proposal evaluation and notification of Preferred Bidder: S + month 8
- Negotiated MC Agreement: S + month 9

The TA will report to MCA-Benin II. The TA will coordinate with the SBEE Board, GoB, and MCC on all document development and interface with other outside parties as may be designated by GoB.

J. THE TEAM & WORKING ARRANGEMENTS

The TA will assemble a team of both Key Personnel and support personnel with in-depth experience in international best practices in the management and implementation of private sector participation in the energy sector and, in particular management contracts in the electricity sector. The successful bidder should also bring to bear local and regional knowledge, fluency in French, and sufficient technical and administrative support throughout the term of the contract.

Additional staff and staffing requirements should be proposed by the TA as necessary and based on the TA's proposed approach that will achieve the objectives of the assignment. To the extent that additional personnel, representing other disciplines, are needed to carry out any of the tasks in the Scope of Services, the TA must present for MCA-Benin II's approval both the qualifications and billing rates for such new personnel. The TA must provide and maintain all Key Personnel. Any changes are subject to prior approvals by MCA-Benin II in accordance with the terms of the contract.

To complete this, work the following **Key Personnel** would be required:

Utility Restructuring Expert (Team Lead) - Expert with fifteen-twenty (15-20) years of

experience in restructuring of utilities and sector reforms in emerging (non-OECD) countries. The expert shall have experience in developing and contracting for a management services contract, concession and/or affermage transaction within the past seven (7) years.

Utility Expert - Engineer with at least ten (10) years of direct experience in management of electricity generation, transmission and distribution companies in emerging (non-OECD) countries, especially the implementation of organizational restructuring, turnaround, change management and business process reengineering.

Utility Financial Expert - Expert with at least ten (10) years of experience in supporting utility financial planning, reporting and management in emerging (non-OECD) countries, including experience in business planning and implementing and managing relevant financial information systems.

Procurement/Transactions/Legal Expert – Expert with fifteen-twenty (15-20) years of experience supporting commercial transactions and procurement in the public sector in the emerging (non-OECD) countries (experience working with one of the Multilateral Development Banks is particularly relevant) -- including the development of bid documents, supporting negotiations in the energy sector and conducting financial and technical evaluation of bids. The expert shall have experience in developing and contracting for a management services contract, concession and/or affermage transactions within the past seven (7) years.

In addition, the TA team will require the services of more junior and/or short term technical experts, to include:

- Environmental Specialist, to conduct the environmental assessment/scan.
- IT specialist, to establish and maintain the virtual data room.
- Junior Engineers with experience in management of electricity generation, transmission and distribution companies in emerging (non-OECD) countries.
- Mid-level lawyer to support the Procurement/Legal Expert.
- Communications Specialist (senior and junior) to develop and support the communications strategy.

K. ESTIMATED LEVEL OF EFFORT

The assignment is anticipated to be concluded within a period of twelve (12) months (including the period listed under Task 4, post-award). During this period, the work will be broken down into distinct phases with different levels of staffing expected. The estimated level of total number of personnel-day for key personnel is proximately 1,000 person-days, based on the following labor-category breakdown:

Labor Category	Days
Utility Restructuring Expert	200
Utility Expert	140
Utility Financial Expert	120
Procurement/Transactions/Legal Expert	140
Environmental Specialist	30
IT Specialist	30
Junior Engineers	150

Mid-level lawyer to support the Procurement/Legal Expert	150
Communications Specialist	20
Communications support and constituent engagement	20

All the above listed team members should have the following additional qualifications:

1. Fluency in written and spoken English and French (all written reports must be delivered in French).
2. Computer literate.
3. Experience working in Benin or other West African Francophone countries is a plus.

The TA may provide additional technical support staff as may be required.

CVs for experts other than the Key Personnel (e.g., administrative and/or support staff) are not examined during the evaluation process. However, the name of the proposed experts, their input and position, will be indicated both in the technical and in the financial proposals (please note that the financial proposal will indicate the fee rate of these experts as well).

Note that if civil servants are proposed as experts, a proof from their employer that she/he will be on leave of absence for the duration of his/her assignment under this contract will be included in the technical proposal as well. No staff from MCA-Benin II may be proposed as experts or supporting staff under this contract.

L. INPUTS, SUPPORT, AND DOCUMENTS TO BE PROVIDED

1. Inputs Provided by Consultant

The primary duty location of the TA's team will be Cotonou and the TA's home office.

The TA will be responsible for all the requisite staff resources: office space; transportation (local and overseas); accommodation; stationery; communications; computers and accessories; translations/interpretation (if needed); insurance (as applicable); and other costs related to the undertaking of its responsibilities. All equipment and/or tools needed to undertake the studies, assessments, and analyses described herein will be provided by the TA at no additional cost.

2. Contract Performance Monitoring

The TA will have in place and maintain a Quality Control Plan ("QCP") that covers, as a minimum, how it intends to meet the requirements of all performance objectives, monitor and proactively manage work requirements. It will also include the mechanism by which MCA-Benin II will be notified of performance-related incidents likely to affect quality of services or impact mission accomplishment. The TA will provide a copy of its QCP along with the Inception Report. Any proposed changes to the QCP will be provided to MCA-Benin II for review and comment no later than ten (10) working days prior to the effective date of the proposed changes.

3. Support Provided by MCA-Benin II

The TA's primary point of contact for this assignment will be the MCA-Benin II Director of Operations, followed by the Chef of Reform.

MCA-Benin II will provide the Consultant the following information and support:

- (a) Access to all reports, data and other necessary documents related to the assignment that may

already be available.

- (b) Letters of introduction to facilitate access to various stakeholders, ministries, governmental authorities and agencies whose activities and roles are essential to the mission of the TA.
- (c) Invitation letters as may be needed to support visa applications for entry and exit for the TA's expatriate staff.
- (d) Facilitation of issuance of any permit required for personnel of the TA to perform its tasks in Benin.
- (e) Facilitation of the import and export of equipment that may be required for the TA's performance of consulting services, and property belonging to the TA's expatriate staff.

4. Documents to be Provided by MCA-Benin II

The TA will be provided all necessary documentation of the Compact. These documents will include, but not be limited to, the following:

- a. Compact Agreement signed on September 10th, 2015, the Compact is also available on the website www.mcc.gov and www.mcabenin2.bj).
- b. IEAs as and when they become available.
- c. Relevant MCC Policies: MCC Environmental Guidelines, MCC Policy for Monitoring and Evaluation of Compact and Threshold Programs, MCC Guidance for Economic and Beneficiary Analysis, MCC Guidance for Common Indicators, MCC Gender Policy and Gender Integration Guidelines, MCC Program Procurement Guidelines (available on the website www.mcc.gov)
- d. Related reports used during the development of the Compact activities:
 - (i) Economic Constraints Analysis Report.
 - (ii) Benin Power System Project Studies – Final Feasibility Study Reports.
 - (iii) Other relevant studies.
- e. Reports referred to herein prepared by other consultants.
- f. Plan Directeur de Développement du sous-secteur de l'Énergie électrique au Bénin – Document Synthèse de l'Étude et Plan d'actions actualisé, MEEM, DGE, Août 2016
- g. Programme d'Actions du Gouvernement 2016-2021
- h. Etude de faisabilité du projet de construction de centrales solaires photovoltaïques “DEFISSOL”, Rapport d'étape 1, version provisoire, Groupement Nodalis Conseil – CAPSIM, Novembre 2016
- i. Etude de faisabilité du projet de construction de centrales solaires photovoltaïques “DEFISSOL”, Rapport d'étape 2, version provisoire, Groupement Nodalis Conseil – CAPSIM, Novembre 2016
- j. Les Composantes du Plan de redressement du sous-secteur de l'Electricité (PRSE) de la République du Bénin, MEEM, Août 2016

LIST OF ACRONYMS/ABBREVIATIONS

ABERME	Agence Béninoise d'Electrification Rurale et de Maîtrise de l'Energie
AE	Accountable Entity
AFD	Agence Française de Développement
ANADER	l'Agence Nationale pour le Développement des Energies Renouvelables et de l'Efficacité Energétique
ARE	l'Autorité de Régulation de l'Electricité
CEB	Communauté Electrique du Bénin
CEET	Compagnie Energie Electrique du Togo
C-F	Cardno-Fichtner
CONTRELEC	Agence de Contrôle des Installations Electriques Intérieures
CP	Condition Precedent
DGE	Electricity Directorate
ECOWAS	<i>Economic Community Of West African States</i>
EIB	European Investment Bank
EIF	Entry into Force
EOI	Expression of Interest
ESHSMS	Environmental and Social, Health and Safety Management System
ESIA	Environmental and Social Impact Assessment
EU	European Union
FA	Fiscal Agent
FCFA	Franc of the Communauté Financière Africaine (African Financial Community)
FER	Fonds d'Electrification Rurale
GoB	Government of the Republic of Benin
GWh	Gigawatt hour
HPP	Hydropower Plant
HTA	Haute Tension A
HV	High Voltage
IASB	International Accounting Standards Board
IE	Implementing Entity
IEA	Implementing Entity Agreement
IFC	International Finance Corporation
IFC PS	IFC Environmental and Social Performance Standards
IFRS	International Financial Reporting Standard
IPP	Independent Power Producer
IT	Information Technology
km	Kilometers
KPI	Key Performance Indicators
kV	kilo Volt
kWh	kilowatt hour
LV	Low Voltage
MC	Management Contractor
MCA	Millennium Challenge Account-Benin II
MCC	Millennium Challenge Corporation
M&E	Monitoring and Evaluation
MEF	Ministre de l'Economie, Finances, et Programmes de Dénationalisation
MEEM	Ministre de l'Energie, de l'Eau et des Mines
MV	Medium Voltage
MW	Megawatt
NDCC	National Dispatch Control Center
NGO	Non-governmental Organization
OECD	Organization for Economic Co-operation and Development
OGCEF	Off-Grid Clean Energy Facility
O&M	Operation and Maintenance

PA	Procurement Agent
PESMC	Program, Environmental, Social and Management Consultant
PV	Photovoltaic
QCP	Quality Control Plan
RECASEB	Renforcement des Capacités des Acteurs du Secteur Electrique du Bénin
RFB	Request for Bids
RFP	Request for Proposal
RFQ	Request for Qualifications
SBEE	Société Béninoise d'Énergie Electrique
scfd	standard cubic feet per day
TA	Transaction Advisor
TOR	Terms of Reference
TSR	Transaction Structure Report
USG	US Government
WAGP	West African Gas Pipeline
WAPCo	West Africa Pipeline Company
WAPP	West Africa Power Pool

ANNEX A: Benin Power Sector Overview

Overview and Key Issues

One-third of Benin's population of ten million has access to electric power, with disparities between rural and urban areas; over half of urban residents have access to electricity, while 5.5% of rural inhabitants do. Due to low levels of access, electricity consumption in Benin is below average when compared with Africa's low-income countries, at 110 kWh/capita per year, despite rapidly growing demand at 6% per year.

Table 1: Key Facts on Benin's Electric Power Sector

Key facts		Key actors	
Percent of population with access to electricity	~33%	National distribution company	Société Béninoise d'Énergie Electrique (SBEE)
Load Profile	200-250 MW evening peak 100-120 MW base load	Bi-national (Benin-Togo) import, generation, and transmission company	Communauté Electrique du Bénin (CEB)
% of current consumption met by imports	99%	Regional natural gas supplier	West Africa Gas Pipeline (WAGP)
% of current demand met by power imports	50-75%	Electricity regulator	Autorité National de Régulation d'Electricité (ARE)
Purchase price of imports	USD 0.10/kWh	Ministry of Energy	Ministere de l'Énergie, de l'Eau et des Mines (MEEM)
Cost of emergency thermal generation to meet shortfalls	USD 0.30/kWh		
Average consumer tariff	USD 0.20/kWh	Off-grid, renewable and energy efficiency agency	Agence Nationale des Energies Renouvelables et de l'Efficacité Energétique (ANADER)
Solar (with storage) feed-in tariff	USD 0.13/kWh	Rural electrification agency (on-grid connections)	Agence Béninoise de l'Énergie Renouvelable et de la Maitrise de l'Énergie (ABERME).

In addition to limited access, Benin's electric distribution network is characterized by:

- Extensive outages in distribution (planned outages, rationing and unscheduled cuts)
- Unstable voltage that can cause damage to equipment and often requires expensive regulator equipment in order to mitigate

The insufficiency of quality and quantity of electric supply is the result of three issues: insufficient supply of energy to meet demand, poor financial and operational condition of the distribution company, and weak governance of the overall energy sector.

Insufficient Supply

Benin's supply problem is the result of three main factors. First, as a small energy market, Benin has

largely been an importer of energy. Benin relies for most of its electricity on a company jointly owned by the Governments of Benin and Togo, the *Communauté Electrique du Benin* (“CEB”), which is responsible for generation and transmission. CEB supplies power to Benin’s national distribution company, *Société Béninoise d’Energie Electrique* (“SBEE”). As CEB’s own production capacity is limited, it meets the needs of Benin and Togo largely through imports from Ghana and Nigeria, who are themselves experiencing energy shortages, which has led to their inability to meet contractual obligations to CEB. In addition, the West Africa Gas Pipeline (“WAGP”), of which Benin is a charter member, has failed to meet expectations in terms of delivery of natural gas from Nigeria, making natural gas as fuel for power generation unreliable.

Second, Benin’s domestic generation capacity is not reliably available due to a combination of disrepair, poor maintenance, and inability to secure steady and cost-effective fuel supplies. SBEE uses its limited hydropower and thermal generation assets but output from these sources accounts for only 1% of consumption. To meet supply gaps, the GoB has entered into short term leasing arrangements for containerized diesel generators, while it continues to face problems in procuring gas to supply its 80 megawatt (“MW”) power plant at Maria Gleta (near Cotonou).

Third is high and increasing technical and commercial losses. Though the estimated 22% of combined technical and commercial losses is not the highest in the region, SBEE’s grid system is reaching many of its current limits. As new connections are added, losses are expected to worsen unless new infrastructure can be built to support the expected increase in demand.

Weak Financial and Operational Condition

SBEE is faced with financial and operational issues related to: low tariffs, high commercial losses (estimated at 12% for on-grid losses, plus additional collection losses related to unpaid invoices), technical losses of 10%, poorly qualified and/or trained staff, and poor financial and asset management practices.

Low tariffs lead to an undercapitalized utility unable to properly operate and maintain existing assets or invest in expansion. While low tariffs may be justified by policymakers as a means of protecting the poor and domestic industry, they achieve neither goal. Moreover, industry and commerce are held back by insufficient power and forced to resort to expensive diesel generators or to simply bear losses of inventory, operating hours, and/or productivity due to power cuts.

Governance Issues

Benin’s policy and institutional framework is characterized by poor planning and lack of independent regulation. Sector decision-making is generally politicized and major decisions (e.g., on tariffs) are taken not at the technical level but by the Council of Ministers, the country’s highest policy-making body. Inadequate planning has led to persistent energy shortfalls and the response to crisis has been to resort to costly emergency measures.

Until recently, Benin did not have a regulatory authority for the electric power sector, despite a legal framework for it having been in place for a number of years. In February 2015, the GoB appointed members of the new regulatory body (*Autorité Nationale de Regulation d’Electricité*) (“ARE”) and will make operational resources available to it in the 2016 budget.

Demand and Consumption

The energy sector in Benin is characterized by predominance of biomass energy, made up of firewood, charcoal, and vegetable waste and residues in the overall energy mix.

Table 2. Consumption by Energy Source and Contribution to the Energy Mix

	Biomass	Petroleum Products	Electricity	Butane Gas
Consumption (toe*)	1,376,902	360,673	31,116	7,482
Contribution (%)	77.5	20.3	1.8	0.4

*Tons of oil equivalent

Per capita energy consumption is relatively low at 0.392 tons of oil equivalent (“toe”) per capita (2010) – less than Ghana (0.4), Tanzania, (0.46) or Togo (0.47)²². Biomass consumption accounts for more than 75% of total energy consumption in the country. Currently, 100% of the petroleum products are supplied from outside the country and less than 1% of the electricity is generated by capacity installed within Benin (2013).

Table 3 illustrates the number of subscribers to SBEE over the last decade and indicates the electrification rate (overall, urban and rural). Table 4 shows subscribers to low voltage (“LV”) and medium voltage (“MV”) lines and indicates the corresponding amount of electricity sold.

Table 3. Evolution of Subscribers and Rate of Electrification²³

Year	2005	2010	2011	2012	2013	Rate of Growth (%)
LV subscribers	305,706	416,256	437,092	456,567	484,176	9.2
Total number of households	1,320,543	1,521,585	1,566,638	1,599,292	1,658,137	3.6
Electrification rate (%)	23.15	27.36	27.9	28.4	29.2	5.4
Urban LV subscribers	293,088	388,021	n.a.	n.a.	n.a.	8.9
Urban households	568,091	721,666	n.a.	n.a.	n.a.	4.1
Urban electrification rate (%)	51.59	53.77	n.a.	n.a.	n.a.	4.6
Rural LV subscribers	12,618	28,235	n.a.	n.a.	n.a.	16
Rural households	752,452	799,919	n.a.	n.a.	n.a.	2.6
Rural electrification rate (%)	1.68	3.53	3.8	4.48	5.5	13

Table 4. Subscribers to LV and MV Systems²⁴

Year	Voltage	2008	2009	2010	2011	2012	2013	Average Growth Rate (%)
Number of Subscribers	LV	367,711	386,630	416,211	437,092	456,567	484,176	5.7
	MV	579	626	667	731	772	837	7.7
Sold (GWh)	LV	497.23	522.97	572.50	582.59	598.12	621.28	4.6
	MV	224.06	247.78	257.36	213.65	242.42	231.20	1.3
Supplied (GWh)		836.97	935.90	1,024.33	1,018.27	1,073.81	1,099.17	5.7

National electricity consumption increased from 589 GWh in 2005 to 868 GWh in 2010 and to 1,099

²² International Energy Agency, Energy Atlas

²³ SBEE Annual Reports 2011 and 2012 and, as per the IED Inception Report, communication from SBEE to IED in October 2014 in conjunction with preparation of the master plan.

²⁴ Ibid.

GWh in 2013. Electricity consumption has thus nearly doubled between 2005 and 2013. Increased electricity consumption is mainly driven by demographic growth and the proliferation of electric devices among households and businesses.

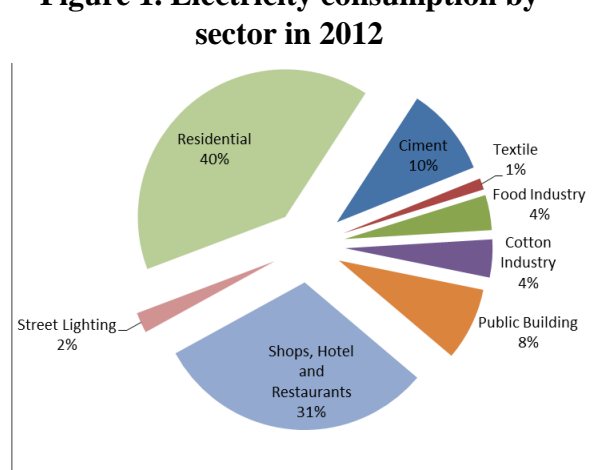
Table 5. Electricity Consumption by Sector and Demand Forecast, 2020-2030

Year	2006	2007	2008	2009	2010	2020	2030
Residential	273	287	324	338	362	991	1,416
Industrial	127	146	105	128	163	1,133	3,398
Service/Other	214	239	283	320	343	708	850
Total	614	672	711	786	868	2,832	5,664

The demand for electricity can be divided between consumers that already have access to electricity (54% of households in urban areas and about 5% of households in rural areas); and those that do not, representing the balance of the population.

On-grid SBEE consumers are concentrated in the coastal areas in and around Cotonou and the political capital, Porto Novo. Over the last decade, electricity demand has continuously increased at a rate of about 6.8% per year.

Figure 1. Electricity consumption by sector in 2012



Electricity sales in the industrial sector represent about 18% of total electricity consumption in the country. Industrial production consists mainly of the cement industry and the textile industry (ginning and cotton processing, spinning and weaving), with some agricultural processing of oils, groundnuts, and juices.

Consumers at the medium voltage level account for just over 30% of total electricity sales. Electricity consumption in the residential sector, representing 40%, meets basic needs such as lighting, refrigeration, cooling (with fans or air conditioners depending on households class), and entertainment such as TV, radio, cell phones, and electronic products.

Benin has 3,754 localities, of which only 1,280 are electrified, a coverage rate of 34.1%.

Supply Sources

The sources of electricity supply for Benin are as follows:

Table 6. Overview of Power Generation Facilities

Name/Location of Site	Fuel Type	Installed Capacity	Owner	Operator	Year of Commission	Comments
Imports from Cote d'Ivoire, Ghana, Nigeria				via CEB		See table below
Gas Turbine in Cotonou	Natural Gas	20 MW	CEB	CEB	1998	3 months maintenance every 2 years
Gas Turbine in Lomé	Natural Gas	20 MW	CEB	CEB	1998	3 months maintenance every 2 years
Nangbeto Hydropower Plant in Togo	Hydropower	65 MW	CEB	CEB (shared)	1987	Needs to be maintained; effective capacity now at 15 MW
Centrale de Porto Novo	Diesel Light Fuel	12 MW	SBEE	SBEE	2005	Maintenance required (24,000 hours)
Centrale de Parakou	Diesel Light Fuel	15 MW	SBEE	SBEE	2005	Out of order
Centrale de Natitingou	Diesel Light Fuel	12 MW	SBEE	SBEE	2005	Out of order
Centrale d'Akpakpa	Diesel Heavy Fuel	22 MW	SBEE	SBEE	~1980	Out of order
Centrale CAI de Maria Gleta	Natural Gas Jet A1 fuel	80 MW	GoB	SBEE	2013 for 7 units; 2014 for 1 unit	No gas delivery so run with JetA1; constraint imposed on operations
Yeripao Hydropower Plant	Hydropower	0.6 MW	SBEE	SBEE	1997	Out of order
Aggreko (multiple sites)	Diesel gensets	50 x 1 MW	Aggreko	SBEE	2014	Leased by GoB
Maurice Realisations Internationals (MRI) (multiple sites)	Diesel gensets	30 x 1 MW	MRI	SBEE	2014	Leased by GoB
Additional small units at multiple locations (not interconnected)			Communities			
Auto-producers (various locations)						

SBEE has approximately 60 MW of installed capacity, but very little of it is operational. The GoB-owned plant at Maria Gleta, comprised of 8x10 MW gas turbines, rarely runs as, due to lack of gas, it is expensive to run on Jet A1 fuel.

Information regarding CEB's sources of supply (as of 2011) are set out below.²⁵ CEB has five direct customers – SBEE and a cement plant in Benin; CEET (the distribution company in Togo) and a cement company and phosphate plant in Togo.

²⁵ CEB website.

Table 7. Overview of CEB Sources of Supply (2011)

Source	GWh	%
<i>Imports:</i>		
From Ghana (VRA)	647	30
From Cote d'Ivoire (CIE)	87	4
From Nigeria (TCN & NIGELEC)	1,112	51
<i>CEB Own Production:</i>		
Nangbeto Hydropower	202	9
Turbines in Cotonou and Lomé	44	2
<i>Togo Production:</i>		
CEET Generation	1	0
Contour Global (IPP under contract with Government of Togo)	62	3
<i>Benin Production:</i>		
SBEE Generation	0	0
Total	2,157	100%

CEB has contracts to import 200MW from Nigeria and 70MW from Ghana, but there are persistent delivery shortfalls. While Nigeria provides most of Benin's electric supply, voltage fluctuations coming from Nigeria lead to major disruptions to Benin's network

Production from CEB's 65 MW hydropower plant at Nangbeto (in Togo) on the Mono River is affected by seasonality and is currently limited by drought. As a result, the plant is generally only producing 15 MW.²⁶ CEB also has two gas-fired plants, 20 MW each at Maria Gleta in Benin and at Lomé in Togo, which are not reliable, sometimes because there is no gas, sometimes because there is not enough pressure, or a unit is unavailable because of maintenance. Each unit must undergo major maintenance every 16,000 hours and be sent to the US for maintenance and overhaul, taking six months. To increase power supply, Togo entered into a contract with Independent Power Producer ("IPP") Contour Global for a 100 MW gas/heavy fuel oil-fired plant to satisfy its own demand for electric power in 2007.

Transmission

Electricity in Benin is primarily supplied by CEB which owns and operates the transmission system at 161 kV and above. Figure 2 shows the CEB and WAPP transmission infrastructure in Benin and Togo.

CEB has a dispatch center at Lomé for its network and is starting installation of a regional dispatch center for the CEB network in Benin. As SBEE does not have a dispatch center, it cannot provide CEB any information electronically. When there are deficits in the CEB network, CEB informs SBEE by phone and SBEE determines where to make power cuts. CEB's transmission losses are reported to be on the order of 5%²⁷, but the exact locations are unknown. CEB is in the process of installing incoming and outgoing meters at each transmission substation in order to have a detailed analysis of where technical losses occur in the system.

In Benin, CEB has 565 km of 161 kV lines and a capacity of 452.5 MVA distributed over nine

²⁶ IED, Inception Report.

²⁷ Reported as 4.6% on CEB's website.

substations. Benin's high voltage ("HV") power transmission system is interconnected with that of Togo and consists largely of 161 kV lines managed by CEB and some segments of 63 kV lines managed by SBEE. Through this network, which now extends from South to North (Djougou-Parakou-Bembereke), SBEE received approximately 90% of its electricity in 2010 and nearly 100% in 2013.

The transmission network located in Benin is comprised of the following:

- 330 kV Ikeja (Nigeria) – Sakete, 70 km
- 161/63 kV loop in the south serving Sakete, Porto-Novo, Akpakpa, Vedoko, and Maria Gleta
- 161 kV loop serving Sakete, Maria Gleta, Avakpa, Momoe Hagou (Togo), Nangbeto (Togo), Bohicon, Onigbolo
- 161 kV loop serving Nangbeto (Togo), Atakpame (Togo), Kara (Togo), Djougou, Parakou, Ongibolo, Bohicon
- 161 kV line used at 33 kV serving Natitingou from Djougou
- 161 kV line used at 33 kV and 20 kV serving Bembereke

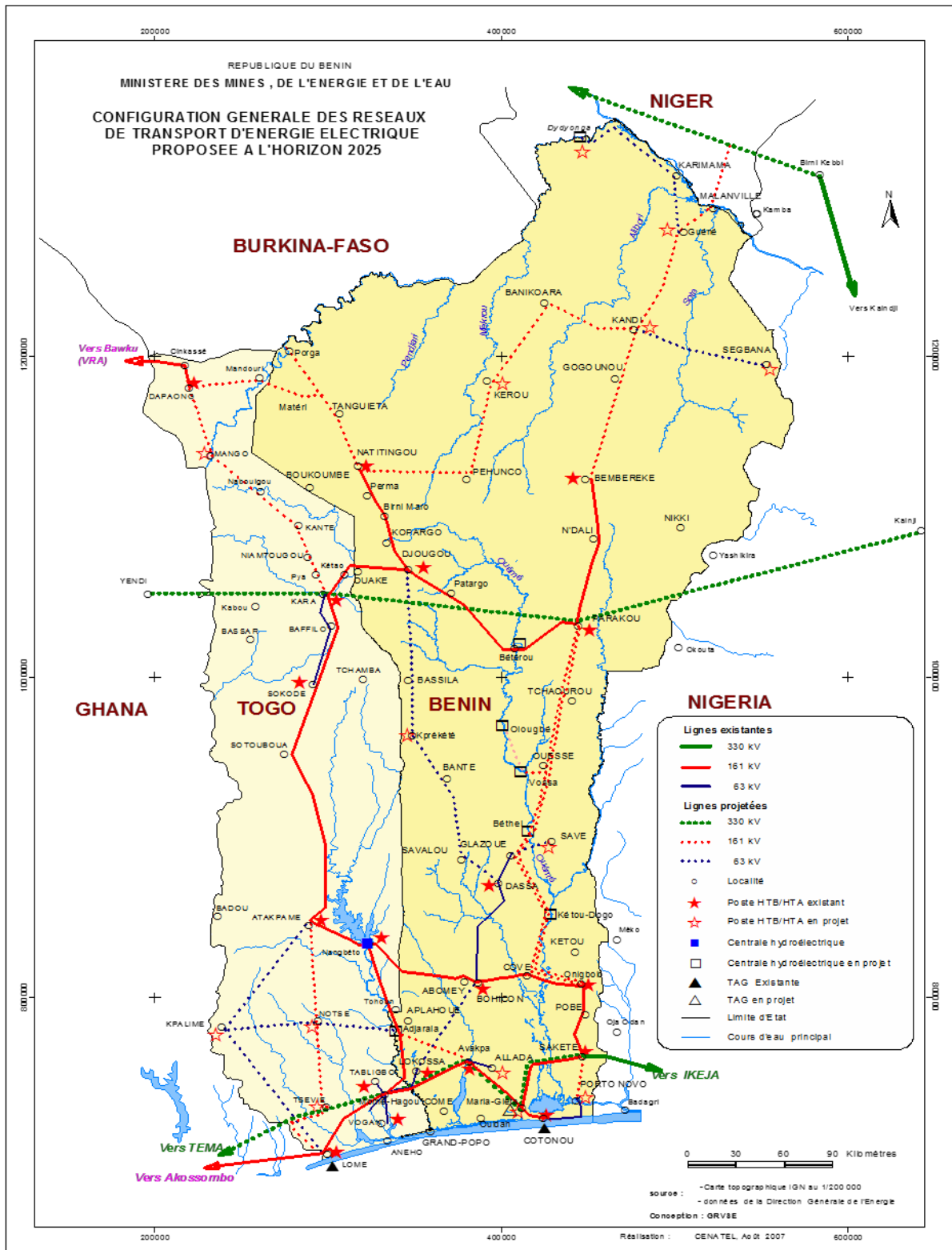
In terms of projects under construction, there are two scheduled for completion in 2016:

- 161 kV line connecting Onigbolo and Parakou (funded by the World Bank)
- 161 kV line between Sakete and Porto Novo (also funded by the World Bank).

Ongoing West African Power Pool ("WAPP") interconnection projects involving CEB include:

- 330 kV backbone line from Volta (Ghana) through Lomé (Togo) and Sakete (Benin)
- 330 kV line from Dosso-Malanville (Benin) as a branch of the 330 kV line to the north from Birnin Kebbi (Nigeria), Dosso (Niger), Niamey (Niger), and Ouagadougou (Burkina Faso).

Figure 2. CEB Transmission Network in Benin and Togo



Distribution

The MV (referred to in French as Haute Tension A, or “HTA”) and LV distribution systems in Benin are owned and operated by SBEE. Its network consists of:

- Medium voltage network of 63 kV lines ensuring delivery of electricity from CEB to SBEE and long-distance interconnections;
- Low voltage network at HTA 33 kV, 20 kV, and 15 kV, which provides service to distribution substations and individual customers; and
- Low voltage network at 410 V and 230 V, which distributes electricity from HTA substations to customers.

Table 8 gives an indication of the grid structure.

Table 8. Network Structural Data: Line Lengths and Substations

	Line Length per Region (km)		Type of Substation per Region (#)	
	LV	MV	PMT	CSS
Littoral 1 + 2	1,007	432	133	348
Atlantique	982	314	151	133
Oueme Plateau	992	505	313	121
Mono-Couffo	605	409	140	72
Zou-Collines	745	579	90	30
Borgou Alibori	554	921	237	39
Atacora Donga	373	1,018	204	28
Total	5,257	4,178	1,268	771

Sector Structure and Institutions

The functions of the main institutions in the power sector are summarized below.

National Institutions

Ministere de l’Energie, de l’Eau et des Mines: MEEM is the line ministry responsible for formulating, implementing and monitoring energy policy. It is structured with a number of directorates, of which the Electricity Directorate is the most relevant to the electricity sector. Its mission is to provide policy oversight over the power sector in Benin, and to utilize the country’s resources to provide power for Benin’s social and economic development.

Ministere de l’Economie, Finances, et Programmes de Denationalisation: MEF is responsible for economic policy, budget management, economic statistics, and oversight of public procurement practices. It provides subsidies to CEB to meet that organization’s resource shortfalls. MEF has entered into a leasing arrangement for emergency thermal generating units, along with the purchase of fuel for those units. MEF oversees public procurement and, as such, its actions and policies impact the budget execution of SBEE and other actors in the sector. Finally, the Minister serves on the governing body of CEB (along with the Ministers of Energy, Planning and Foreign Affairs).

Société Béninoise d’Energie Electrique: SBEE was established in January 2004 as the successor to the former Benin Electricity and Water Company, which was split into two separate organizations, one responsible for water and SBEE for power. SBEE is under the responsibility of Ministry of Energy, but has a semi-private status. Its Board is comprised of the Chief of Staff to the Minister of Energy, the Director General for Energy, a representative of the Office of the President, and

representatives of consumer groups, businesses, and the utility's workforce.

Agence Béninoise d'Électrification Rurale et de Maîtrise d'Énergie: Created pursuant to a decree dated 4 August 2004, ABERME's mission is to implement government policy regarding rural electrification and energy oversight. So that it can carry out its tasks, ABERME is provided with a Rural Electrification Fund, financed by a 3 CFA/kWh tax on electricity sold, established by law No. 2006-16 of 27 March 2007.

Agence Nationale pour le Développement des Energies Renouvelables et de l'Efficacité Energétique: ANADER was established in 2014 and is intended to work for the promotion and application of all forms of renewable and sustainable energy.

Autorité de Régulation de l'Electricité: ARE was established by Decree No. 2009-182 on 13 May 2009, and is a public, independent incorporated institution and autonomous financial organization. It is placed under the authority of the President of the Republic to ensure compliance with laws and regulations governing the power sector and to ensure continuity and quality of service, financial health of the electricity subsector and its harmonious development.

Agence de Contrôle des Installations Electriques Intérieures: CONTRELEC is a public institution with legal rights and financial autonomy designed to ensure the safety of persons and property; it inspects electrical installations before premises of new SBEE subscribers are connected.

Regional Organizations

Communauté Electrique du Bénin: CEB is a bi-national organization established in 1968 by a treaty between Benin and Togo and has the status of an international public organization. Its mission is to provide electricity at adequate quality and in sufficient quantity at minimum cost to the two countries. The electricity generation segment is open to private operators. In areas served by the transmission network, CEB has the status of a single buyer. Outside these areas, independent generators can sell electricity directly to retail companies. CEB operates in the red and is periodically subsidized by the governments of Benin and Togo to meet its obligations.

West African Power Pool: WAPP was created in 2001 by the ECOWAS Heads of State and Governments to address the issue of power supply deficiency within West Africa, namely to ensure regional power system integration and eventual realization of a regional electricity market to ensure ECOWAS states of competitive costs and reliable power supplies.

West Africa Pipeline Company (WAPCo) and West Africa Gas Pipeline (WAGP): Benin imports gas from Nigeria through WAGP which transports natural gas from Nigeria to Benin, Togo, and Ghana. The contractual commitment from Nigeria's N-GAS to Ghana's VRA, a founding customer, is 123 million standard cubic feet per day (mmscfd) with an additional 5 million scfd per day for each of Benin and Togo. Any gas arriving in Benin goes first to the CEB 20 MW plant at Maria Gleta. Due to problems of gas supply availability and gas infrastructure constraints in Nigeria, this contractual quantity has rarely been achieved.

Legal, Regulatory, Policy Framework and Strategy

Legal Framework

The activities of the electricity sub-sector in Benin are governed by:

- Benin-Togo Electricity Code, and
- Benin Electricity Code.

Benin-Togo Electricity Code: The Benin and Togo electricity sector is governed by the international agreement signed by the two countries in 1968. Because of the high cost of investment and in order to achieve economies of scale, the two states created a joint electricity supply territory. This commitment was put into practice through the creation of CEB, to which the code gave the monopoly for generation, transmission and import/export of electricity within the territory of both countries, as well as implementation of electricity regulation, planning and development. Faced with changed circumstances, provisions of the agreement were revised in 2003 to end CEB's monopoly over electricity production by:

- Opening of generation to private organizations, and
- Granting of the status of single buyer to CEB of independent generation in the area where CEB has power transmission lines.

Independent electricity generation is regulated in Article L8 of the revised code and permits involvement in the sector for private generators by:

- Entering into an agreement (concession or other) with Benin or Togo, and
- Signing with CEB or, where appropriate, with SBEE or with a third party in neighboring countries, contracts for purchase and sale of electricity.

The Benin-Togo Code obliges all generators, including independent generators, to submit information on their activities to CEB so that it can fulfill its planning function and requires that any new electric generation facility or any extension of a generation facility to serve the public be done under a competitive tendering process.

The Code gives CEB exclusivity of exercise of the activities of transmission. As an exception, CEB can delegate this function temporarily and locally to a public or private operator.

Benin Electricity Code: To elaborate provisions for application of the Benin-Togo agreement, the Electricity Code Act in Benin was updated and approved by the National Assembly and promulgated by the President in 2007. It supplements the Benin-Togo code in relation to:

- Provisions for safety standards for generation, distribution, and building electrical installations; and
- Modalities of participation of public and private enterprises in the sector, with implementation of competition rules and the formalities to which they are subject.

The two codes stipulate that notification be given of generation activities and that the activities be duly authorized. Article 5 of the Electricity Code Act in Benin sets forth the following:

- When the generating activity is intended for purposes of supply of electricity to the public, the generator must accept and comply with the requirements and constraints of a public service, that the facilities belong to the State or that they will be carried out by an operator under a concession.
- Generation activities other than those intended for the public (e.g., auto-production) are subject to permits.

Article 6 of the Benin Code deals with distribution, establishing this activity as a public service under the responsibility of the State and stipulates that this activity may be entrusted to one or more persons,

public or private, under a concession agreement.

Regulatory Framework

Implementation of the Benin electricity code has been carried out through a number of decrees:

- Decree No. 2007-539, November 02, 2007, establishing procedures, standards and conditions for exercising inspection and technical control of electricity supply facilities;
- Decree No. 2007-548, November 25, 2007, establishing mandatory periodic inspections of internal electrical installations of high-rise buildings, establishments with public access, and industrial units;
- Decree No. 2007-655, December 31, 2007, on procedures for declaration and licensing of auto-generation;
- Decree No. 2008-719, December 22, 2008, on the constitution and definition of the terms of operation and management of the Rural Electrification Fund;
- Decree No. 2008-815, December 31, 2008, on definition of the procedures for granting concessions for the supply of electricity to serve the public; and
- Decree No. 2009-182, May 13, 2009, on the establishment of the regulatory authority, setting out its powers, organization and functioning.

Until recently, energy regulation was conducted through MEEM and DGE. Currently, there is a shift of regulatory authority from DGE to ARE. ARE is responsible for:

- Ensuring compliance with standards for materials used in the generation, transmission and distribution of electricity;
- Ensuring effective, healthy and fair competition in the interests of the State, operators and consumers;
- Approving tenders for the selection of private operators;
- Approving concessions;
- Licensing of generation at auto-generators;
- Setting procedures for remuneration of operators in the electricity subsector;
- Approving tariffs (pursuant to a decree of February 2015, modifying the decree of 2009 in this regard);
- Monitoring compliance with the obligations by stakeholders in the sector;
- Settling disputes between stakeholders in the sector;
- Applying sanctions in the event of violations of the laws and regulatory provisions or of the stipulations laid down in authorizations, licenses, concessions and specifications.

Electricity Tariffs

Tables 9 and 10 show current SBEE tariffs for both low and high tension customers. SBEE buys electricity from CEB at an average price of 58.7 CFA/kWh (0.1067 \$/kWh²⁸) and sells it to its customers at an average of 110 CFA/kWh²⁹ (0.20 \$/kWh).³⁰

²⁸ Assumed exchange rate of 550 CFA/ per USD.

²⁹ IED, Elaboration du plan directeur de développement du sous-secteur de l'énergie électrique au. Benin – Rapport de démarrage. Rapport provisoire Octobre 2014.

³⁰ When CEB last requested a rate increase, it requested an increase from the then 55 CFA to go to 78 CFA/kWh.

Table 9. SBEE Current Electricity Tariffs (CFA/kWh) (Low Tension)³¹

Service Category	Customer Class	Consumption Level		
BT1	Domestic usage, lighting and air conditioning	78 CFA Social Tranche <20kWh	109 CFA 0-250 kWh	115 CFA Rest of consumption
BT2	Professional Boutique Usage: hair salons, cafes, restaurants, hotels, etc.		111 CFA All consumption	
BT3	Public Municipal lighting		122 CFA All consumption	

Table 10. SBEE Current Electricity Tariffs (CFA/kWh) (HTA)³²

Category	Customer Class	Charges	
HTA1	Hotels, Services, Commercial Customers	94 CFA/kWh	
HTA2	Hotels, Services, Commercial Customers	94 CFA/kWh	4500 CFA/kVa Subscribed peak
HTA3	Industrial	78 CFA/kWh	
HTA4	Industrial	78 CFA/kWh	7000 CFA/kVa Subscribed peak

To improve the financial situation of the electricity sub-sector in Benin, a consultancy was appointed, with the technical and financial support of the World Bank, to develop formulae for indexing tariffs for CEB, CEET and SBEE. These formulae, developed in 2005, have not yet been applied even though the GoB approved the formula for SBEE in March 2006. In 2012, the formula was updated by a committee composed of executives of SBEE, CEB and ministries in charge of energy and finance. This formula has been reintroduced to the Council of Ministers for approval but it is still pending.

Policy Framework

As noted above, Benin's national energy policy is set through MEEM. The overall objective of policies is to help Benin secure the provision of energy services of sufficient quantity and quality at acceptable costs. To that end, GoB has adopted the following:

- The energy sector policy and strategy, which defines the development objectives over the short, medium and long terms for the entire energy sector (March 2004);
- The Rural Electrification Policy Plan, including an Action Program of implementation of the policy by 2015 (March 2006);
- Policy and strategy for the development of the electricity sub-sector, defining the objectives for strengthening the national electricity generation capacity to increase the country's energy independence in terms of electricity supply (November 2008); and
- Strategic Development Plan of Benin's Electricity Sector (October 2009), which addressed the entire energy sector, including natural gas, petroleum, and electricity. The Strategic Plan identified the following key objectives:
 - Build domestic generation, transmission, and distribution capacity through:
 - Diversification of production with the goal of reaching 70% of consumption produced domestically by 2025.

³¹ As posted on SBEE's website.

³² As posted on SBEE's website.

- Development of a transmission system linked to regional networks.
- Development of an urban distribution system including 945 towns and villages and 310 urban centers by 2015.
- Promote rural electrification
 - Development of rural electrification to achieve MDGs for energy services.
 - Productive uses of energy.
- Put into place a policy for adequate tariffs and sector financing
 - Application of tariffs for SBEE and CEB that allow full cost-recovery.
 - Mobilization of funds from regional and international organizations for rural electrification.
- Develop institutional capacity and human resources
 - Development of institutional capacities to achieve reforms begun in 1998
 - Definition of a human resources policy, including training, skill, and career development.

French version

TERMES DE REFERENCE POUR LE RECRUTEMENT DU CONSEILLER EN TRANSACTIONS EN VUE DE LA MISE EN PLACE D'UN CONTRAT DE GESTION AU PROFIT DE LA SOCIÉTÉ BÉNINOISE D'ÉNERGIE ÉLECTRIQUE

A. CONTEXTE

Le Millennium Challenge Corporation (« MCC ») est une institution du Gouvernement des Etats-Unis d'Amérique créée en vertu du Titre VI de la Loi de 2004 portant Programme d'Activités à l'Etranger, Financement des Exportations, et Programmes Connexes, et chargée de la gestion du Millennium Challenge Account. MCC travaille avec les pays en développement pour promouvoir la croissance économique durable par la réduction de la pauvreté. Les pays éligibles élaborent des programmes d'investissement spécifiques qui seront financés par MCC à travers un Accord de Don ou Compact, mis en œuvre par le pays partenaire, sur une période de cinq ans.

Le 9 septembre 2015, agissant au nom du Gouvernement des Etats-Unis d'Amérique (« USG »), MCC a signé avec le Gouvernement du Bénin (le « Gouvernement » « GdB ») un deuxième Accord de Don (Compact) essentiellement axé sur l'énergie électrique. L'Accord de Don est constitué d'une subvention du Gouvernement des Etats-Unis d'Amérique d'un montant de 375 millions de dollars américains et d'une contrepartie nationale du Gouvernement du Bénin d'un montant de 28 millions de dollars USD. Son objectif est de renforcer les capacités de la Société Béninoise d'Énergie Électrique (SBEE), d'attirer l'investissement du secteur privé, et de financer les investissements en infrastructures dans les domaines de la production et de la distribution d'électricité de même que l'électrification hors-réseau au profit des ménages pauvres et non desservis. L'Accord de don est disponible sur le site web www.mcc.gov et la description détaillée du programme figure à l'Annexe I.

L'Accord de Don du Bénin sera mis en œuvre pendant une période de cinq ans et devrait entrer en vigueur³³ au printemps 2017. Le Millennium Challenge Account-Bénin (« MCA-Bénin II » ou « MCA »), a été créé pour mettre en œuvre le programme de l'Accord de Don. Le MCA-Bénin II a été créé comme une personne morale de droit béninois et sera placé sous la supervision d'un Conseil d'Administration composé de membres issus des secteurs public et privé, et devant rendre compte au Président de la République du Bénin.

Dans le cadre du Programme mis en place avec MCC, le GdB envisage d'établir un Contrat de Gestion (ci-après dénommé "CG") au profit de la Société Béninoise d'Énergie Électrique ("SBEE") afin de satisfaire les besoins de plus en plus croissants du secteur électrique du pays. Les principaux objectifs du MC sont : (i) améliorer la gouvernance et la gestion des opérations et des procédures commerciales de la

³³ La période de la mise en œuvre de l'Accord de Don du MCC commence avec l'Entrée en vigueur.

SBEE ; (ii) améliorer la qualité des services au profit des consommateurs d'électricité ; (iii) rendre la Société rentable et financièrement viable ; et (iv) accroître les capacités internes du personnel local.

MCA-Bénin II, faisant office de Maître d'Ouvrage Procédera au recrutement du Conseiller en Transactions (« CT ») aux fins de la mise en place du Contrat de Gestion. Dans le cadre de l'exécution des services définis au titre du présent contrat, le Consultant devra travailler en étroite collaboration avec certains ministères et structures publiques et parapubliques et des structures non gouvernementales qui seront en partenariat avec MCA-Bénin II dans la mise en œuvre du Programme (dénommés « Agences de mise en œuvre » ou « AE »). Chacune des Agences de Mise en Œuvre (AE) devra signer un Accord des Agences de Mise en Œuvre avec MCA-Bénin II. De façon spécifique, et au titre de la réalisation des activités définies dans les présents termes de référence, le Consultant travaillera en étroite collaboration avec les Agences de mise en œuvre et institutions énumérées ci-dessous.

B. OBJECTIFS DE LA MISSION

L'objectif de la présente mission du Conseiller en Transactions ("CT") est d'appuyer de bout en bout le processus d'élaboration d'un Contrat de Gestion, le processus relatif à l'appel d'offres, aux négociations et à la signature du CG au profit de la SBEE, et d'aider le GdB à définir et à planifier les modalités de suivi dudit CG. L'élaboration du CG devra s'inspirer des résultats des récentes missions de consultation réalisées sur la SBEE et sur le secteur énergétique du Bénin en général, y compris les conclusions d'une Etude tarifaire en cours de réalisation par Idea Consult International et celles de l'étude de faisabilité pour la mise en place d'une Société de Production d'Electricité par Tractebel Engineering S.A. qui sont toutes deux conduites dans le cadre des activités du Programme MCA. Par ailleurs, dans le cadre de cette mission, le Conseiller en Transactions élaborera au profit de la SBEE, un plan d'actions de gestion du redressement et des investissements à intégrer dans les dispositions du CG qui se baseront aussi bien sur le contrat de performance ("Contrat Plan") qui sera signé entre le GdB et la SBEE en 2017 que sur les investissements prévus dans le secteur de l'énergie électrique au Bénin conformément au plan directeur du secteur de l'énergie électrique récemment adopté.³⁴ En s'inspirant, *entre autres*, du Plan Directeur de Développement du Sous-Secteur de l'Energie Electrique au Bénin, du Contrat-Plan, des investissements envisagés par les Partenaires Techniques et Financiers et des priorités du Conseil d'Administration de la SBEE, le Conseiller en Transactions devra définir et établir des Indicateurs de Performance Clés ("IPCs") dans les clauses du Contrat de Gestion et déterminer les besoins de financement qui devraient être identifiés.

Dans l'exécution des tâches liées à la présente consultation, le Conseiller en Transactions travaillera en étroite collaboration avec MCA-Bénin II, la SBEE, le Ministère de l'Energie, de l'Eau et des Mines (MEEM), le Ministère de l'Economie et des Finances, le Ministère du Plan et du Développement, les PTFs du sous-secteur de l'Energie Electrique ainsi que d'autres parties prenantes. Afin de garantir une telle coordination, le Conseiller en Transactions organisera des ateliers avec la SBEE, les PTFs

³⁴ Les travaux techniques relatifs au Plan Directeur ont été achevés en 2015 et une version condensée du plan à été élaborée en 2016 (Plan Directeur de Développement du Sous-Secteur de l'Energie Electrique au Benin : Document Synthèse de L'étude et Plan d'Actions Actualisé, Août 2016). Il est attendu que le Conseil des Ministres approuve la version condensée du Plan Directeur en début 2017.

concernés et d'autres parties prenantes identifiés par le GdB pour s'assurer de l'adhésion des uns et des autres à la structure du contrat de gestion proposé et veiller à la prise en compte des travaux d'autres PTFs dans la structure qu'il prévoit.

C. ORGANISATION INSTITUTIONNELLE

1. Entités responsables

MCA-Bénin II est, auprès du Gouvernement et de MCC, l'entité responsable (« AE ») de la mise en œuvre de l'Accord de Don pour le compte du Gouvernement. Au titre de l'Accord de Don, MCA-Bénin II procédera à l'acquisition de tous biens et services, passera des contrats avec des prestataires de service et en assurera la gestion. MCA-Bénin II est également chargé de gérer des processus d'ordre politique, de produire des rapports trimestriels et annuels de performance, de mettre en œuvre le Plan de Suivi et Evaluation (« S&E »), et de s'occuper des relations publiques.

Pour s'acquitter des responsabilités de gestion liées au programme, MCA-Bénin II sollicitera en plus du Conseiller en Transactions, des cabinets spécialisés pour appuyer la réalisation de différentes fonctions techniques et de gestion que sont entre autres :

- **L'Agent Fiduciaire (« FA ») :** L'Agent Fiduciaire est un contractant engagé par MCA-Bénin II et chargé de gérer tous les fonds mis à disposition par MCC. L'Agent fiduciaire devra fournir des données et des informations relatives aux cibles pour les étapes clés du processus, notamment les engagements et les décaissements relatifs à certains contrats clés.
- **L'Agent de Passation de Marchés (« APM ») :** L'Agent de Passation de Marchés est un contractant engagé par MCA-Bénin II et chargé de gérer toutes les activités de passation des marchés en rapport avec l'Accord de Don.
- **Le Consultant en Gestion de Programmes et en Gestion Environnementale et Sociale (« PESMC ») :** Le PESMC devra fournir à MCA-Bénin II des services en matière de gestion de programme, notamment l'examen des plans de conception, la planification et la mise en œuvre des activités de réinstallation, la gestion des travaux de construction, le contrôle financier et le suivi d'autres performances liées au contrat. Il devra également appuyer les activités de clôture du programme.
- **Les Consultants :** MCA-Bénin II a engagé ou devra engager un certain nombre de cabinets ou de consultants spécialisés qui se chargeront de réaliser des études ou de fournir d'autres formes d'appui en vue de l'atteinte des objectifs du Programme.
- **Les Consultants en conception :** MCA-Bénin II a engagé ou devra engager plusieurs bureaux d'études ou d'ingénieurs-conseils chargés d'élaborer des conceptions détaillées, de procéder à des évaluations d'impact environnemental et social (EIES), de préparer les documents d'appels d'offres relatifs aux constructions et de fournir des services de supervision des travaux de construction. L'ensemble des consultants chargés de fournir de tels services sera dénommé Consultants en Conception.
- **Les entrepreneurs :** MCA-Bénin II devra recourir à un certain nombre d'entrepreneurs/contractants qui seront engagés pour mettre en œuvre les projets du Programme

selon l'approche Conception-Offre-Construction, Conception-Construction ou suivant d'autres mécanismes alternatifs de prestations de services.

2. Organisation institutionnelle

MCA-Bénin II devra signer des Accords de Mise en Œuvre avec des Agences d'exécution qui appuieront ou faciliteront la mise en œuvre de l'Accord de Don. Un tel appui pourrait inclure mais sans s'y limiter la mise à disposition d'informations d'ordre technique et de données, la participation aux travaux d'examen et de validation des rapports d'études, des choix techniques et l'octroi des approbations requises le cas échéant. Les lignes qui suivent donnent un aperçu des rôles et responsabilités dévolus aux Agences de Mise en Œuvre identifiées dans le cadre du Programme du Bénin axé sur l'énergie et plus particulièrement au titre de la présente consultation et avec lesquelles le Conseiller en Transactions devrait collaborer.

- **Ministère de l'Énergie, de l'Eau et des Mines ("MEEM")** : Le MEEM contrôle la politique sectorielle dans le domaine de l'énergie électrique au Bénin et sera, au titre de l'Accord de Don, une structure de mise en œuvre (IE) chargée d'appuyer la mise en œuvre de certains aspects des projets de l'Accord de Don pour le compte du MCA-Bénin II.
- **Ministère de l'Économie et des Finances ("MEF")** : Le MEF agit en qualité de Mandataire Principal du Gouvernement du Bénin dans le cadre de l'Accord de Don de MCC dispose de représentants au sein des Conseils d'Administration de MCA-Bénin II et de la SBEE. Le MEF est également chargé d'octroyer toutes les subventions à mettre à la disposition de la SBEE dans le cadre du Contrat-Plan.
- **Autorité de Régulation de l'Électricité au Bénin ("ARE")** : L'ARE procède à la régulation du secteur de l'énergie électrique au Bénin et sera, au titre de l'Accord de Don, une Agence d'Exécution qui sera chargée d'appuyer la mise en œuvre des activités spécifiées au titre du Projet « Réforme des Politiques et Renforcement des Institutions » pour le compte du MCA-Bénin II, conformément à un Accord de Mise en Œuvre entre MCA-Bénin II et l'ARE.
- **Communauté Électrique du Bénin ("CEB")** : la CEB est une organisation bi-étatique, une propriété conjointe des Gouvernements du Bénin et du Togo, créée en 1968 qui s'occupe de la production, de l'importation, et du transport de l'énergie électrique vers les deux pays. La CEB sera, au titre de l'Accord de Don, une Agence d'Exécution qui sera chargée d'appuyer la mise en œuvre des activités spécifiées en vertu du Projet « Distribution d'Électricité » pour le compte du MCA-Bénin II.
- **Société Béninoise d'Énergie Électrique ("SBEE")** : La SBEE est la Société nationale de distribution d'énergie électrique qui sera, au titre de l'Accord de Don, une Agence d'Exécution chargée d'appuyer l'exécution des Projets du Programme, et plus particulièrement les Projets « Distribution d'Électricité » et « Production d'Électricité » et certains aspects du Projet « Réforme des Politiques et Renforcement des Institutions » pour le compte du MCA-Bénin II.

Pour plus d'informations sur la structure du secteur de l'énergie électrique au Bénin, se référer à l'Annexe A des présents TdR intitulée : « Bref Aperçu du secteur de l'énergie électrique au Bénin. »

D. PROGRAMME DU BENIN AXE SUR L'ENERGIE

Le deuxième Accord de Don entre le Gouvernement du Bénin et MCC vise le manque d'infrastructures électriques qui constitue une contrainte majeure à la croissance économique dans un pays où l'insuffisance de l'offre en énergie électrique, aussi bien en qualité qu'en quantité, entraîne la faible productivité, la réduction du rendement et des investissements au profit des entreprises, le manque d'efficacité dans les prestations des services publics et sociaux, et la diminution du bien-être et des opportunités économiques en faveur des ménages³⁵. Les causes profondes de ces problèmes résident non seulement dans la pauvreté du pays, mais également dans les politiques, les institutions et les principaux acteurs intervenant dans le secteur.

Le Programme du Bénin a pour objectif de s'attaquer à ces problèmes cruciaux à travers des réformes de politiques et le renforcement des institutions, des investissements à grande échelle dans les infrastructures de production et de distribution d'énergie électrique, ainsi que dans des activités d'électrification hors-réseau. Il se compose des quatre projets suivants :

- **Projet « Réforme des Politiques et Renforcement des Institutions »** : Ce projet appuiera des réformes profondes de politiques et contribuera à renforcer les institutions grâce à l'amélioration de la régulation, à la réforme tarifaire, à l'amélioration de l'exploitation et de la gestion de la SBEE, l'amélioration de l'efficacité énergétique et la promotion de l'investissement privé dans la production de l'énergie électrique. Le projet contribuera à l'atteinte des objectifs de réforme de politiques du Programme, y compris la satisfaction des conditions préalables (« CPs ») prévues. Le financement des services fournis par le Conseiller en Transactions et par le signataire du Contrat de Gestion proviennent du budget de ce projet.
 - L'activité « Appui à la Réforme des Politiques, de la Régulation et des Institutions » vise à améliorer l'ensemble de la gouvernance dans le secteur de l'énergie électrique au Bénin par l'amélioration de la régulation, la mise en place d'une politique et d'un plan tarifaires de même que des réajustements tarifaires périodiques ; l'augmentation de l'efficacité énergétique ; et le renforcement du cadre politique et réglementaire régissant les IPP.
 - L'Activité « Renforcement de la SBEE » vise à assurer l'autonomie de fonctionnement de la SBEE et à améliorer ses fonctions essentielles en tant qu'entreprise commerciale de sorte qu'elle devienne financièrement plus viable et capable de mieux fournir des services à sa clientèle. Conjointement avec les améliorations envisagées au niveau de l'ensemble du

³⁵ Le Bénin a clôturé son premier Accord de Don en octobre 2011. Ce Programme d'un montant de 307 millions de dollar US comprend les projets ci-après : (i) modernisation et extension du port de Cotonou; (ii) promotion de la sécurité foncière; (iii) amélioration de l'accès des micros, petites et moyennes entreprises aux services financiers ; et (iv) création d'un système judiciaire plus efficace.

secteur de l'Énergie dans le cadre de l'Activité « Appui à la Réforme des Politiques, de la Régulation et des Institutions », l'Activité « Renforcement de la SBEE » prévoit d'aider à améliorer les aspects clés des opérations de la SBEE et d'impacter son aptitude à mieux fournir de l'énergie aux consommateurs de toutes les catégories de revenus.

- L'Activité « Information et Education du Public » vise à informer les populations des changements de politiques intervenus dans le secteur de l'énergie et à les inviter à un changement de comportement en matière d'énergie à travers des campagnes d'informations et de sensibilisation sur l'efficacité énergétique, les sources d'énergie renouvelables et autres questions connexes.
- **Projet « Production d'Electricité »** : Ce projet permettra d'accroître d'environ 78 mégawatts (MW), la capacité totale installée du Bénin en termes de production d'électricité, – soit le tiers de la demande actuelle du pays en période de pointe – tout en réduisant sa dépendance vis-à-vis des sources d'approvisionnement externes. Cet objectif sera atteint grâce à l'installation de centrales photovoltaïques d'une capacité de production de 45 MW, ainsi que la réhabilitation d'infrastructures de production thermique et hydroélectrique existantes, pour une capacité de 33 MW, en complément des investissements dans la production solaire. Le Projet “Production d'Electricité” comportait à l'origine, les trois activités suivantes :
 - **Activité « Production Photovoltaïque »** : Grâce à une étude de faisabilité menée pendant la formulation du Programme, quatre sites appropriés ont été identifiés pour l'implantation des infrastructures de production photovoltaïque au Bénin dans le but de satisfaire la demande du pays en énergie électrique et alimenter le réseau électrique national. Les sites ont été retenus en fonction de leur situation géographique par rapport au réseau électrique national et aux sous-stations, la disponibilité des ressources solaires, puis évalués en tenant compte de ceux qui présentent le moins d'impacts possibles sur le plan environnemental, social et en matière de réinstallation. Les quatre sites retenus fourniront une nouvelle capacité totale de production solaire de 45 MW. La capacité installée proposée pour chaque site est la suivante :
 - Natitingou : 5 MW
 - Djougou : 10 MW
 - Parakou : 15 MW
 - Bohicon : 15 MW

Il est probable que l'Activité “Production Photovoltaïque” soit mise en œuvre par le biais d'un Producteur Indépendant d'Electricité (“IPP”). Le cas échéant, MCA-Bénin II devrait faire recours à un Conseiller en Transactions pour la production indépendante d'électricité qui se chargera d'appuyer l'exécution des aspects technique, financier et juridique liés à un tel accord.

- **Activité « Production Thermique »** : Au titre de cette activité, une capacité totale de 32 MW de petites unités de production thermique à réhabiliter a été identifiée pour venir en appoint des centrales de production solaire à travers la fourniture d'énergie électrique pour satisfaire la demande maximale en période nocturne. Toutefois, dans le cadre de son plan d'urgence en matière d'énergie, le Gouvernement a décidé d'entreprendre les travaux de réhabilitation sur fonds propres. Par conséquent, il s'agira de réaliser par MCC et MCA-Bénin II une étude de faisabilité pour évaluer les opportunités d'investissement dans la construction d'une nouvelle mini-centrale thermique grâce au financement MCC.
- **Activité « Production Hydroélectrique »** : Cette activité permettra de réhabiliter une centrale hydroélectrique existante qui servira à fournir de l'énergie électrique à des régions pauvres et reculées du Bénin (Yéripao/Natitingou). La centrale existante n'a pas produit de l'énergie depuis environ trois ans. Les travaux envisagés au niveau de ce site couvrent la réhabilitation d'une turbine 2-jet Pelton de 0.505 MW et l'installation d'une deuxième turbine d'égale capacité. Il est attendu que MCA-Bénin II fasse recours aux services d'un Consultant en Conception et d'un Contractant ou d'un Contractant en Conception-Construction pour la réalisation des conceptions techniques, l'élaboration des documents relatifs à la gestion des impacts environnementaux et sociaux, et l'atténuation des risques ainsi que des travaux de réhabilitation/installation.

Projet “Distribution d'Electricité” : Ce projet permettra de moderniser les infrastructures de distribution d'électricité au plan national afin d'étendre la capacité du réseau pour qu'il puisse supporter la croissance future, améliorer sa fiabilité et réduire les pertes et les coupures d'électricité. Le Projet contribuera à améliorer le réseau desservant Cotonou, la capitale commerciale, les réseaux régionaux sélectionnés pour compléter les propositions d'investissements dans la production solaire et aussi, au niveau national, la construction d'un centre moderne de conduite et de contrôle afin de gérer plus efficacement le réseau notamment l'énergie intermittente provenant des sources renouvelables. Le Projet “Distribution d'Electricité” se compose des trois activités ci-après :

- **Activité “Renforcement du Réseau Electrique au niveau régional”** : Cette activité vise le remplacement des lignes électriques, le renforcement des sous-stations, l'installation de nouveaux appareillages de commutation et la construction de nouvelles sous-stations dans les endroits requis en complément des investissements dans la production d'énergie solaire (envisagés dans le cadre du Projet Production d'Electricité) dans les villes de Natitingou, Parakou et Djougou. Cette activité permettra également la construction d'une nouvelle ligne de 63kV de Porto-Novo à Akpakpa, et la construction d'une nouvelle sous-station pour renforcer la capacité et la fiabilité du réseau dans la deuxième plus grande ville du Bénin.
- **Activité « Renforcement du Réseau électrique à Cotonou »** : Cette activité vise l'amélioration de la fiabilité du réseau pour satisfaire la demande croissante envisagée grâce à un éventail de projets d'infrastructures identifiés comme étant des priorités par des études de faisabilité, notamment les nouvelles lignes, les appareillages de commutation, les sous-stations, ainsi que l'extension du réseau urbain.

MCA-Bénin II est en train de procéder au recrutement d'un Consultant en Conception qui se chargera de préparer les conceptions détaillées, de réaliser les EIES et d'élaborer l'ensemble des documents d'appel d'offres relatifs aux travaux de construction tant pour l'activité "Renforcement du Réseau Electrique au niveau régional" que pour l'Activité « Renforcement du Réseau électrique à Cotonou ».

- **Activité « Distribution d'Electricité au plan national »** : Cette Activité permettra la construction d'un Centre National de Contrôle de la Distribution (« CNCD »), un impératif pour gérer la production photovoltaïque planifiée et pour permettre un suivi, un contrôle du réseau et la collecte de données en temps réel. L'activité « Distribution d'Electricité au plan national » sera réalisée suivant une approche conception-construction.

Projet « Accès à l'Electricité Hors-Réseau » : Ce projet contribuera à étendre l'accès à l'électricité dans un pays où seulement un tiers de la population y a accès, par l'apport de financement à travers une Facilité de subvention de projets énergétiques hors-réseau couplé à la réforme des politiques et le renforcement des institutions en vue d'appuyer l'ensemble du secteur de la production électrique hors réseau au Bénin. Il se compose des deux activités suivantes :

- **Activité « Facilité d'Energies Propres Hors-Réseau »** : La Facilité devrait servir à financer des solutions d'énergies renouvelables hors-réseau (par exemple, de petites installations à biomasse, à énergie solaire et des systèmes hybrides) au profit des communautés, la continuité du service pour les infrastructures publiques essentielles (telles que les hôpitaux et l'approvisionnement en eau), les appareils économes en énergie au profit des familles et des communautés, notamment pour réduire le temps de travail des femmes et la pénibilité de leurs tâches (par exemple, des systèmes solaires photovoltaïques pour les ménages), et la promotion des mesures d'efficacité énergétique à l'échelle nationale. La Facilité servira de levier pour mobiliser des ressources additionnelles à celles de MCC grâce à des partenariats avec des entreprises privées, des organisations non gouvernementales (ONG), des communautés et autres structures qui proposent des solutions viables hors-réseau et des solutions énergétiques propres pour le Bénin. Le Gestionnaire de la Facilité procédera à la sélection des partenaires qui ont soumis les projets les plus prometteurs sur la base d'une série de critères rigoureux, y compris l'exigence faite à chaque projet d'atteindre un taux de rentabilité économique minimum de 10%.
- **Activité « Environnement Propice à l'Electricité Hors-Réseau »** : Étant donné que la Facilité d'« Energie Propre Hors-Réseau » envisage un volet de financement à allouer aux solutions communautaires (c'est-à-dire les mini-réseaux), il s'avère nécessaire qu'un cadre politique et juridique soit élaboré pour se pencher sur le modèle hors-réseau à adopter en matière d'électrification rurale au Bénin. A ce jour, l'approche privilégiée pour l'électrification a été l'extension du réseau, mais on se rend de plus en plus compte des limites de cette approche. Pour accélérer le taux d'électrification, il est devenu évident que certains des obstacles à l'électrification hors-réseau doivent être levés ; d'où ce projet. Cette activité viendra en complément à la Facilité d'« Energie Propre Hors-Réseau » en mettant en place un cadre clair et transparent régissant l'électrification hors-réseau afin de clarifier

les questions de régulation, de propriété, d'exploitation, de tarification, de subventions et d'autres préoccupations relatives aux mini-réseaux.

E. DECISION DU GOUVERNEMENT DU BENIN PAR RAPPORT AU CONTRAT DE GESTION

La plupart des activités précédemment énoncés au titre du Programme ont été définies dans le but d'améliorer les performances de la SBEE qui constituent une condition préalable fondamentale à la réalisation de l'objectif global du Programme du Bénin axé sur l'énergie qui vise la fourniture de l'énergie électrique en quantité et en qualité aux populations béninoises. Le Programme prévoit de renforcer les capacités de la SBEE à travers les actions ci-après :

- Pour améliorer la gouvernance et la gestion au sein de la SBEE, comme étant l'une des conditions préalables (CPs) à l'entrée en vigueur (« EV ») de l'Accord de don, le GdB doit signer un Contrat-Plan avec la SBEE, mettre en place au niveau de la Société, un Conseil d'Administration composé de personnes expérimentées et procéder au recrutement d'un nouveau Directeur Général par appel à candidature.
- Pour améliorer la situation financière de la SBEE, le GdB doit, comme une condition préalable à l'entrée en vigueur (« EV ») de l'Accord de don, faire des progrès par rapport à l'apurement de ses arriérés vis-à-vis de la SBEE. Par ailleurs, au nombre des CPs liées au déblocage des 80 millions USD du financement du Programme (destinés à la construction des centrales solaires photovoltaïques) figure l'obligation du strict respect d'un Plan tarifaire à élaborer et à mettre en œuvre par le Gouvernement conformément aux dispositions de l'Accord de don, ce qui constitue une mesure adéquate susceptible d'amener la SBEE à pratiquer progressivement des tarifs qui reflètent le recouvrement intégral des coûts.
- Pour renforcer les opérations de la SBEE, l'activité « Renforcement de la SBEE » a été conçue afin de développer les capacités de la société en termes de maintenance, de formation, de dotation en matériel roulant, outils, équipements, pièces de rechange, ainsi que la mise en place d'un système de gestion de la maintenance. Les améliorations sont également prévues sur le plan financier et comptable à travers le renforcement des capacités, l'investissement dans les infrastructures de technologie de l'information, la mise en œuvre d'un système de gestion des stocks, l'appui aux opérations de rapprochement des comptes clients et d'autres aspects du système comptable de la SBEE.
- Afin d'accroître les actifs/biens de la SBEE, l'Accord de don prévoit des aménagements au niveau du système de distribution telles que mentionnées précédemment, de même qu'une augmentation de la capacité nationale de production d'électricité (à réaliser soit par le biais d'un contrat avec un IPP ou comme une propriété du gouvernement).
- Dans le but de soutenir la SBEE dans sa mission principale de distribution d'électricité, le Programme assure actuellement le financement d'une étude de faisabilité visant à analyser la meilleure solution applicable à l'appropriation et l'exploitation des actifs (directs et indirects) de l'Etat et susceptible d'aboutir éventuellement à la création d'une société nationale de production

d'électricité qui se chargera de l'ensemble des biens de production que gèrent ou exploitent la SBEE, au cas où le gouvernement ferait l'option de poursuivre dans cette voie.

L'objectif de toutes ces dispositions contenues dans l'Accord de don est de préserver la SBEE de l'ingérence et des pressions politiques dans son fonctionnement, d'insuffler un leadership axé sur les résultats et empreint de professionnalisme et ensuite de soutenir ce leadership par un système de gestion, ainsi que la mise en place de logiciels, d'un programme de formation du personnel, l'installation d'équipements et d'infrastructures nécessaires pour faire de la SBEE une société très prospère. Au cours de la phase d'élaboration du Programme, l'équipe de MCC et celle du Gouvernement avaient considéré ces dispositions comme étant la stratégie la plus appropriée possible pour réformer la SBEE. Par conséquent, l'option d'une plus grande participation du secteur privé – soit par un contrat de gestion, un affermage, une concession, une privatisation partielle ou totale ou autres méthodes – n'a pas été examinée.

Toutefois, le Gouvernement du Président Patrice Talon qui prit le pouvoir en avril 2016 fit l'option d'un contrat de gestion pour la SBEE et sollicita le soutien de MCC par rapport à ce choix. Le Gouvernement reste déterminé à entreprendre d'autres réformes prévues dans l'Accord de don à la SBEE, notamment la signature d'un Contrat-Plan (envisagée pour début 2017), la mise en place d'un Conseil d'Administration de la SBEE composé de personnes expérimentées, le paiement des arriérés des structures de l'Etat vis-à-vis de la SBEE, les réformes sur les tarifs et la perspective de l'installation d'une société nationale de production d'électricité (décision attendue pour l'été 2017). La condition préalable énoncée dans l'Accord de don pour le recrutement d'un nouveau Directeur Général par appel à candidature sera revue pour tenir compte du fait que cette fonction exécutive sera désormais assumée par le signataire du contrat de gestion.

Le Président Patrice Talon s'est engagé à ne faire qu'un seul mandat de cinq ans au pouvoir et tient donc à obtenir des résultats en très peu de temps. Par rapport au secteur énergétique, le Gouvernement entrevoit le Contrat de gestion comme une condition préalable nécessaire à la réalisation des prestations de services durables et de meilleure qualité. Par conséquent, le Conseiller en Transactions aura un agenda très serré et contraignant, avec une très grande visibilité politique jusqu'au niveau du Chef de l'Etat.

F. ETENDUE DE LA MISSION

Les activités du Conseiller en Transactions porteront sur des prestations de services en trois phases :

- Phase 1 : Etudes préalables et Structuration de la Transaction - prévue pour durer trois mois. Le Conseiller en Transactions devra préparer un Rapport sur la Structuration de la Transaction ("RST"). Ce RST comportera une synthèse des informations détaillées d'ordre juridique, financière et technique requis pour le Contrat de Gestion de même que les résultats des sondages de marché. Tout au long de cette phase, le CT organisera des ateliers avec les décideurs concernés pour discuter des recommandations issues du RST afin de faciliter le processus de prise de décisions et progresser vers la phase 2.
- Phase 2 : Mise en œuvre des opérations de Transaction – prévue pour parvenir à un contrat négocié en six mois. Le CT aidera MCA/SBEE/GdB à faire le marketing de l'opération auprès des contractants potentiels, à élaborer le dossier d'appels d'offres (notamment la Demande de Soumissions – (« DS ») et les documents contractuels. Il devra aussi appuyer le processus de

passation des marchés lié au Contrat de gestion à travers la participation aux travaux d'évaluation des propositions, la fourniture d'éléments de réponse aux clarifications demandées par les soumissionnaires et la contribution aux aspects relatifs à l'attribution du contrat. Le CT aura également la responsabilité d'appuyer MCA/SBEE/GdB après la période d'attribution du contrat jusqu'à la désignation du Consultant qui se chargera d'assurer le Suivi du Contrat de gestion comme décrit ci-dessous.

- Phase 3 : Mécanismes de Supervision—Le CT aidera MCA/SBEE/GdB à définir et à engager les services d'un Consultant chargé d'assurer le suivi de l'exécution du Contrat de Gestion et d'appuyer le Conseil d'Administration de la SBEE en matière de mesure et de suivi des performances dudit Contrat de Gestion pendant toute sa durée de vie.

PHASE 1 : ETUDES PREALABLES ET STRUCTURATION DE LA TRANSACTION

L'objectif principal de la présente phase est de : (i) réaliser des études préalables détaillées d'ordre technique, juridique et financier sur la SBEE en exploitant les données existantes et en effectuant des recherches complémentaires limitées ; (ii) entreprendre un sondage de marché sur de potentiels contractants ; (iii) procéder à une analyse des options du contrat et proposer les conditions y relatives ; (iv) préparer un plan de communication et apporter assistance aux équipes de MCA/SBEE/GdB en charge de la communication ; et (v) organiser un/des atelier(s) pour procéder à l'examen des résultats de cette phase avec les parties prenantes (notamment MCA-Bénin II, le GdB, la SBEE, et les PTFs) afin de recueillir les derniers commentaires et contributions sur le processus de finalisation du contrat avant de passer à la phase 2.

Les paragraphes qui suivent fournissent des informations détaillées sur les principaux services attendus du CT au titre de l'exécution de la Phase 1.

Tâche 1 : Plan d'actions de gestion du redressement et des investissements

Sous-tâche 1.1: Démarrage du Projet

Avant le démarrage du projet, le CT devra procéder à la mobilisation complète de son personnel. Il devra réunir son personnel clé pendant la période de mobilisation. Il devrait également réaliser des activités préliminaires de démarrage de projet avant d'entreprendre la mobilisation de l'ensemble de son équipe au Bénin et préparer un plan de mobilisation. Cette phase de pré-démarrage avec (MCA-Bénin II) portera essentiellement sur la collecte des données, les actions de coordination avec les structures de l'administration publique, le chronogramme d'exécution du projet et la préparation du démarrage de l'ensemble des activités du projet.

Une réunion de démarrage du projet sera organisée à Cotonou avec toute l'équipe du CT. Elle permettra au CT d'échanger, entre autres, avec MCA/SBEE/GdB sur le plan de travail, l'échéancier ou le chronogramme du projet, de déterminer les besoins en données, de définir la périodicité requise pour l'approbation des livrables et de retenir le protocole adéquat en matière de communication entre

MCA/SBEE/GdB et le CT. L'étape de lancement du projet doit également marquer le processus de démarrage des études préalables.

Sous-tâches 1.2: Evaluation des opérations courantes de la SBEE, de sa situation financière et de sa structure organisationnelle

La présente sous-tâche comprend :

Etudes techniques préalables

- Compiler et faire la synthèse des rapports des études préalables réalisées dans le secteur et à la SBEE.³⁶
- Définir le champ des services de la SBEE et préparer la liste de ses actifs (selon leur disponibilité) afin de les intégrer dans le CG.
- Analyser les indicateurs de performance clés, en particulier ceux qu'on pourrait inclure dans le Contrat de gestion, tirés du Contrat-Plan entre l'Etat et la SBEE ou d'autres sources.
- Analyser les opérations de la SBEE par rapport aux Normes de Performance ("PS")³⁷ de la Société Financière Internationale.
- Examiner et au besoin, mettre à jour et peaufiner le modèle financier de la SBEE (en cours d'élaboration par une mission de consultation distincte au titre de l'Etude tarifaire³⁸), notamment les informations techniques applicables au modèle telles que les dépenses en capital et les dépenses d'exploitation (capex/opex) de la SBEE ainsi que les prévisions de la demande.
- Examiner (i) les problèmes commerciaux de la SBEE ; (ii) le statut et les besoins relatifs au système d'information de gestion et au système des technologies de l'information de la SBEE ; (iii) la situation financière et administrative de la SBEE, en particulier les aspects relevant de la passation des marchés, de la gestion des ressources et de l'exercice des responsabilités ; et (iv)

³⁶ Au cours de la phase de formulation du Programme de 2013 à 2015, MCC avait réalisé des études préalables sur le secteur de l'énergie électrique au Bénin. Il s'agit notamment des études d'évaluation des politiques et des institutions (par TetraTech), des études de faisabilité sur les propositions d'investissement dans la production et la distribution d'énergie électrique (réalisées par Cardno/Fichtner) ainsi qu'une étude d'envergure nationale sur la volonté de payer pour l'énergie électrique. Les rapports de ces différentes études et d'autres rapports élaborés après la signature de l'Accord de don seront mis à la disposition du CT.

³⁷ Il s'avère important de mentionner que le PESMC (décrit ci-dessus) sera chargé, au titre de l'Accord de don, d'appuyer la SBEE dans la mise en place d'un Système de Gestion Environnementale et Sociale, de Santé et Sécurité ("SGESSS"). Dans la mesure où les travaux préliminaires d'élaboration du SGESSS par le PESMC au profit de la SBEE, c'est-à-dire la revue initiale des politiques, procédures et opérations de la SBEE en matière d'environnement seraient antérieurs à la réalisation des études préalables par le CT, ce dernier pourrait exploiter les résultats de cette revue documentaire. Par ailleurs, le contrat de gestion devra, en priorité, faire référence à la nécessité d'un respect permanent du SGESSS par la SBEE une fois qu'il sera entièrement élaboré avec l'aide du PESMC et adopté par la Direction et le Conseil d'Administration de la SBEE. Par ailleurs, Il convient é de faire remarquer que pendant la formulation du Programme, MCC avait financé des études d'impact environnemental et social préliminaires au titre des études de faisabilité sur les propositions d'investissement dans la production et la distribution d'énergie électrique (réalisées par Cardno/Fichtner), de même que le développement d'un cadre de politique de réinstallation et d'autres travaux de terrain réalisés par MCC et ses consultants en charge des études préalables. Les rapports disponibles seront mis à la disposition du CT.

³⁸ L'Agence Française de Développement (AFD) a également financé le développement d'un modèle technico-financier au profit de la SBEE dans le cadre des travaux réalisés par Nodalys Conseil, Atelier De Présentation / Restitution Du Modèle Technico-Financier Pour La Société Béninoise d'Energie Electrique en Mars 2015.

procéder à l'analyse de la structure institutionnelle et organisationnelle de la Société, notamment les capacités du personnel et les compétences requises.³⁹ Dans le cadre de l'analyse de la structure organisationnelle et de la dotation en ressources humaines de la SBEE, il faudra mettre à la disposition du CT, les résultats d'un processus de recrutement, d'embauchage, et les conclusions d'un programme de formation ainsi que la politique et les pratiques en matière de promotion qui permettent de garantir l'égalité des chances aux hommes et aux femmes dans l'institution. Il est attendu que les recommandations de cette étude seront intégrées au Contrat de gestion au titre des réformes à engager à la SBEE et des objectifs de performance conformément à la prise en compte des aspects liés à l'intégration du genre au titre de l'Activité « Renforcement des capacités de la SBEE » dans le cadre de l'Accord de Don.

- Identifier les CPs à satisfaire avant l'opérationnalisation du Contrat de Gestion à la SBEE.
- Analyser et vérifier les données à fournir sur la SBEE pour les besoins de la/des banque [s] de données virtuelle(s) [et physique(s)] à mettre à la disposition des soumissionnaires potentiels pendant la phase de mise en œuvre (Phase 2).

Audit financier préalable

- Examiner les états financiers de la SBEE et indiquer les changements requis pour une mise en conformité avec les Normes Internationales d'information financière ("IFRS") et assurer leur interprétation telle qu'adopté par le Conseil International des Normes Comptables ("IASB").
- Réaliser un examen financier des états financiers de la SBEE ayant fait l'objet d'audit ou non (il faudra exploiter les comptes de gestion dans les cas où les états financiers audités ne sont pas disponibles) des quatre derniers exercices budgétaires (selon leur disponibilité).

Sous-tâche 1.3: Structuration de la Transaction

Dans le but d'élaborer le dossier d'appels d'offres pendant la Phase 2, le CT devra, avec les parties prenantes concernées sur le plan national, aborder au préalable et en détail un certain nombre de questions dont notamment :

- Quels sont les principaux objectifs du contrat ?
- Quelle est l'étendue des services envisagée ?
- Quel sera le pouvoir ou la compétence du Contrat de Gestion et dans quelle mesure sera-t-il utilisé pour déterminer la stratégie de la SBEE ?
- Combien de personnes seront employées dans le cadre de ce contrat et quels seront leurs rôles ?

³⁹ Une étude réalisée sur les ressources humaines de la SBEE en 2013 (Rapport Final, GECA Prospective) a conclu que le personnel technique représente seulement un tiers de l'effectif de la SBEE et qu'il y a un besoin crucial en formation, dotation en équipements et autres activités de renforcement de capacités pour améliorer les performances du personnel de la SBEE.

- Comment fixer et mesurer les objectifs de performance ? Quels sont les indicateurs critiques et à quelle fréquence doivent-ils faire l’objet de rapport ?
- Quelle approche doit-on adopter en matière de renforcement de capacités ?
- Quels seraient la durée du contrat et sa structure (base et options)⁴⁰
- Quel serait le montant estimatif du contrat ?
- Quel serait le type de rémunération ?
- Qui devront être les acteurs à impliquer dans la supervision du CG et quelles devraient être les exigences en matière d’élaboration de rapport ?

Ces questions doivent être traitées à travers une série d’entretiens structurés et grâce à l’organisation de différents ateliers devant permettre d’aboutir à une position consensuelle.

La sous-tâche 1.3 devra aussi inclure “une analyse des besoins” pouvant permettre d’identifier les lacunes ou insuffisances existantes à la SBEE en matière de compétences et devant être abordés dans le Contrat de Gestion ou grâce aux projets d’investissements à réaliser par les PTFs. Ladite évaluation contribuera à définir et structurer les besoins en ressources énoncés dans le CG et devra prendre en compte les programmes prévus par les PTFs dans le cadre du renforcement et du développement des capacités, notamment le Projet « Réforme des Politiques et Renforcement des Institutions » de MCC (à travers les Activités « Appui à la réforme des politiques, de la régulation et des institutions et « Renforcement de la SBEE ») ainsi que le projet « Renforcement des Capacités des Acteurs du Secteur Electrique du Bénin (“RECASEB”) » financé par l’Union Européenne ou encore d’autres programmes prévus par l’AFD et la Banque Mondiale. L’étendue des services définis dans les lignes qui précèdent sera mise à la disposition du CT pendant la période de réalisation des études préalables.

Ladite sous-tâche nécessitera aussi une évaluation visant à structurer le processus de signature et de suivi de l’exécution du Contrat de Gestion. A travers l’Agent de Passation des Marchés, MCA-Bénin II assurera le processus de passation des marchés devant aboutir à la signature du CG et au recrutement du Consultant qui se chargera du suivi de l’exécution dudit Contrat (tel que détaillé ci-dessous). De façon générale, MCA-Bénin II est la principale partie contractante au titre de l’Accord de don. Le CT fera les analyses nécessaires et formulera les recommandations adéquates sur l’option privilégiée et les mécanismes applicables à la signature et au suivi du CG qui pourrait induire une responsabilité individuelle ou partagée entre MCA-Bénin II et la SBEE. Dans cette démarche, le CT examinera si le cadre juridique actuel de la SBEE qui inclut les documents constitutifs et de gouvernance, les structures de gouvernance de la SBEE et les procédures de passation des marchés ainsi que les politiques et les lois et règles édictées par l’Etat, est un cadre adéquat pouvant permettre d’assurer la mise en œuvre du CG et d’en garantir un suivi rigoureux. Cette analyse se fera sous la forme

⁴⁰ La durée normale d’un contrat de gestion serait de cinq années constituée d’une période de base de trois ans et d’une période optionnelle de deux ans. Compte tenu du temps imparti à la mise en œuvre du contrat de gestion par rapport à la durée de vie du Programme, l’exercice éventuel des options s’étendrait au-delà de la clôture de l’Accord de don, et par conséquent, il faudra examiner dans les TSR, la possibilité d’explorer une autre source de financement pour couvrir les frais de gestion au titre de la quatrième et de la cinquième année.

d'une étude des insuffisances et comportera des recommandations sur les besoins éventuels en instruments juridiques nouveaux ou modifiés. La présente sous-tâche permettra également d'identifier toutes les autorisations requises auprès du Gouvernement ou de l'Administration publique pour la mise en place du CG.

Aux étapes critiques du processus (tout au moins à la phase mi-parcours et à la fin de la Phase 1, du temps additionnel pourrait s'avérer nécessaire), un atelier sera organisé avec la SBEE et les parties prenantes clés pour présenter les progrès réalisés par rapport à ladite tâche afin de recueillir les contributions pertinentes à intégrer dans le plan de mise en œuvre du contrat de gestion. Pour finaliser ledit plan, il sera nécessaire d'organiser des séances de concertation spécifique avec les parties prenantes.

Sous-tâche 1.4: Plans d'actions de gestion du redressement et des investissements

Il s'agira d'élaborer un plan d'actions de gestion du redressement et des investissements qui, - en cas de mise en œuvre – permettra de constater un “redressement” de la SBEE en termes d'amélioration sur le plan financier et opérationnel au cours des cinq prochaines années et qui ainsi, contribuera à améliorer la disponibilité et la fiabilité de la fourniture de l'énergie électrique aux consommateurs. De façon générale, ledit plan portera sur les éléments ci-après :

- Identification des meilleures pratiques à mettre en œuvre.
- Elaboration d'un plan d'investissements lié aux actions identifiées.
- Elaboration d'un plan de mise en œuvre (à court, moyen et long terme).
- Développement d'indicateurs de performance clés destinés à suivre les progrès et la performance de la SBEE ainsi que les cibles y relatifs.

Au titre de l'Accord de don de MCC, il est prévu un financement d'un montant de 110 millions USD au profit de la SBEE pour les aménagements à faire au niveau des infrastructures de distribution (l'Activité « Renforcement du Réseau au niveau régional » et l'Activité « Renforcement du réseau de Cotonou »)⁴¹ ainsi que le développement d'un “NDCC”.⁴² Par ailleurs, l'Union Européenne (“UE”), l'Agence Française de Développement (“AFD”) et la Banque Européenne d'Investissements (“BEI”) procèdent conjointement au financement d'un projet de 58 millions d'euros portant sur la restructuration et l'extension du réseau de la SBEE à Abomey-Calavi et dans le département de l'Atlantique⁴³ Outre ces initiatives, puisque la SBEE ne dispose pas des ressources nécessaires pour couvrir l'ensemble des projets du plan d'investissement,, il sera nécessaire, dans le cadre de la présente sous-tâche, d'identifier des sources potentielles de financement et de procéder à la compilation des ressources engagées et non engagées au titre des informations à intégrer dans la Demande de Qualification (“DQ”).

⁴¹ Une demande de propositions relative à la conception, supervision, et suivi des travaux du projet “Distribution” prévus pour être financés au titre de l'Accord de don a été lancée le 27 mai 2016 et pourrait faire l'objet d'adjudication en janvier 2017.

⁴² MCA-Bénin II prévoit de publier une demande de soumission (DS) relative à la conception-réalisation pour les travaux de construction d'un centre national de conduite et de contrôle devant inclure le système de contrôle et d'acquisition de données (SCADA) au cours du premier trimestre de 2017.

⁴³ Les conceptions techniques du projet AFD/EU/EIB (Projet Restructuration et extension des réseaux de la SBEE dans la commune d'Abomey-Calavi et le Département de l'Atlantique) sont achevées et la période de soumission des propositions est actuellement en cours.

Le CG sera chargé de mettre en œuvre sur une période de cinq ans (probablement trois ans avec une période optionnelle de deux ans), les plans précédemment indiqués. Il devra être flexible pour permettre d'y ajouter d'autres actions et procéder à l'amendement des activités proposées avec l'approbation d'un Comité de pilotage qui sera mis en place pour suivre les performances du CG. Le Comité de pilotage sera composé de représentants issus du Conseil d'Administration de la SBEE, des PTFs (comprenant MCA-Bénin II, la Banque Mondiale, l'AFD et l'UE) et d'un Consultant en Suivi du CG.

PHASE 2: MISE EN OEUVRE DE LA TRANSACTION

L'objectif principal de la présente phase est : (i) d'aider MCA/SBEE/GdB à faire auprès des partenaires potentiels du secteur privé le marketing de l'opération de mise en place d'un contrat de gestion à la SBEE ; (ii) d'appuyer les activités de pré-qualification des soumissionnaires ; (iii) de contribuer au processus compétitif d'appel d'offres jusqu'à l'attribution du Contrat ; et (iv) d'apporter l'assistance nécessaire jusqu'au démarrage du CG.

Les principaux services d'appui-conseil dont devra s'acquitter le CT au titre de l'exécution des tâches de la phase 2 sont :

Tâche 2 : Elaboration de la version provisoire du dossier d'appel d'offres

La version provisoire du dossier d'appel d'offres à élaborer comportera :

- Les règles régissant l'exploitation des banques de données virtuelles (et physiques) par les soumissionnaires potentiels ainsi que les engagements de confidentialité auxquels ils sont tenus.
- Un sondage de marché, y compris la réalisation d'enquêtes préliminaires informelles auprès des partenaires potentiels du CG afin de déterminer leur degré d'intérêt.
- La Demande de Manifestation d'Intérêt ("EOI"), y compris la mise en place d'une stratégie visant à gagner la participation des soumissionnaires à une Demande de Soumissions potentielle.
- La Demande de Qualification (DQ), y compris la conception du processus de pré-qualification et la définition des critères et l'ébauche des procédures applicables à la pré-qualification. Les critères porteront essentiellement, entre autres, sur : (i) l'expérience et le plan de renforcement des capacités ; et (ii) l'expérience dans l'exploitation d'infrastructures de distribution d'énergie électrique dans des milieux similaires.
- Le dossier du CG qui devrait être composé de : (i) La Demande de Soumissions y compris les Instructions aux Soumissionnaires et la Note d'Information ; ainsi que (ii) l'Accord sur le CG.

Le CT devra également mettre adéquatement à jour tous les documents du dossier d'appel d'offres et les documents contractuels en prenant en compte les contributions et suggestions des structures impliquées dans le financement du CG et des soumissionnaires potentiels.

En élaborant la version provisoire des documents relatifs au CG, le CT devra :

- Répartir les risques juridiques en se référant à ce qui est commercialement acceptable et en accord avec les pratiques courantes du marché pour des transactions comparables, à la lumière des discussions avec MCA/SBEE/GdB.
- Préciser les risques juridiques significatifs ou garanties potentielles que MCA/SBEE/GdB doivent comprendre, mesurer, prendre en compte et approuver, tels que la répartition des risques inhabituels ou ceux qui impliquent des coûts élevés, les incertitudes liées à l'opérationnalisation ou à l'exécution de l'accord/des accord(s) sur le CG.
- développer un processus permettant aux soumissionnaires potentiels d'ajuster leurs plans de redressement en fonction des études préalables complémentaires et des évaluations qu'ils auront réalisées sur le terrain ;
- intégrer, si possible, les orientations du consultant chargé d'accompagner l'élaboration du Contrat Plan entre l'Etat et la SBEE.
- Permettre aux soumissionnaires d'exprimer leurs capacités à financer les dépenses d'investissement, ce qui pourrait faire l'objet d'une attention supplémentaire.

Pendant l'élaboration de la version provisoire des documents du CG, le CT devra également tenir compte des points ci-après :

e) Les principes fondamentaux de MCC

La législation en vigueur à MCC exige que toutes les passations de marchés relatives au Programme à l'instar du CG soient ouvertes, équitables et concurrentielles et utilisent des procédures transparentes. MCC a élaboré des Directives en matière de Passation des Marchés (PPG) et tient à leur exploitation/utilisation dans le cadre du Programme pour garantir le respect de cette exigence légale. Le CT devra structurer le processus de signature du CG en se conformant à de telles dispositions, ou en proposant une autre méthode de passation des marchés qui, par ailleurs, corresponde aux principes contenus dans les Directives en matière de Passation des Marchés, notamment :

- les Principes de Passation des Marchés pour les Programmes MCC.

f) Contenu des documents de passation des marchés

Il est obligatoire que les documents de passation des marchés préparés par le CT ainsi que le contrat de gestion négocié par la suite avec l'adjudicataire déclaré contiennent des clauses qui sont spécifiques et communes à l'ensemble des projets financés entièrement ou partiellement par MCC. Leur libellé exact doit être parfaitement conforme à la formulation des clauses contenues dans la version la plus récente des documents types d'appel d'offres approuvés par MCC et en cours de validité au moment de la passation du marché. Veuillez-vous référer aux versions les plus actuelles desdits documents. Toute formulation différente de celles contenues dans ces documents devra être soumise à l'approbation de MCC.

Les clauses obligatoires se rapportent aux éléments suivants :

- Les Dispositions Générales (Annexe D)
- Les Entreprises d'Etat ;
- L'Eligibilité ;
- Le Caractère Raisonnable des Prix et des Coûts;
- Les Performances Antérieures /la Vérification des Références ;
- Le Système de Recours des Soumissionnaires ;
- Le Plan d'Inclusion Sociale et d'Intégration du Genre ;
- L'Interdiction du Travail Nuisible aux Enfants ;
- L'Interdiction de la Traite des Etres Humains;
- L'Interdiction du Harcèlement Sexuel ;
- L'Imposition et l'Exonération Fiscale.

g) Critères de Qualification

Le CT proposera les critères de qualification les plus appropriés selon la nature du projet, les conditions actuelles du marché, les pratiques internationales et le plus grand intérêt de l'Etat.

Les critères de qualification peuvent porter sur les considérations relatives aux soumissionnaires :

- L'expérience en interventions sur des marchés similaires ;
- La situation financière ;
- Les Produits d'exploitation minimum issues d'une opération similaire gérée par le soumissionnaire ;
- La Qualité des services similaires.

h) Critères d'Evaluation

Selon la nature de la transaction PPP, les critères d'évaluation proposés par le CT peuvent porter sur des considérations relatives au point ci-dessous :

- Le plus faible montant global versé à l'Etat pour la gestion/l'exploitation de la société d'électricité concerné ;

Tâche 3 : Processus d'appel d'offres aboutissant à l'attribution du contrat

Appuyer MCA/SBEE/GdB dans la gestion du processus d'appel d'offres, travailler en étroite collaboration avec l'Agent de Passation des Marchés de MCA-Bénin II, et notamment (i) contribuer à la publication des avis aux soumissionnaires, et (ii) participer à la rédaction des réponses aux demandes de clarification à travers les activités suivantes :

- Identifier des investisseurs potentiels et faire connaître l'opportunité que représente le CG aux entreprises sur les plans régional et international.
- Appuyer MCA/SBEE/GdB dans la coordination du processus de pré-qualification, y compris dans les travaux d'évaluation des soumissions.

- Conseiller MCA/SBEE/GdB sur les problèmes relatifs à la structuration de la transaction en vue de la prise de décisions tout au long du processus.
- Contribuer à mettre en place une/des banque(s) de données virtuelle(s) [et physique], à élaborer les règles régissant l'exploitation de la banque de données ainsi que les engagements de confidentialité des soumissionnaires.
- Aider MCA/SBEE/GdB à organiser et à conduire un processus d'appel d'offres transparent et équitable qui soit en conformité avec les Directives de MCC en matière de Passation des Marchés⁴⁴ grâce au traitement des aspects relatifs à la stratégie de structuration des soumissions, les combinaisons possibles en matière de soumission, etc. Le processus portera également sur la finalisation du processus de sélection, y compris la définition des critères d'évaluation des offres.
- Aider MCA/SBEE/GdB à fournir des informations aux soumissionnaires et à répondre à leurs questions.
- Aider MCA/SBEE/GdB à organiser une conférence à l'attention des soumissionnaires, de préférence à Cotonou et/ou en Europe (préciser le lieu en Europe plus tard, probablement Paris) en fonction de la demande du marché. Si la conférence est organisée à Cotonou, elle pourrait inclure des visites de site sur place et des études préalables de 2 à 3 jours au niveau de la SBEE.
- Aider MCA/SBEE/GdB dans l'évaluation des propositions et au cours des négociations avec l'adjudicataire provisoire jusqu'à la date de signature du CG avec l'adjudicataire final.

Tâche 4 : Assistance après l'attribution du contrat jusqu'à la Prise en charge des Opérations par le signataire du Contrat de gestion

Après l'attribution du Contrat, le CT apportera son assistance à MCA/SBEE/GdB jusqu'à la prise en charge des Opérations par l'attributaire. Les tâches qui lui incombent à ce niveau sont :

- Formuler les recommandations nécessaires en matière de concrétisation du transfert des opérations au signataire du contrat retenu ainsi que sur les stratégies de résolution des problèmes majeurs qui pourraient survenir par rapport à la clôture du processus.
- Appuyer le processus de satisfaction des conditions préalables liées à la prise en charge des Opérations dans le cadre du CG.
- Faire des recommandations sur d'éventuelles dérogations aux conditions préalables et en élaborer les versions provisoires.
- Apporter l'appui juridique nécessaire à l'aboutissement de la prise en charge des opérations et au-delà d'une période de trois mois pour aider dans le processus d'orientation du Consultant en charge du Suivi du CG.

Le CT devra faire toutes les analyses nécessaires et exécuter toutes autres tâches pertinentes qui seraient identifiées pendant le processus de passation de marchés relatif au CG. Il devra réaliser un travail de très grande qualité en conformité avec les meilleures pratiques internationales.

⁴⁴ Disponible sur le site web www.mcc.gov

PHASE 3 : MECANISMES DE SUPERVISION

Etant donné que l'exécution satisfaisante du CG dépendra en partie de sa validation par une tierce partie, le CT élaborera un projet de termes de référence pour le recrutement d'un Consultant en Suivi du CG que MCA/SBEE/GdB exploiteront pour engager un consultant qui se chargera de superviser les travaux de mise en œuvre du CG et de formuler des recommandations au Conseil d'Administration de la SBEE sur les performances dudit contrat.

Les activités de la Phase 3 se dérouleront simultanément avec celles de la Phase 2. Les principaux services à fournir par le CG en matière de conseil dans le cadre de la réalisation de la Phase 3 sont :

Tâche 5 : Acquisition de services de consultant pour le suivi du CG

Sous-tâches 5.1: Définir l'étendue des services du Consultant chargé du suivi du CG

Le rôle prévu pour le Consultant en Suivi du CG consiste à assurer la supervision du CG au cours de la durée initiale de trois ans afin (i) d'évaluer les performances du CG et celles de la SBEE conformément aux dispositions contractuelles pour le compte du Conseil d'Administration de la SBEE et (ii) de faire des recommandations à MCA-Bénin II par rapport à toutes questions y relatives afin de lui permettre de prendre les décisions idoines, non seulement en ce qui concerne l'ensemble des décaissements à faire au titre du CG mais également par rapport à tout désaccord ou litige qui pourrait survenir entre les parties. Ainsi, les tâches à exécuter par le consultant en charge du suivi du CG sont, entre autres :

- Procéder à l'examen des rapports réguliers requis en vertu de l'exécution du CG et réaliser périodiquement et selon le besoin, des revues et analyses dans le but de valider les progrès ayant fait l'objet de rapport grâce à des indicateurs spécifiques ;
- Examiner et évaluer, afin de juger de leur caractère raisonnable, les plans et budgets élaborés par le Contractant du CG pour permettre au Conseil d'Administration de la SBEE de comprendre l'exécution du CG par rapport aux plans et budgets existants ainsi que ses obligations au titre du CG ; et
- Informer et faire des recommandations au MCA-Bénin II sur la meilleure stratégie de résolution des litiges en cas de désaccord pendant l'exécution du CG ou de différend relatif aux paiements liés au CG.

Le CT devra aider MCA-Bénin II et les parties prenantes à définir et finaliser l'étendue des services à couvrir par le Consultant en Suivi du CG. Cette tâche sera réalisée grâce à des entretiens structurés et l'organisation d'un atelier visant à aboutir au consensus sur l'étendue des services du consultant chargé du suivi du CG, les relations de rapportage pour le consultant, et l'élaboration de la version provisoire de la Demande de propositions (« DP ») pour les services relatifs au Suivi du CG.

Sous-tâche 5.2 : Assistance au processus de passation des marchés pour le Suivi du Contrat de Gestion

Le CT devra appuyer MCA-Bénin II et l'Agent de Passation des Marchés dans l'acquisition des services relatifs au Consultant en Suivi du CG en fournissant l'assistance technique à la formulation des réponses aux questions des Consultants potentiels, la définition des critères d'évaluation, l'assistance au panel d'évaluation et les conseils en matière de négociation du contrat.

G. LIVRABLES

Le CT préparera l'ensemble des documents de travail suivant :

Echéancier de dépôt des livrables

Date de soumission

Phase 1 (Réunion de démarrage à Cotonou = S)¹

Plan de Mobilisation	S + 1 semaine
Rapport de démarrage	S + 3 semaines
Plan de Communication	S + 2 mois
Etudes préalables d'ordre technique, financier, organisationnel et juridique	S + 2.5 mois
Atelier et concertations avec les parties prenantes	S + 3 mois
Rapport de structuration des transactions	S + 3 mois
Mémo sur le plan de gestion et de redressement de la SBEE	S + 3 mois

Phase 2

Appel à Manifestation d'Intérêt	S + 2 mois
Examen des soumissions de la Manifestation d'Intérêt	S + 3 mois
Demande de Qualification	S + 3 mois
Rapports bi-hebdomadaires de Suivi par les Médias	Démarrage S + 3 mois, de façon bi-hebdomadaire
Ebauche de la Demande de Soumissions	S + 4 mois
Evaluation de la Demande de Qualification (DQ)	S + 5 mois
Version Finale de la Demande de Soumissions (DS)	S + 5 mois
Conférence des Soumissionnaires	S + 7 mois
Contributions à l'évaluation des soumissions	S + 8 mois
Négociations de l'Accord du CG	S + 9 mois
Trois (3) Rapports Mensuels (après Attribution du Contrat) plus Rapport de Clôture définitive	S + 10, 11 ,12 mois
Documentation sur le processus après l'attribution du Contrat	A déterminer

Phase 3

Version provisoire des TdR pour le consultant en Suivi du CG	S + 3 mois
Version finale de la DP	S + 4 mois
Conférence préalable à la soumission des propositions	S + 5 mois
Contributions à l'évaluation des propositions	S + 8 mois
Négociations de l'Accord avec le consultant en Suivi du CG	S + 9 mois

Pour des besoins de présentation de l'échéancier du projet, la date de démarrage sera fixée lorsque le CT aura mobilisé son équipe pour prendre part à l'atelier de démarrage à Cotonou. Tel qu'indiqué ci-dessous, il est admis que cet échéancier pourrait être réaménagé s'il y avait des retards dans l'obtention des autorisations nécessaires de la part de MCA/SBEE/GdB, ou si les négociations et la signature de l'Accord du CG prenaient plus de temps que prévu.

Le CT présentera les livrables suivant l'échéancier énoncé précédemment. Tous les projets de livrables seront soumis sous forme électronique et toutes les versions finales des livrables seront soumises sous forme électronique et en cinq (5) exemplaires imprimés à envoyer à MCA-Bénin II à Cotonou. Tous les livrables seront soumis en langue française. L'emballage et le conditionnement de tous les livrables produits dans le cadre des présentes doivent être conformes à la pratique commerciale et permettre de garantir l'acceptation par le transporteur et une bonne réception à destination. Le numéro du contrat doit figurer sur chaque emballage, rapport, ou autre livrable.

En général, tous les documents électroniques doivent être accessibles par : (1) Produits de MS Office 2010 (ou version plus récente), y compris Word pour le traitement de texte, Excel pour les feuilles de calcul et les tableaux, PowerPoint pour les présentations et Project pour les échéanciers ; (2) AutoCAD 2002 (ou version plus récente) et format PDF pour les fichiers de dessins originaux; (3) format JPG pour les photos numériques; et (4) fichiers ArcView pour les données GIS ainsi que les versions PDF. Les données brutes qui ne sont pas soumises à travers un tableur doivent être transmises soit en Microsoft Access (fichier *.accdB), STATA (fichier *.dta), ou SPSS (fichier *.sav). Tout autre format sera soumis à l'approbation préalable de MCA-Bénin II.

H. PERIODE D'EXECUTION ET ECHEANCIER DE PAIEMENT

La période d'exécution doit être de douze (12) mois. L'échéancier de paiement proposé se présente comme suit :

Echéancier des livrables	Date de soumission	Paiement (%)
Phase 1		
Rapport de démarrage	S + 3 semaines	5%
Plan de Communication	S + 2 mois	5%
Etudes préalables d'ordre technique, financier, organisationnel et juridique	S + 2.5 mois	5%
Rapport de structuration de la transaction et Note sur le plan de gestion et de redressement de la SBEE	S + 3 mois	10%
Phase 2		
Appel à Manifestation d'Intérêt	S + 2 mois	5%
Demande de Qualification	S + 3 mois	5%
Projet de la Demande de Soumissions	S + 4 mois	10%
Evaluation de la Demande de Qualification (DQ)	S + 5 mois	5%
Version finale de la DS	S + 5 mois	10%
Contributions à l'évaluation des soumissions	S + 8 mois	5%
Négociations de l'Accord du CG	S + 9 mois	10%
Rapport final de clôture	S + 12 mois	5%
Phase 3		
Version provisoire des TdR pour le consultant en	S + 3 mois	5%

Version Finale de la DP	S + 4 mis	5%
Contributions à l'évaluation des propositions	S + 8 mis	5%
Négociations de l'Accord avec le consultant en Suivi	S + 9 mois	5%

I. EXIGENCES EN MATIERE D'APPROBATION ET D'ELABORATION DE RAPPORT

Globalement, en tant que structures de financement du projet de contrat de gestion, MCA/SBEE/GdB et MCC exigent l'approbation/la validation des principaux documents listés ci-dessous. Le calendrier prévoit deux (2) semaines pour chaque approbation ; tout retard dans l'obtention desdites approbations nécessiterait un réaménagement du calendrier :

- Demande de Qualification (DQ) : S + mois 3
- Version Provisoire de la Demande de Soumissions (DS) : S + mois 4
- Liste restreinte de contractants /CG et notification aux soumissionnaires : S + mois 5
- Version Finale de la DS : S + mois 6
- Evaluation des Propositions et notification à l'adjudicataire provisoire : S + mois 8
- Accord du CG négocié : S + mois 9

Le CT devra rendre compte au MCA-Bénin II. Il devra coordonner l'élaboration de tout document avec le Conseil d'Administration de la SBEE, les structures de l'Etat et MCC, et échanger avec d'autres acteurs extérieurs que le Gouvernement pourrait désigner.

J. COMPOSITION DE L'EQUIPE ET ORGANISATION DU TRAVAIL

Le CT devra réunir une équipe composée à la fois du Personnel Clé et d'autres agents d'appui justifiant d'une expérience approfondie des meilleures pratiques internationales dans la gestion et la mise en œuvre de la participation du secteur privé dans le secteur énergétique et, en particulier de l'expérience dans les contrats de gestion dans le secteur de l'énergie électrique. L'adjudicataire déclaré doit aussi avoir des connaissances sur les plans local et régional, une parfaite maîtrise de la langue française et disposer d'un appui technique et administratif suffisant pendant toute la durée du contrat.

Un personnel complémentaire et les besoins en ressources humaines devront être proposés au besoin par le CT, et ce, sur la base de la méthodologie et de l'approche qu'il a proposées pour atteindre les objectifs de la mission. Au cas où un personnel complémentaire représentant d'autres disciplines serait nécessaire pour l'exécution de l'une quelconque des tâches relevant de l'étendue des services, le CT devra soumettre à l'approbation de MCA-Bénin II à la fois les qualifications et les taux horaires de ce personnel complémentaire. Le CT devra fournir l'ensemble du Personnel Clé et le maintenir tout au long de la mission. Tout changement se fera sous réserve de l'approbation préalable de MCA-Bénin II conformément aux termes du contrat.

La réalisation de la présente mission de consultation nécessitera le personnel clé ci-dessous :

Expert en Restructuration des sociétés d'électricité (Chef d'Equipe) – un Expert justifiant de quinze à vingt (15 à 20) ans d'expérience dans le domaine de la restructuration des sociétés d'énergie

électrique et des réformes sectorielles dans les pays en développement (non membres de l'OCDE). L'expert doit posséder de l'expérience en élaboration et conclusion de contrats applicables à des services de contrat de gestion, concession et/ou affermage au cours des sept (7) dernières années.

Expert en gestion des sociétés d'électricité - un Ingénieur/Gestionnaire ayant au moins dix (10) ans d'expérience réelle dans la gestion des sociétés de production, transport et distribution d'électricité dans les pays en développement (non membres de l'OCDE), et spécialement dans la restructuration organisationnelle, le redressement, la gestion du changement et la réorganisation des procédures d'une entreprise commerciale.

Expert Financier des sociétés d'électricité – un Expert justifiant d'au moins dix (10) ans d'expérience dans l'appui à la planification financière, l'élaboration de rapports et la gestion de sociétés d'énergie électrique dans les pays en développement (non membres de l'OCDE). Il/elle doit notamment avoir de l'expérience dans le domaine de la planification des affaires et dans la conception et l'administration des systèmes d'information financière.

Expert-Juriste/Spécialiste en Passation des marchés/Spécialiste en Transactions – Un Expert ayant quinze à vingt (15 à 20) ans d'expérience dans le domaine de l'appui à la réalisation des transactions commerciales et des opérations de passation des marchés dans le secteur public dans les pays en développement (non membres de l'OCDE) ; l'expérience avec l'une des banques multilatérales de développement est vivement souhaitée. Il/elle doit notamment posséder de l'expérience dans l'élaboration des dossiers d'appel d'offres, l'appui aux séances de négociations de contrat dans le secteur de l'énergie électrique et aux travaux d'évaluation des offres techniques et financières. L'expert doit avoir de l'expérience en élaboration et conclusion de contrats applicables à des services de contrat de gestion, concession et/ou affermage au cours des sept (7) dernières années.

Par ailleurs, le CT devra solliciter les services de spécialistes et/ou d'experts techniques juniors pour des missions de courte durée, notamment :

- Le Spécialiste en Environnement pour réaliser l'évaluation environnementale
- Le Spécialiste en Technologie de l'Information pour mettre en place et assurer la maintenance de la banque de données virtuelle.
- Des ingénieurs juniors ayant de l'expérience dans les entreprises de gestion de la production, du transport et de la distribution de l'énergie électrique dans les pays en développement (non membres de l'OCDE).
- Un assistant-juriste chargé d'appuyer l'Expert Juriste/Spécialiste en passation des marchés.
- Un Spécialiste en Communication (sénior et junior) pour développer et appuyer la stratégie de communication.

K. NIVEAU D'EFFORT ESTIMATIF

La mission est prévue pour couvrir une période de douze (12) mois (y compris la période indiquée au titre de la tâche 4, après l'attribution du contrat). Au cours de cette période, les travaux seront répartis en

des phases distinctes avec l'effectif adéquat en ressources humaines. Globalement, l'équipe devrait travailler environ 1000 homme-jours, décomposés comme ci-dessous.

Catégorie d'expertise	Jours
Expert en Restructuration de sociétés d'électricité	200
Expert en gestion de sociétés d'électricité	140
Expert financier de sociétés d'électricité	120
Expert-Juriste/Spécialiste en Passation des marchés/Spécialiste en Transactions	140
Spécialiste en Environnement	30
Spécialiste en Technologie de l'Information	30
Ingénieurs-assistants	150
Assistant-juriste chargé d'appuyer l'Expert Juriste/Spécialiste en passation des marchés.	150
Spécialiste en Communication	20
Assistant en communications et à l'engagement des parties	20

Tous les membres de l'équipe du consultant sus-énumérés doivent disposer des qualifications complémentaires suivantes :

1. Parler et écrire couramment l'Anglais et le Français (tous les rapports écrits doivent être rédigés en Français).
2. Maîtriser l'outil informatique.
3. L'expérience professionnelle au Bénin ou dans d'autres pays d'Afrique de l'Ouest francophone serait un atout.

Le Consultant peut fournir d'autres agents techniques de soutien au besoin.

Les CV des experts autre que le personnel clé (par exemple le personnel administratif et /ou de soutien) ne feront pas l'objet d'analyse au cours du processus d'évaluation. Toutefois, les noms des experts proposés, leur contribution et leur poste, doivent être indiqués aussi bien dans la proposition technique que dans la proposition financière (veuillez noter que la proposition financière doit également préciser les honoraires de ces experts).

Il est à signaler qu'en cas de proposition d'un fonctionnaire de l'Etat comme expert, une preuve de son employeur attestant qu'il/elle sera en congé ou mis en disponibilité pendant la durée de sa mission dans le cadre de ce contrat doit également être présentée dans la proposition technique. Aucun agent de MCA-Bénin II ne peut être proposé comme expert ou personnel de soutien dans le cadre du présent contrat.

L. INFORMATIONS, APPUI ET DOCUMENTS A FOURNIR

1. Informations à fournir par le Consultant

Le principal lieu d'affectation de l'équipe du Consultant sera Cotonou et le siège social du CT.

Le CT est responsable de l'ensemble des ressources nécessaires à la conduite de la mission : bureaux, déplacements (à l'intérieur et à l'extérieur du pays), hébergement, fournitures de bureau, communications, ordinateurs et accessoires, traduction/interprétation (s'il y a lieu), police d'assurance (le cas échéant), formation du personnel et autres coûts liés à ses responsabilités dans le cadre de la mission. Tous les équipements et/ou outils nécessaires à la réalisation des études, évaluations et analyses décrites dans les présentes doivent être fournis par le Consultant sans coût additionnel

2. Suivi de l'exécution du contrat

Le CT doit mettre en place et conserver un Plan de Contrôle de Qualité (« PCQ ») qui expliquera tout au moins la manière dont il envisage de respecter les exigences de l'ensemble des objectifs de performance, de suivre et de gérer de façon proactive les exigences inhérentes aux travaux. Il doit également inclure le mécanisme par lequel l'entité MCA-Bénin II sera informée des incidents liés à l'exécution des tâches et susceptibles d'affecter la qualité des services ou d'avoir un impact sur la conduite de la mission. Le CT doit fournir une copie de son PCQ en même temps que le rapport de démarrage. Toute proposition de modification au PCQ sera soumise à l'entité MCA-Bénin II pour examen et commentaires au plus tard dix (10) jours ouvrables avant la date d'entrée en vigueur des modifications proposées.

3. Assistance fournie par MCA-Bénin II

La principale personne ressource du CT dans le cadre de cette mission sera le Directeur des Opérations de MCA-Bénin II et le Chef projet « Réformes des Politiques et Renforcement des Institutions ».

MCA-Bénin II devra fournir l'appui nécessaire et les informations suivantes au CT :

- (a) L'accès à tous les rapports, données et autres documents nécessaires en relation avec la mission et qui peuvent être déjà disponibles ;
- (b) Les lettres de recommandation pour faciliter la rencontre avec différentes catégories de parties prenantes de même que l'accès aux ministères, autorités gouvernementales et organismes dont les activités et les rôles sont essentiels pour la mission du CT ;
- (c) Les lettres d'invitation qui peuvent être nécessaires pour appuyer les demandes de visa d'entrée et de sortie pour le personnel expatrié du CT ;
- (d) La facilitation de la délivrance de tout permis nécessaire au personnel du CT pour l'accomplissement de sa mission au Bénin ;
- (e) La Facilitation de l'importation et de l'exportation des matériels dont pourrait avoir besoin le CT dans le cadre de l'exécution de ses services de consultation, ainsi que les biens appartenant à son personnel expatrié.

4. Documents à fournir par MCA-Bénin II

Toute la documentation nécessaire relative à l'Accord de Don (Compact) devra être mise à la disposition du CT. Ces documents devront inclure, sans toutefois s'y limiter :

- a. L'Accord de Don signé le 09 septembre 2015 ; l'Accord de Don est également disponible sur le site internet www.mcc.gov et www.mcabenin2.bj

- b. Les Accords de Mise en Œuvre ou Accord d'Exécution au fur et à mesure qu'ils seront disponibles ;
- c. Les Politiques pertinentes de MCC : les Directives de MCC sur l'environnement, la Politique de MCC pour le Suivi/Evaluation des Compacts et des Programmes-Seuil, les Directives de MCC en matière d'Analyse Economique et d'Analyse des Bénéficiaires, les Directives de MCC en matière d'utilisation d'indicateurs communs, la Politique de MCC en matière d'égalité des sexes et d'intégration de l'approche genre, les Directives de MCC en matière de Passation des Marchés (disponible sur le site www.mcc.gov)
- d. Les Rapports connexes utilisés au cours du processus d'élaboration des activités du Programme :
 - (i) Le Rapport sur l'analyse des contraintes économiques.
 - (ii) Les Etudes relatives au système électrique du Bénin – Rapports définitifs des études de faisabilité.
 - (iii) Autres études pertinentes.
- e. Les Rapports mentionnés aux présentes et préparés par d'autres Consultants.
- f. Plan Directeur de Développement du sous-secteur de l'Energie électrique au Bénin – Document Synthèse de l'Etude et Plan d'actions actualisé, MEEM, DGE, Août 2016
- g. Programme d'Actions du Gouvernement 2016-2021
- h. Etude de faisabilité du projet de construction de centrales solaires photovoltaïques "DEFISSOL", Rapport d'étape 1, version provisoire, Groupement Nodalis Conseil – CAPSIM, Novembre 2016
- i. Etude de faisabilité du projet de construction de centrales solaires photovoltaïques "DEFISSOL", Rapport d'étape 2, version provisoire, Groupement Nodalis Conseil – CAPSIM, Novembre 2016
- j. Les Composantes du Plan de redressement du sous-secteur de l'Electricité (PRSE) de la République du Bénin, MEEM, Août 2016

LISTE DES ACRONYMES/ABREVIATIONS

ABERME	Agence Béninoise d'Electrification Rurale et de Maîtrise de l'Energie
AE/ER	Structure/Entité responsable
ANADER	Agence Nationale pour le Développement des Energies Renouvelables et de l'Efficacité Energétique
ARE	Autorité de Régulation de l'Electricité
CEB	Communauté Electrique du Bénin
CEET	Compagnie Energie Electrique du Togo
CESMP	Plan de gestion environnementale et sociale de l'entrepreneur (spécifique au site)
C-F	Cardno-Fitchner
CONTRELEC	Agence de Contrôle des Installations Electriques Intérieures
CP	Conditions Préalables
DGE	Direction Générale de l'Energie
ECOWAS	Communauté Economique des Etats de l'Afrique de l'Ouest
EOI	Manifestation d'Intérêt
EHS	Environnement, Santé et Sécurité
ESHSMS	Système de gestion environnementale, sociale, de santé, sécurité
ESIA	Evaluation d'impact environnemental et social
EU	Union Européenne
FA	Agent Fiduciaire
FCFA	Franc de la Communauté Française d'Afrique
FER	Fonds d'Electrification Rurale
GoB	Gouvernement de la République du Bénin
GWh	Gigawatt/heure
HPP	Centrale hydroélectrique
HTA	Haute Tension A
HV	Haute Tension
IASB	Conseil International des Normes Comptables
IE	Agence/Structure de Mise en Œuvre
IEA	Accord des Structures de Mise en Œuvre
IFC	Société Financière internationale
IFC PS	Norme de performance environnementale et sociale de la Société Financière Internationale
IFRS	Normes internationales d'information financière
IPP	Producteur Indépendant d'Electricité
IT	Technologie de l'information
Km	Kilomètres
KPI	Indicateurs de Performance Clé
KV	Kilo Volt
KWh	Kilowatt heure
LV	Basse Tension
MCA	Millennium Challenge Account-Bénin II
MCC	Millennium Challenge Corporation
M&E	Suivi & Evaluation
MEF	Ministère de l'Economie et des Finances
MERPMDER	Ministère de l'Energie, de l'Eau et des Mines
MV	Moyenne Tension
MW	Mégawatt
NDCC	Centre national de conduite et de contrôle
NGO	Organisation Non Gouvernementale
OECD	Organisation de Coopération et de Développement Economiques
OCEF	Facilité d'Energie Propre Hors-Réseau
O&M	Exploitation et Maintenance
PA	Agent de Passation des Marchés
PESMC	Consultant en gestion de programme et en gestion environnementale et sociale
PV	Photovoltaïque
PV	Photovoltaïque

QCP	Plan de Contrôle de la Qualité
RECASEB	Renforcement des Capacités des Acteurs du Secteur Electrique du Bénin
RFP	Demande de Proposition
RFQ	Demande de Qualification
SBEE	Société Béninoise d'Energie Electrique
SCFD	M ³ /an (Standard Cubic Feet per Day)
TA	Conseiller en Transactions
TOR	Termes de référence
TSR	Rapport sur la Structure des Transactions
SAIFI	Indice de la Fréquence moyenne d'interruption du service
USG	Gouvernement des Etats-Unis
WAGP	Gazoduc d'Afrique de l'Ouest
WAPCo	Compagnie du Gazoduc de l'Afrique de l'Ouest
WAPP/EEEO	Système d'Echanges d'Energie Electrique Ouest-Africain

ANNEXE A: Bref Aperçu du Secteur de l'Énergie Électrique au Bénin

Aperçu et principales caractéristiques du Secteur de l'Énergie au Bénin

Un tiers de la population béninoise d'une dizaine de millions d'habitants a accès à l'électricité, avec des disparités entre les zones rurales et urbaines. Plus de la moitié des personnes vivant en zones urbaines ont accès à l'électricité tandis que 5,5% des ruraux y ont accès. En raison des faibles taux d'accès, la consommation d'énergie électrique au Bénin est inférieure à la moyenne en comparaison avec les pays africains à faible revenu, soit 110 kWh/habitant par an, malgré une croissance rapide de la demande, qui est de 6% par an.

Tableau 1: Principales informations concernant le secteur de l'Énergie électrique au Bénin

Principales informations		Acteurs clés	
Pourcentage de la population ayant accès à l'électricité	~33%	Société nationale de distribution d'énergie électrique	Société Béninoise d'Énergie Électrique (SBEE)
Courbe de charge/puissance	période de pointe du soir : 200-250 MW charge/puissance de base: 100-120 MW	Société bi-étatique (Bénin-Togo) d'importation, de production et de transport d'énergie électrique	Communauté Électrique du Bénin (CEB)
% de la consommation intérieure satisfaite par les importations	99%	Fournisseur de gaz naturel au plan régional	Le Gazoduc de l'Afrique de l'Ouest (WAGP)
% de la demande actuelle satisfaite par les importations d'énergie	50-75%	Autorité de régulation du secteur de l'électricité	Autorité de Régulation de l'Électricité (ARE)
Prix d'achat des importations	USD 0,10/kWh	Ministère de l'Énergie	Ministère de l'Énergie, des Mines et de l'Eau (MEEM)
Coût de production d'urgence à partir de centrales thermiques pour combler le déficit	USD 0,30/kWh		
Tarif moyen appliqué au consommateur	USD 0,20/kWh	Agence en charge des énergies renouvelables, hors-réseau et de l'efficacité énergétique	Agence Nationale des Énergies Renouvelables et de l'Efficacité Énergétique (ANADER)
Tarif de rachat de l'énergie solaire (avec stockage)	USD 0,13/kWh	Agence d'électrification rurale (branchements au réseau)	Agence Béninoise de l'Énergie Renouvelable et de la Maîtrise de l'Énergie (ABERME).

En plus de l'accès limité, le réseau de distribution électrique du Bénin est caractérisé par :

- de nombreuses coupures d'électricité (interruptions planifiées, rationnement et coupures non planifiées)

- l'instabilité de la tension qui peut endommager les équipements et nécessite souvent l'utilisation de stabilisateur de tension coûteux pour y remédier.

L'insuffisance de la fourniture d'énergie électrique aussi bien en qualité qu'en quantité est la résultante de trois problèmes : offre insuffisante d'énergie pour couvrir la demande, mauvaise situation financière et conditions d'exploitation de la société nationale de distribution d'énergie électrique (SBEE), et mauvaise gestion de l'ensemble du secteur de l'énergie.

Insuffisance de l'Offre

Trois raisons principales sont à la base de l'insuffisance de l'offre d'énergie électrique au Bénin. De prime abord, le Bénin a toujours été un gros importateur d'énergie électrique tout en étant qu'un petit marché énergétique. Le Bénin dépend, en grande partie de la *Communauté Economique du Bénin* (CEB) pour la satisfaction de ses besoins en électricité. La CEB, un organisme bi-étatique appartenant au Gouvernement du Bénin et du Togo, est chargée de la production et du transport de l'énergie électrique. Elle approvisionne la Société Béninoise d'Energie Electrique (« SBEE »), le distributeur national d'énergie électrique. En raison de la faible capacité de production dont dispose la CEB, elle satisfait aux besoins du Bénin et du Togo en grande partie grâce aux importations en provenance du Ghana et du Nigéria, deux pays qui connaissent eux-mêmes des crises énergétiques récurrentes, les ayant conduits au non-respect de leurs obligations contractuelles vis-à-vis de la CEB. En outre, le Gazoduc d'Afrique de l'Ouest (« WAGP »), dont le Bénin est un membre fondateur, n'est pas parvenu à combler les attentes en termes de livraison de gaz naturel en provenance du Nigéria, transformant ainsi en une alternative peu fiable, l'usage du gaz naturel comme un combustible pour la production d'électricité.

Deuxièmement, la capacité de production interne du Bénin n'est pas disponible en tout temps en raison d'une combinaison de facteurs dont le mauvais état des installations, le manque de maintenance, et l'incapacité à garantir des approvisionnements réguliers et peu coûteux en combustible. La SBEE a recours à ses infrastructures de production hydroélectrique et thermique ; toutefois, la production de ces centrales ne représente que 1% de l'énergie consommée. Pour combler le déficit énergétique, le gouvernement du Bénin a conclu des contrats de location (à court terme) de groupes électrogènes conteneurisés qui fonctionnent au gazoil, alors qu'il se trouve toujours confronté aux problèmes d'approvisionnement en gaz pour alimenter sa centrale électrique de 80 mégawatts «MW » à Maria Gleta (non loin de Cotonou).

Le taux élevé des pertes techniques et commerciales constituent la troisième raison de l'insuffisance de l'offre d'énergie électrique. Bien que le taux des pertes techniques et commerciales combinées estimé à 22% ne soit pas le plus élevé dans la région, le réseau électrique de la SBEE montre actuellement ses limites en fourniture d'énergie électrique. En raison de nouveaux branchements au réseau, les pertes vont probablement s'accroître sauf si de nouvelles infrastructures sont construites pour soutenir l'augmentation prévue de la demande.

Situation financière et opérationnelle peu reluisante

La SBEE est confrontée à des problèmes financiers et opérationnels liés à des facteurs tels que la pratique de tarifs réduits/bas, les pertes commerciales élevées (estimées à 12 % pour les pertes sur-réseau, plus les pertes supplémentaires liées aux difficultés de recouvrement des factures

impayées), les pertes techniques s'élevant à 10 %, un personnel peu qualifié et/ou mal formé et des insuffisances en matière de gestion financière et des actifs.

Le niveau des tarifs appliqués par la Société Béninoise d'Énergie Électrique (SBEE) a privé cette dernière de ressources financières pour exploiter et entretenir correctement les actifs existants ou investir dans leur extension. Bien que ces tarifs soient justifiés par les décideurs comme un moyen de protéger l'industrie nationale ainsi que les couches défavorisées, ils n'atteignent, en définitive, aucun des objectifs. En outre, l'insuffisance de l'offre en énergie électrique constitue un obstacle majeur au développement des secteurs industriel et commercial et les oblige à recourir aux groupes électrogènes coûteux pour satisfaire leurs besoins en électricité, ou tout simplement à perdre leurs stocks alimentaires, ou bien à cesser de produire, ce qui affecte leur productivité.

Questions de Gouvernance

Le cadre politique et institutionnel du Bénin est caractérisé par une mauvaise planification et l'absence de régulation indépendante. Le processus de prise de décision dans le secteur est généralement politisé et les décisions importantes comme par exemple la fixation des tarifs d'électricité sont prises non pas à un niveau technique mais par le Conseil des Ministres, la plus haute instance décisionnelle du pays. En raison de la mauvaise planification, le pays est confronté à des pénuries persistantes en énergie et est obligé de compenser ce gap par des solutions d'urgence très coûteuses.

Jusqu'à une date récente, le Bénin ne disposait pas d'une autorité de régulation de l'électricité, malgré la mise en place d'un cadre réglementaire par décret depuis plusieurs années. En février 2015, le GdB a nommé les membres du nouvel organe de régulation (*Autorité de Régulation de l'Électricité* – « ARE ») et mettra à sa disposition les ressources de fonctionnement dans le budget de 2016.

Demande et Consommation

Le secteur de l'énergie au Bénin est caractérisé par une prédominance des usages traditionnels de la biomasse-énergie constituée de bois de feu, de charbon de bois et de déchets végétaux ainsi que les résidus dans le bouquet énergétique global.

Tableau 2. Structure de consommation par type d'énergie et contribution au bouquet énergétique

	Biomasse	Produits Pétroliers	Electricité	Gaz (butane)
Consommation (tep*)	1.376.902	360.673	31.116	7.482
Contribution (%)	77,5	20,3	1,8	0,4

*Tonnes-équivalent-pétrole

Au Bénin, la consommation d'énergie par habitant est relativement faible soit 0,392 tep/habitant (en 2010) - moins que le Ghana (0,4) ; la Tanzanie (0,46) ou le Togo (0,47)⁴⁵. Les usages traditionnels de la biomasse-énergie représentent plus de 75% de la consommation totale d'énergie dans le pays. A ce jour,

⁴⁵ Agence Internationale de l'Énergie, Atlas de l'Énergie.

100 % des approvisionnements en produits pétroliers proviennent de l'extérieur et moins de 1% de l'électricité est produit par le Bénin, à partir de ses propres installations (2013).

Le tableau 3 illustre l'évolution du nombre d'abonnés de la SBEE au cours des dix dernières années et indique le taux d'électrification (globale, urbaine et rurale). Le tableau 4 montre l'évolution des abonnés des réseaux basse tension (« BT ») et moyenne tension (« MT ») et indique la quantité correspondante d'énergie électrique vendue.

Tableau 3. Evolution du nombre d'abonnés et taux d'Electrification ⁴⁶

Année	2005	2010	2011	2012	2013	Taux de croissance (%)
Abonnés BT	305.706	416.256	437.092	456.567	484.176	9,2
Nombre total de ménages	1.320.543	1.521.585	1.566.638	1.599.292	1.658.137	3,6
Taux d'électrification (%)	23,15	27,36	27,9	28,4	29,2	5,4
Abonnés BT urbains	293.088	388.021	n.a.	n.a.	n.a.	8,9
Ménages urbains	568.091	721.666	n.a.	n.a.	n.a.	4,1
Taux d'électrification urbaine (%)	51,59	53,77	n.a.	n.a.	n.a.	4,6
Abonnés BT ruraux	12.618	28.235	n.a.	n.a.	n.a.	16
Ménages Ruraux	752.452	799.919	n.a.	n.a.	n.a.	2,6
Taux d'électrification rurale (%)	1,68	3,53	3,8	4,48	5,5	13

Tableau 4. Abonnés aux Systèmes BT et MT ⁴⁷

Année	Tension	2008	2009	2010	2011	2012	2013	Taux moyen d'accroissement (%)
Nombre d'abonnés	LV	367.711	386.630	416.211	437.092	456.567	484.176	5,7
	MV	579	626	667	731	772	837	7,7
Quantité d'énergie électrique vendue (GWh)	LV	497.23	522.97	572.50	582.59	598.12	621.28	4,6
	MV	224.06	247.78	257.36	213.65	242.42	231.20	1,3
Quantité d'énergie électrique fournie (GWh)		836.97	935.90	1.024.33	1.018.27	1.073.81	1.099.17	5,7

⁴⁶ Rapports d'Activités SBEE, 2011 et 2012 et, s'agissant du Rapport provisoire de l'IED, communication de la SBEE envoyée au Cabinet IED en Octobre 2014 dans le cadre de la préparation du Plan directeur.

⁴⁷ Ibid.

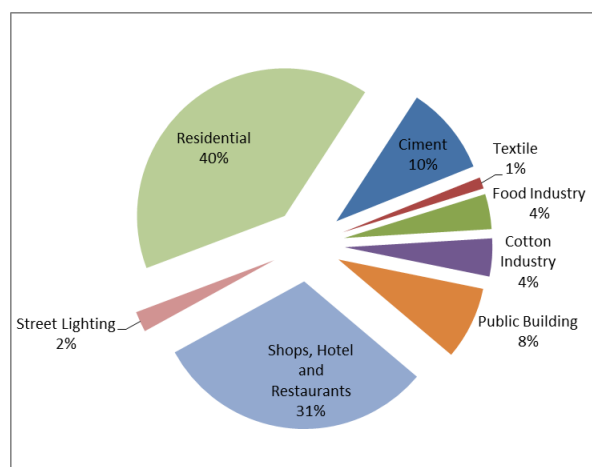
La consommation nationale d'énergie électrique est passée de 589 GWh en 2005 à 868 GWh en 2010, et à 1.099 GWh en 2013. Ainsi, elle a pratiquement doublé entre 2005 et 2013. L'augmentation de la consommation d'énergie électrique s'explique principalement par une forte poussée démographique ajoutée à la prolifération des appareils électriques au sein des ménages et des entreprises.

Tableau 5. Consommation d'énergie électrique par secteur et prévisions de la demande d'énergie électrique, 2020-2030

Année	2006	2007	2008	2009	2010	2020	2030
Ménages	273	287	324	338	362	991	1.416
Entreprises	127	146	105	128	163	1,133	3.398
Service/Autre	214	239	283	320	343	708	850
Total	614	672	711	786	868	2,832	5. 664

Figure 1. Electricity consumption by sector in 2012

La demande d'énergie électrique peut être répartie entre les consommateurs qui ont déjà accès à l'électricité (54% des ménages dans les zones urbaines et environ 5% des ménages dans les zones rurales) ; et ceux qui n'y ont pas accès et qui représentent le reste de la population. Les consommateurs connectés au réseau de la SBEE sont concentrés dans les régions côtières à Cotonou, et à Porto-Novo, la capitale politique et ses environs. Au cours des dix dernières années, la demande en énergie électrique n'a cessé d'augmenter d'environ 6,8 pour cent par an.



Les ventes d'électricité dans le secteur industriel représentent environ 18% de la consommation totale d'énergie électrique dans le pays. La production industrielle est essentiellement constituée de l'industrie cimentière et de l'industrie textile (égrenage et traitement du coton fibre, filature et tissage), avec quelques transformations de produits agricoles (huiles, arachide, fruits en jus, etc.).

Les consommateurs du réseau Moyenne Tension ne représentent qu'un peu plus de 30% des ventes totales d'énergie électrique. La consommation d'électricité par les ménages, soit 40%, contribue à la satisfaction des besoins fondamentaux comme l'éclairage, la réfrigération, la climatisation (avec l'utilisation de brasseurs ou de climatiseurs en fonction de la classe sociale des ménages) et des canaux de divertissement tels que la télévision, la radio, les téléphones cellulaires, et les équipements électroniques.

Le Bénin compte 3.754 localités dont seulement 1.280 sont électrifiées, soit un taux de couverture de 34,1%.

Sources d'approvisionnement

Les principales sources d'approvisionnement du pays en énergie électrique sont les suivantes :

Tableau 6. Aperçu des infrastructures de production d'énergie électrique

Titre du Projet/Lieu	Type de combustible	Capacité installée	Possession	Opérateur	Année de mise en exploitation	Commentaires
Importations de la Côte d'Ivoire, du Ghana, du Nigeria				via CEB		Consulter le tableau ci-dessous
Turbine à gaz à Cotonou	Gaz naturel	20 MW	CEB	CEB	1998	3 mois de maintenance tous les 2 ans
Turbine à gaz à Lomé	Gaz naturel	20 MW	CEB	CEB	1998	3 mois de maintenance tous les 2 ans
Centrale hydroélectrique de Nangbéto au Togo	Hydroélectricité	65 MW	CEB	CEB (partagée)	1987	A besoin de maintenance; capacité effective actuelle est 15 MW
Centrale de Porto Novo	Carburant Diesel	12 MW	SBEE	SBEE	2005	A besoin de maintenance (24.000 heures)
Centrale de Parakou	Carburant Diesel	15 MW	SBEE	SBEE	2005	En panne
Centrale de Natitingou	Carburant Diesel	12 MW	SBEE	SBEE	2005	En panne
Centrale d'Akpakpa	Diesel Fuel lourd	22 MW	SBEE	SBEE	~1980	En panne
Centrale CAI de Maria Gleta	Gaz naturel Jet A1	80 MW	Gouvernement du Bénin	SBEE	2013 pour 7 unités; 2014 pour 1 unité	Pas de fourniture de gaz, fonctionne à base de Jet A1; son exploitation est par conséquent limitée
Centrale hydroélectrique de Yéripao	Hydroélectricité	0.6 MW	SBEE	SBEE	1997	En panne
Aggreko (sites multiples)	Groupes électrogènes Diesel	50 x 1 MW	Aggreko)	SBEE	2014	Loué par le GdB
Maurice Réalisations Internationales (MRI) (sites multiples)	Groupes électrogènes Diesel	30 x 1 MW	MRI	SBEE	2014	Loué par le GdB
Petites unités supplémentaires situées à plusieurs endroits (sans interconnexion)			Communautés			

Titre du Projet/Lieu	Type de combustible	Capacité installée	Possession	Opérateur	Année de mise en exploitation	Commentaires
Autoproducteurs (sites multiples)						

A ce jour, la SBEE dispose d'un parc de production d'une puissance installée de 60 MW, avec un nombre limité d'installations opérationnelles. La turbine à gaz de Maria Gléta, acquise sur fonds propres par le GdB, est composée de 8 x10 turbines à gaz. Cette centrale fonctionne rarement au JET A1 en raison du problème d'approvisionnement en gaz et revient très chère à l'économie béninoise.

Des informations sur les sources d'approvisionnement de la CEB (données de 2010) sont contenues dans le tableau ci-dessous.⁴⁸ La CEB a cinq clients directs – la SBEE et une cimenterie au Bénin, la CEET (la société de distribution au Togo) et une cimenterie et une usine de phosphate au Togo.

Tableau 7. Aperçu des Sources d'approvisionnement de la CEB (2011)

Source	GWh	%
<i>Importations :</i>		
Du Ghana (VRA)	647	30
De la Côte d'Ivoire (CIE)	87	4
Du Nigeria (TCN & NIGELEC)	1,112	51
<i>Production propre de la CEB :</i>		
Barrage Hydroélectrique de Nangbéto	202	9
Turbines à Cotonou et à Lomé	44	2
<i>Production du Togo :</i>		
Production de la CEET	1	0
Contour Global (un Producteur indépendant qui a signé un contrat avec le Gouvernement du Togo)	62	3
<i>Production du Bénin :</i>		
Production de la SBEE	0	0
Total	2.157	100%

La CEB a signé des contrats d'importation de 200 MW du Nigeria et 70MW du Ghana, mais l'on observe des insuffisances persistantes en termes de fourniture d'énergie électrique. Tandis que le Nigeria fournit la majeure partie de l'offre électrique du Bénin, des variations de tension en provenance de ce pays occasionnent d'énormes perturbations sur le réseau électrique du Bénin.

La production propre de la CEB à partir de la centrale hydroélectrique de Nangbéto (située en territoire togolais), d'une puissance installée de 65 MW, sur le Fleuve Mono est caractérisée par une forte sensibilité aux aléas climatiques et est actuellement limitée du fait de la sécheresse. En conséquence, la

⁴⁸ Site Internet de la CEB.

centrale ne produit en moyenne que 15 MW.⁴⁹ La CEB possède également deux turbines à gaz, de 20 MW chacune à Maria Gléta, au Bénin, et à Lomé au Togo, qui sont peu fiables, parfois en raison du manque de gaz, de l'insuffisance de pression, de l'indisponibilité d'une unité ou encore pour défaut de maintenance. Chaque unité doit faire l'objet d'une maintenance majeure toutes les 16.000 heures et être envoyée aux États-Unis pour entretien et révision, pour six mois. Afin d'augmenter l'offre en énergie électrique, le Togo a signé, en 2007, un contrat avec un Producteur indépendant d'Electricité (« IPP ») Contour Global en vue de l'acquisition et de l'installation d'une turbine à gaz de 100 MW, qui fonctionne aussi bien au gaz naturel qu'au fuel lourd pour satisfaire sa propre demande en énergie électrique.

Transport

L'énergie électrique au Bénin est principalement fournie par la CEB qui possède et exploite le système de transport 161 kV et plus. Le Graphique 2 représente l'infrastructure de transport de la CEB et du WAPP au Bénin et au Togo.

La CEB dispose d'un centre de dispatching (centre de conduite du réseau) à Lomé pour son réseau et commence l'installation d'un centre régional de dispatching pour le réseau de la CEB au Bénin. Etant donné que la SBEE ne dispose pas d'un centre de dispatching au Bénin, elle ne peut fournir aucun renseignement à la CEB par voie électronique. Lorsque la CEB enregistre des déficits sur son réseau, elle informe la SBEE par téléphone et cette dernière décide des endroits où effectuer des coupures d'électricité. Les taux de pertes enregistrés sur les lignes de transport de la CEB sont estimés à environ 5%⁵⁰, mais les emplacements exacts demeurent inconnus. La CEB procède actuellement à l'installation au niveau de chaque sous-station de compteurs Entrées et Sorties afin d'avoir une analyse détaillée de l'origine des pertes techniques dans le système.

Au Bénin, la CEB dispose de 565 km de lignes de transport 161 kV et d'une capacité de transformation de 452,5 MVA répartie sur neuf (9) postes. Le système de transport électrique Haute Tension (HT) du Bénin forme un réseau interconnecté avec celui du Togo et est constitué en grande partie de lignes en 161kV gérées par la CEB et de quelques segments de lignes en 63 kV en grande partie sous la tutelle de la SBEE. Par ce réseau interconnecté 161 kV géré par la CEB, et qui s'étend désormais du Sud au Nord à hauteur de Djougou-Parakou-Bembèrèkè, la SBEE a reçu en 2010, plus de 90% de l'énergie électrique qu'elle distribue à ses clients, et en 2013, près de 100 %.

Le réseau de transport situé au Bénin est constitué des éléments suivants :

- Ligne de transport 330 kV Ikéja (Nigeria) – Sakété, 70 km
- Ligne en boucle 161/63 kV dans le Sud pour desservir Sakété, Porto-Novo, Akpakpa, Vèdoko, et Maria Gléta
- Ligne en boucle 161 kV desservant Sakété, Maria Gléta, Avakpa, Momoe Hagou (Togo), Nangbéto (Togo), Bohicon, Onigbolo

⁴⁹ IED, Rapport de démarrage.

⁵⁰ 4.6% d'après les chiffres fournis sur le site internet de la CEB.

- Ligne 161 kV entre Nangbéto (Togo), Atakpamè (Togo), Kara (Togo), Djougou, Parakou, Onigbolo, Bohicon en double terre
- Ligne 161 kV exploitée à 33 kV entre Natitingou et Djougou
- Ligne 161 kV exploitée à 33 kV et 20 kV pour desservir Bembéréké

Par rapport aux projets en cours, il est prévu l'achèvement de deux lignes en 2016 :

- La construction d'une ligne 161 kV entre Onigbolo et Parakou (financée par la Banque Mondiale)
- La construction d'une ligne 161 kV entre Sakété et Porto-Novo (également financée par la Banque Mondiale).

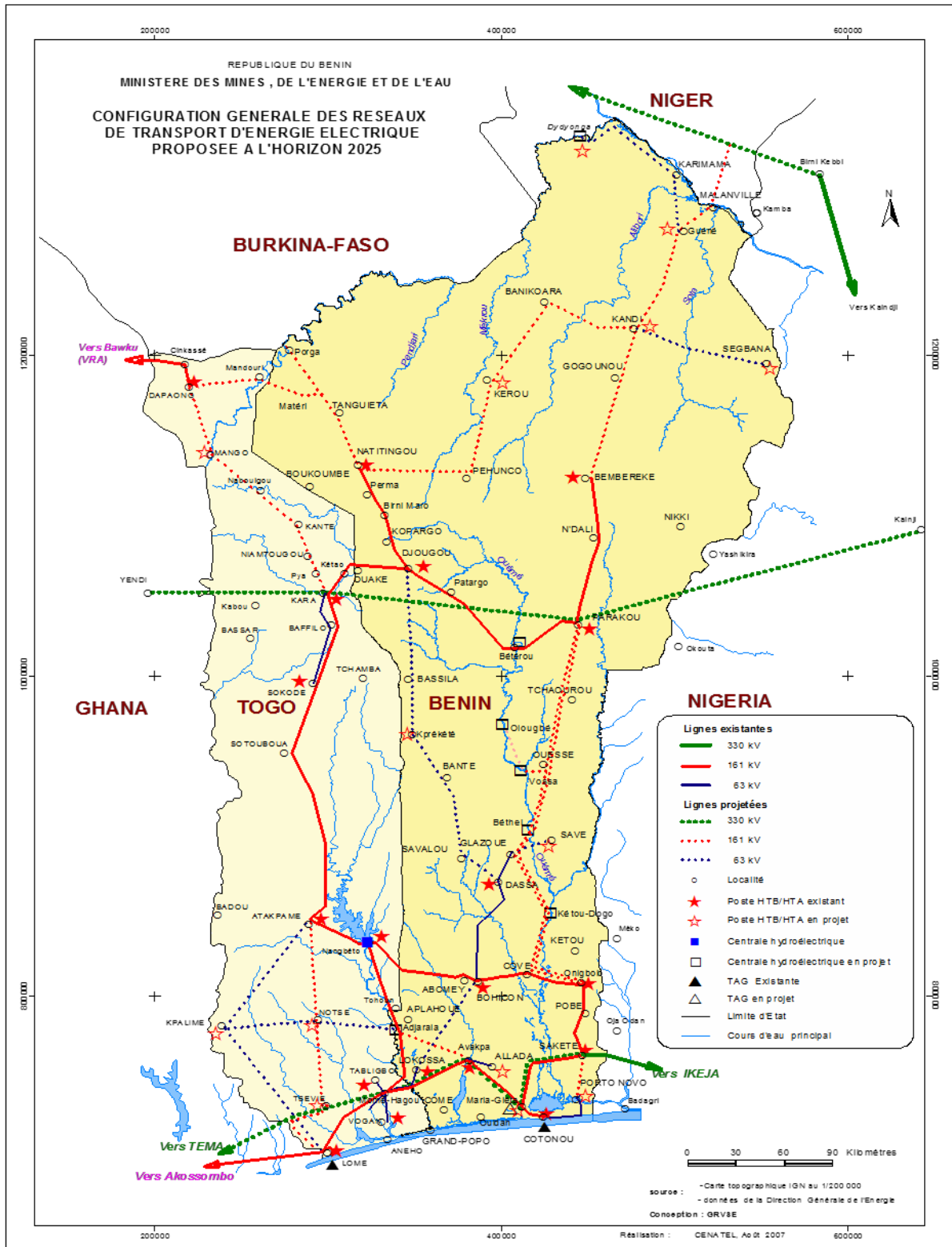
Au nombre des projets d'interconnexion du WAPP en cours de réalisation et impliquant la CEB figurent:

- La Dorsale Sud : ligne 330 kV de la Volta (Ghana) à Lomé (Togo) et Sakété (Bénin)
- la Dorsale Nord : ligne 330 kV de Dosso-Malanville (Bénin) comme une dérivation de la ligne 330 kV de Birnin Kebbi (Nigeria), Dosso (Niger), Niamey (Niger), et Ouagadougou (Burkina Faso).

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Graphique 2. Réseau de transport de la CEB au Bénin et au Togo



Distribution

Les Réseaux de distribution Haute Tension (HTA) et Basse Tension (BT) au Bénin sont placés sous la tutelle de la SBEE qui en assure le développement et l'entretien. Ils sont constitués du :

- Réseau Haute Tension HTB 63 kV de transport qui assure la livraison de l'énergie de la CEB vers la SBEE et l'interconnexion entre les postes ;
- Réseau Haute Tension HTA 33 kV, 20 kV et 15 kV qui assure la desserte vers les postes de répartition et les postes clients ; et
- Réseau Basse Tension BT 410 V et 230 V qui assure la distribution de l'énergie à partir des postes de transformation HTA/BT vers la clientèle.

Le Tableau 8 donne une indication de la structure du réseau.

Tableau 8. Données sur la Structure du Réseau : Longueurs de ligne et Sous-stations

	Longueur de la Ligne par Région (km)		Type de Sous-station par Région (#)	
	BT	MT	PMT	CSS
Littoral 1 + 2	1,007	432	133	348
Atlantique	982	314	151	133
Oueme Plateau	992	505	313	121
Mono-Couffo	605	409	140	72
Zou-Collines	745	579	90	30
Borgou Alibori	554	921	237	39
Atacora Donga	373	1,018	204	28
Total	5,257	4,178	1,268	771

Structure et Autres Institutions clés du secteur

Les principales fonctions des principales institutions intervenant dans le secteur de l'énergie sont résumées ci-dessous.

Institutions Nationales

Ministère de l'Énergie, de l'Eau et des Mines : Le MEEM est le ministère chargé de la formulation, de la mise en œuvre et du suivi de la politique sectorielle en matière d'énergie au Bénin. Il regroupe un certain nombre de directions, dont la Direction générale de l'Énergie (DGE), qui est la plus importante dans le sous-secteur de l'énergie électrique. Sa mission est d'exercer un contrôle sur la politique sectorielle de l'énergie au Bénin, et d'utiliser les ressources nationales pour fournir de l'énergie en vue d'assurer le développement social et économique du Bénin.

Ministère de l'Economie et des Finances : Le MEF est responsable de la politique économique, de la gestion budgétaire, des statistiques économiques, et de la surveillance des pratiques de passation des marchés publics. Il fournit des subventions à la CEB pour contribuer à remédier au manque de ressources dont souffre l'organisation. Le MEF a conclu un contrat d'affermage pour la gestion de centrales de production thermique, qui servent d'appoint, en cas de besoin, pour combler le déficit, en achetant du carburant pour ces centrales. Il supervise les processus des marchés publics et, en tant que tel, ses actions et ses politiques ont une incidence sur l'exécution du budget de la SBEE et d'autres acteurs du secteur. Enfin, le Ministre de l'Economie, des Finances et des Programmes de Dénationalisation siège au Conseil d'administration de la CEB (aux côtés des Ministres de l'Énergie, de la Planification et des Affaires étrangères).

Société Béninoise d'Énergie Electrique (SBEE): La SBEE a été créée en janvier 2004, suite à la restructuration de l'ancienne Société Béninoise d'Electricité et d'Eau en deux organismes distincts, à savoir la SBEE et la Société Nationale des Eaux du Bénin (SONEB). La SBEE est sous la tutelle du Ministère chargé de l'Énergie mais a un statut semi-privé. Son Conseil d'Administration est composé du Directeur de Cabinet du Ministre de l'Énergie, du Directeur Général de l'Énergie, d'un représentant du Cabinet du Président de la République, des représentants des associations de consommateurs, des entreprises et du personnel de la SBEE.

Agence Béninoise d'Électrification Rurale et de Maîtrise d'Énergie : Instituée par le Décret du 4 août 2004, l'ABERME a pour mission de mettre en œuvre la politique de l'Etat dans les domaines de l'électrification rurale et de la maîtrise de l'énergie. Pour lui permettre de mener à bien ses missions, l'ABERME est dotée d'un Fonds d'Électrification Rurale (FER), qui est alimenté par la taxe sur le kilowattheure d'électricité vendu, qui est fixée à 3 francs CFA par kilowattheure, et instituée par la loi N°2006-16 du 27 mars 2007.

Agence Nationale pour le Développement des Énergies Renouvelables et de l'Efficacité Énergétique : L'Agence a été créée en 2014 et aura pour objectif d'œuvrer à la promotion, à l'utilisation durable et généralisée de toutes les formes d'énergies renouvelables.

Autorité de Régulation de l'Electricité (ARE): Créée par décret N°2009-182 du 13 mai 2009, l'ARE est un établissement public, à caractère indépendant, doté d'une personnalité morale et de l'autonomie financière. Elle est placée sous l'autorité du Président de la République et a pour mission de veiller au respect des textes législatifs et réglementaires régissant le secteur de l'électricité, de protéger l'intérêt des différents acteurs et de garantir la continuité et la qualité du service, l'équilibre financier du sous-secteur de l'électricité et son développement harmonieux.

Agence de Contrôle des Installations Electriques Intérieures (CONTRELEC): L'agence CONTRELEC est un établissement public à caractère scientifique et technique, doté d'une personnalité juridique et de l'autonomie financière dans le but d'assurer la sécurité des personnes et des biens. Elle contrôle les installations électriques intérieures des bâtiments d'habitation des nouveaux abonnés de la SBEE, avant la première mise sous tension.

Organisations Régionales :

Communauté Electrique du Bénin : La CEB est une organisation bi-étatique créée en 1968 par un traité entre le Bénin et le Togo et jouit du statut d'organisme international à caractère public. La CEB

a comme mission de fournir, aux deux pays, de l'énergie électrique de qualité, en quantité suffisante et à un coût minimal. Le segment de la production est ouvert aux opérateurs privés. Dans les régions desservies par un réseau de transport d'électricité, la CEB jouit du statut d'acheteur unique de la production des acheteurs privés indépendants. En dehors de ces zones, les producteurs indépendants peuvent vendre directement leur électricité aux sociétés distributrices. A l'heure actuelle, la CEB est confrontée à des difficultés financières et reçoit périodiquement des subventions des Gouvernements du Bénin et du Togo afin de pouvoir honorer ses obligations.

West African Power Pool ou Système d'Echanges d'Energie Electrique Ouest-Africain: Le WAPP ou l'EEEAO a été créé par décision A/DEC.5/12/99 de la 22^{ème} session du Sommet des Chefs d'Etat et de Gouvernement de la CEDEAO, pour aborder les questions d'insuffisance de fourniture d'énergie électrique en Afrique de l'Ouest, notamment à travers l'intégration des réseaux électriques nationaux en vue de créer un marché d'électricité régional unifié et durable dans le but d'assurer aux Etats de la CEDEAO un approvisionnement en énergie électrique fiable et à des coûts compétitifs.

La West Africa Pipeline Company (WAPCo) et le Gazoduc d'Afrique de l'Ouest (WAGP) : Le Bénin importe du gaz du Nigeria par le biais du Gazoduc d'Afrique de l'ouest (WAPC) qui transporte le gaz naturel du Nigeria vers le Bénin, le Togo et le Ghana. L'engagement contractuel de la N-GAS du Nigeria vis-à-vis de la VRA du Ghana, un client fondateur, est la fourniture de 123 millions de pieds cube par jour (Mpc/j) avec 5 millions supplémentaires de pieds cubes standard par jour (scfd) pour chacun des deux Etats (Bénin et Togo). Tout gaz arrivant au Bénin passe en premier lieu à la centrale à gaz de la CEB, de Maria Gléta, d'une capacité installée de 20 MW. En raison des problèmes de disponibilité de gaz et des contraintes liées à l'infrastructure de fourniture du gaz au Nigeria, cette quantité prévue en vertu du contrat a rarement été atteinte.

Cadre juridique, réglementaire, politique et Stratégie de mise en œuvre

Cadre juridique

Les activités du sous-secteur électrique au Bénin sont régies par :

- L'Accord international portant code bénino-togolais de l'électricité et ;
- La Loi portant Code de l'Electricité au Bénin.

L'Accord international portant code bénino-togolais de l'électricité : Le sous-secteur de l'électricité au Bénin et au Togo est régi par l'Accord international portant code bénino-togolais de l'électricité signé entre les deux (2) pays en 1968. En effet, en raison du coût élevé des investissements dans le sous-secteur électrique, et dans le but de réaliser des économies d'échelle, les deux Etats ont décidé de créer un même territoire électrique en matière de production et de transport d'énergie électrique. Cette volonté s'est concrétisée par la création de la CEB à laquelle le code conférait le monopole de la production, du transport et des importations/exportations de l'énergie électrique sur le territoire électrique commun aux deux pays, ainsi que la mise en œuvre de la réglementation de l'électricité, la planification et le développement du sous-secteur. Face aux nouvelles exigences de développement de l'électricité dans les deux pays, les dispositions de l'accord ont été revues en 2003 afin de mettre fin au monopole de la CEB dans le domaine de la production de l'énergie électrique par :

- l'ouverture du segment de la production aux producteurs privés ; et

- l'octroi à la CEB du statut d'acheteur unique pour ce qui concerne la production des indépendants dans la zone où la CEB a des lignes de transport de l'énergie électrique.

S'agissant de la production indépendante d'électricité, l'article L8 du code révisé précise que pour intervenir dans le sous-secteur de l'énergie électrique sur les territoires des deux Etats, il faut, pour les producteurs privés :

- conclure une convention (concession ou autres) avec l'Etat,
- et signer avec la CEB ou, le cas échéant, avec la SBEE ou, avec un tiers dans les pays voisins, un contrat d'achat-vente d'énergie électrique.

Le Code Bénino-Togolais soumet l'ensemble des producteurs, y compris les producteurs indépendants, à l'obligation de fournir des informations sur leurs activités à la CEB pour permettre à cette dernière de conduire sa mission de planification et exige que toute nouvelle installation de production électrique ou toute extension d'installation de production faite pour les besoins du service public soit réalisée dans le cadre d'une procédure de mise en concurrence.

Le Code bénino-togolais confère à la CEB l'exclusivité de l'exercice des activités de transport. La CEB peut, à titre exceptionnel et dérogatoire, déléguer temporairement et localement cette fonction à un opérateur public ou privé.

La Loi portant Code de l'Electricité au Bénin : Pour répondre à la nécessité de définir les dispositions complémentaires d'application de l'accord international portant code bénino-togolais de l'électricité dans chacun des deux pays, la loi portant code de l'électricité au Bénin a donc été votée par l'Assemblée Nationale et promulguée par le Président de la République en 2007. Elle complète par conséquent le code bénino-togolais, en ce qui concerne :

- les dispositions relatives à la production, à la distribution, aux installations électriques intérieures, à l'activité des constructeurs, installateurs et autres professionnels de l'électricité ; et
- les modalités de participation des entreprises publiques et privées du secteur, la mise en place des règles de concurrence et des formalités auxquelles elles sont soumises.

Les deux codes soumettent les activités de production d'électricité à autorisation et information. L'article 5 de la loi Portant Code de l'Electricité au Bénin indique ce qui suit :

- Lorsque l'activité est destinée à des fins de fourniture de l'énergie électrique au public, le producteur doit accepter et respecter les exigences et sujétions d'un service public, selon lesquelles les installations appartiennent à l'Etat ou que celles-ci soient réalisées par un opérateur dans le cadre d'une concession ;
- Les activités de production autres que celles destinées au public sont soumises aux autorisations prévues par la loi ;

La loi béninoise dans son article 6 qui traite également de la distribution, érige cette activité en service

public, placé sous la responsabilité exclusive de l'Etat et précise que cette activité peut être confiée à une ou plusieurs personnes publiques ou privées, dans le cadre d'une concession.

Cadre Réglementaire

Dans le cadre de la mise en œuvre des dispositions du code béninois de l'électricité, six décrets d'application ont été pris. Il s'agit de :

- Décret N° 2007-539 du 02 novembre 2007, portant fixation des procédures et normes applicables et conditions d'exercice de l'inspection et du contrôle technique des installations de fournitures d'électricité ;
- Décret N° 2007-548 du 25 novembre 2007, portant institution du contrôle obligatoire périodique des installations électriques intérieures des immeubles de grandes Hauteurs (IGH), des Etablissements recevant du public (ERP) et des unités industrielles (UI) ;
- Décret N° 2007-655 du 31 décembre 2007, portant définition des modalités de déclaration et d'autorisation des installations d'autoproduction d'électricité en République du Bénin ;
- Décret portant N° 2008-719 du 22 décembre 2008, portant constitution et fixation des modalités de fonctionnement et de gestion du Fonds d'Electrification Rurale (FER) ;
- Décret N° 2008-815 du 31 décembre 2008, portant définition des modalités d'octroi des concessions de fourniture d'énergie électrique pour les besoins du service public, et ;
- Décret N° 2009-182 du 13 mai 2009, portant création, attributions, organisation et fonctionnement de l'Autorité de Régulation.

Jusqu'à une date récente, la régulation du sous-secteur électrique était assurée par le MEEM et la DGE. Mais actuellement, cette prérogative revient à l'ARE. L'ARE est chargée, entre autres, de :

- Veiller au respect des normes applicables aux matériels utilisés dans la production, le transport et la distribution d'électricité ;
- veiller à l'exercice d'une concurrence effective, saine et loyale dans l'intérêt de l'Etat, des opérateurs et des consommateurs ;
- approuver les dossiers d'appels d'offres en vue de la sélection des exploitants privés ;
- approuver l'octroi des concessions ;
- délivrer les autorisations de production aux auto-producteurs ;
- définir le mode de rémunération des opérateurs du sous-secteur électrique ;
- approuver les grilles tarifaires (conformément à un décret de février 2015, modifiant le décret de 2009) ;
- contrôler le respect des obligations qui incombent aux intervenants du secteur ;

- concilier les parties en conflits ;
- prononcer les sanctions consécutives aux manquements aux dispositions législatives et réglementaires constatés ou aux contenus des autorisations, licences, concessions et cahiers des charges.

Prix de vente de l'énergie électrique

Les tableaux 9 et 10 montrent la structure officielle des prix de cession de l'énergie électrique aux clients Basse Tension et Haute tension de la SBEE. La SBEE achète l'électricité de la CEB à un prix moyen de 58,7 CFA/kWh (0,1067 \$/kWh⁵¹) et la cède à ses clients à un coût moyen de 110 F CFA/kWh⁵² (0,20 \$/kWh).⁵³

⁵¹ Taux de change moyen du dollar : 1 USD = 550 CFA.

⁵² IED, Elaboration du plan directeur de développement du sous-secteur de l'énergie électrique au Bénin – Rapport de démarrage. Rapport provisoire, octobre 2014.

⁵³ La CEB, a sollicité, pour la dernière fois, une hausse des prix, en demandant que les 55 CFA/kWh d'alors soient portés à 78 CFA/kWh.

Tableau 9. Structure officielle des prix de vente de l'énergie électrique au Bénin (CFA/kWh) (Basse Tension)⁵⁴

Catégorie de Services	Catégorie de Clients	Niveau de Consommation		
BT1	Usage domestique (Eclairage et climatisation)	78 CFA Tranche sociale <20kWh	109 CFA 0-250 kWh	115 CFA Reste de la consommation
BT2	Usage professionnel (Boutiques, salon de coiffure, salons de couture, cafés, bar-restaurants, hôtels, menuiseries etc.)		111 CFA Consommation totale	
BT3	Eclairage public		122 CFA Consommation totale	

Tableau 10. Structure officielle des prix de vente de l'énergie électrique au Bénin (CFA/kWh) (HTA)⁵⁵

Catégorie	Type de consommateurs	Prix (en CFA)	
HTA1	Hôtels, Services, Commerces	94 CFA/kWh	
HTA2	Hôtels, Services, Commerces	94 CFA/kWh	4500 CFA/kva souscrite à la pointe
HTA3	Industries	78 CFA/kWh	
HTA4	Industries	78 CFA/kWh	7000 CFA/kva souscrite à la pointe

Dans le but d'améliorer la situation financière des entreprises du sous-secteur électrique de la communauté, un consultant a été recruté, avec l'appui technique et financier de la Banque Mondiale, afin d'élaborer pour le compte des trois sociétés de la communauté (CEB, CEET et SBEE), des formules d'indexation des tarifs qui prennent en compte les spécificités de chaque société. Ces formules élaborées depuis 2005 ne sont pas appliquées à ce jour. Le Gouvernement du Bénin a approuvé la formule applicable à la SBEE en mars 2006. En 2012, cette formule a été actualisée par un comité composé des cadres de la SBEE, de la CEB, des ministères en charge de l'Energie, des Finances, du Plan et de la Primature. Ladite formule a été réintroduite en Conseil des Ministres pour approbation mais elle est mise en instance.

⁵⁴ Disponible sur le site de la SBEE.

⁵⁵ Disponible sur le site de la SBEE.

Cadre Politique

Tel que mentionné précédemment, la politique énergétique nationale du Bénin est définie par le MEEM. L'objectif global des politiques et stratégies est de sécuriser la disponibilité de services énergétiques de qualité, en quantité suffisante et à des coûts acceptables. En vue de la réalisation de cet objectif, le Gouvernement du Bénin a adopté :

- le document de Politique et de Stratégie du secteur de l'énergie, qui a défini des objectifs de développement à court, moyen et long termes pour l'ensemble du secteur de l'Energie (mars 2004) ;
- le document de Politique d'électrification rurale, avec un premier Programme d'Actions Prioritaires de mise en œuvre de ladite politique à l'horizon 2015 (mars 2006) ;
- le document de Politique et de Stratégie spécifique pour le Développement du sous-secteur de l'Electricité, qui a défini les objectifs de renforcement de la capacité nationale de production d'électricité dans le but d'accroître l'autonomie du pays dans le domaine de l'approvisionnement en énergie électrique (novembre 2008), et
- Le plan d'actions stratégiques pour le secteur de l'électricité au Bénin (octobre 2009), qui a abordé l'ensemble du secteur énergie, y compris le gaz naturel, les produits pétroliers et l'électricité. Le Plan d'actions stratégiques a identifié les objectifs clés suivants :
 - Renforcer les capacités de production, de transport et de distribution à l'échelle nationale par :
 - La diversification de la production dans le but d'atteindre 70 % de la production nationale d'ici à 2025.
 - Le développement d'un système de transport relié aux réseaux régionaux.
 - Le renforcement des réseaux de distribution urbains notamment 945 villes et villages et 310 centres urbains d'ici à 2015 ;
 - Promouvoir l'électrification rurale par :
 - La poursuite de la politique d'électrification des localités rurales du pays en vue de l'atteinte des Objectifs du Millénaire pour le Développement.
 - L'Utilisation de l'énergie à des fins productives.
 - Mettre en place une formule appropriée d'indexation des tarifs et de financement du secteur par :
 - L'application de tarifs qui permettent le recouvrement intégral des coûts aussi bien pour la SBEE que pour la CEB.
 - La Mobilisation de fonds auprès d'organismes régionaux et internationaux en faveur de projets d'électrification rurale.

- Renforcer les capacités des structures et des ressources humaines par :
 - Le renforcement des capacités des structures ayant en charge le secteur en vue de la mise en œuvre effective des réformes a démarré en 1998.
 - La définition d'une politique de gestion des ressources humaines, y compris la formation, le développement des compétences et des carrières.

PART 2:
CONDITIONS OF CONTRACT AND CONTRACT
FORMS

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Section VI. CONTRACT AGREEMENT

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

[Note: If the Consultant consists of more than one entity, the following should be used]

This CONTRACT AGREEMENT (this “Contract”) made as of the [day] of [month], [year], between **MCA-Benin II** (the “MCA Entity”), on the one part, and [full legal name of lead Consultant] (the “Consultant”) in [joint venture / consortium / association] with [list names of each joint venture entity], on the other part, each of which will be jointly and severally liable to the MCA Entity for all of the Consultant’s obligations under this Contract and is deemed to be included in any reference to the term “Consultant.”

RECITALS

WHEREAS,

- (a) The Millennium Challenge Corporation (“MCC”) and the Government of **Benin** (the “Government”) have entered into a Millennium Challenge Compact for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in **Benin** on **September 9th, 2015** (the “Compact”) in the amount of approximately **375 000 000 USD** (“MCC Funding”). The Government, acting through the MCA Entity, intends to apply a portion of the proceeds of MCC Funding to eligible payments under this Contract. Payments made under this Contract will be subject, in all respects, to the terms and conditions of the Compact and related documents, including restrictions on the use, and conditions to disbursement, of MCC Funding. No party other than the Government and the MCA Entity shall derive any rights from the Compact or have any claim to the proceeds of MCC Funding; and
- (b) The MCA Entity has requested the Consultant to provide certain consulting Services as described in Annex A to this Contract; and
- (c) The Consultant, having represented to the MCA Entity that it has the required professional skills, and Personnel and technical resources, has agreed to provide such Services on the terms and conditions set forth in this Contract.

NOW THEREFORE, the Parties to this Contract agree as follows:

1. In consideration of the payments to be made by the MCA Entity to the Consultant as set forth in this Contract, the Consultant hereby covenants with the MCA Entity to perform the Services in conformity in all respects with the provisions of this Contract.
2. Subject to the terms of this Contract, the MCA Entity hereby covenants to pay the Consultant, in consideration of the performance of the Services, the Contract Price (as defined below) or such other sum as may become payable pursuant to the provisions of this Contract at the times and in the manner prescribed by this Contract.

IN WITNESS whereof the Parties hereto have caused this Contract to be executed in accordance with the laws of [**Country**] as of the day, month and year first indicated above.

For Millennium Challenge Account – Benin For [**full legal name of the Consultant**]:
II :

Signature

Samuel O. BATCHO

Witnessed By:

Signature

Name

Witnessed By:

[Note: If the Consultant consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]

For and on behalf of each of the Members of the Consultant

[**Name of Member**]

[**Authorized Representative**]

[**Name of Member**]

[**Authorized Representative**]

GENERAL CONDITIONS OF CONTRACT

1. Definitions
- 1.1 Capitalized terms used in this Contract and not otherwise defined have the meanings given such terms in the Compact or related document. Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:
- (a) “Applicable Law” has the meaning given the term **in the SCC**.
 - (b) “Associate” means any entity that is a member of the Association that forms the Consultant. A Sub-Consultant is not an Associate.
 - (c) “Association” or “association” means an association of entities that forms the Consultant.
 - (d) “Compact” has the meaning given the term in the recital clauses to the Contract Agreement.
 - (e) “Consultant” has the meaning given the term in the initial paragraph of the Contract Agreement.
 - (f) “Contract” means this agreement entered into between the MCA Entity and the Consultant, to provide the Services, and consists of the Contract Agreement, these GCC, the SCC, and the Annexes (each of which forms an integral part of this agreement), as the same may be amended, modified, or supplemented from time to time in accordance with the terms of this agreement.
 - (g) “Contract Price” means the price to be paid for the performance of the Services, in accordance with GCC Sub-Clause 17.1.
 - (h) “Effective Date” has the meaning given the term in GCC Clause 16.2.
 - (i) “Force Majeure” has the meaning given the term in GCC Clause 22.1.
 - (j) “GCC” means these General Conditions of Contract.
 - (k) “Government” has the meaning given the term in the recital clauses to the Contract Agreement.
 - (l) “Key Professional Personnel” means the Personnel listed in Annex D to this Contract.
 - (m) “Local Currency” has the meaning given the term **in the SCC**.
 - (n) “MCA Country” has the meaning given the term **in the SCC**.

- (o) “MCA Entity” has the meaning given the term in the initial paragraph of the Contract Agreement.
- (p) “MCC” has the meaning given the term in the recital clauses to this Contract.
- (q) “Member” means any of the entities that make up a joint venture or other association; and “Members” means all these entities.
- (r) “Party” means the MCA Entity or the Consultant, as the case may be, and “Parties” means both of them.
- (s) “Personnel” means persons hired by the Consultant or by any Sub-Consultants and assigned to perform the Services or any part thereof.
- (t) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented.
- (u) “Services” means the activities to be performed by the Consultant pursuant to this Contract, as described in Annex A to this Contract.
- (v) “Sub-Consultant” means any person or entity to whom/which the Consultant subcontracts any part of the Services.
- (w) “Tax” and “Taxes” have the meanings given the terms in the Compact or related agreement.
- (x) “Trafficking in Persons” has the meaning given at GCC Clause 25.
- (y) “US Dollars” means the currency of the United States of America.

2. Interpretation

2.1 In interpreting this Contract, unless otherwise indicated:

- (i) “confirmation” means confirmation in writing;
- (ii) “in writing” means communicated in written form (e.g., by mail, e-mail, or facsimile) delivered with proof of receipt;
- (iii) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular;
- (iv) the feminine means the masculine and vice versa; and
- (v) the headings are for reference only and shall not limit, alter or affect the meaning of this Contract.

3. Language and Law

3.1 This Contract has been executed in language(s) **specified in the SCC**. If the Contract is executed in both English and a specified local language, the English language version shall be the binding and controlling language for all matters relating to

the meaning or interpretation of this Contract.

3.2 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

4. Communications

4.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Subject to Applicable Law, any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when delivered to such Party at the address **specified in the SCC**, or sent by confirmed facsimile or confirmed email, in either case if sent during normal business hours of the recipient Party.

4.2 A Party may change its name or address for receiving notice under this Contract by giving the other Party notice in writing of such change to the address specified in SCC 4.1.

5. Subcontracting

5.1 If the Consultant intends to subcontract for a major item of its contracted consulting services (deemed major if valued in excess of \$100,000 USD) it shall seek the MCA Entity's prior written approval of the subcontractor. Subcontracting shall not alter the Consultant's obligations under this Contract.

6. Relationship Between the Parties

6.1 Nothing contained in this Contract shall be construed as establishing a relationship of master and servant or of principal and agent as between the MCA Entity and the Consultant. The Consultant, subject to this Contract, has complete charge of Personnel and Sub-Consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf in connection with this Contract.

7. Location

7.1 The Services shall be performed at such locations as are specified in Annex A to this Contract and, where the location of a particular task is not so specified, at such locations, whether in the MCA Country or elsewhere, as the MCA Entity may approve.

8. Authority of Member in Charge

8.1 In case the Consultant consists of a joint venture or other association of more than one entity, the Members hereby authorize the entity **specified in the SCC** to act on their behalf in exercising all the Consultant's rights and obligations toward the MCA Entity under this Contract, including without limitation the receiving of instructions and

payments from the MCA Entity.

9. Authorized Representatives 9.1 Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the MCA Entity or the Consultant may be taken or executed by the officials **specified in the SCC**.
10. Description and Approval of Personnel; Adjustments; Approval of Additional Work 10.1 The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultant's Key Professional Personnel are described in Annex D. The Key Professional Personnel and Sub-Consultants listed by title as well as by name in Annex D are hereby approved by the MCA Entity.
- 10.2 GCC Sub-Clause 38.1 shall apply in respect of other Personnel and Sub-Consultants which the Consultant proposes to use in the carrying out of the Services, and the Consultant shall submit to the MCA Entity for review and approval a copy of their Curricula Vitae (CVs).
- 10.3 Adjustments with respect to the estimated periods of engagement of Key Professional Personnel set forth in Annex D may be made by the Consultant without the prior approval of the MCA Entity only if (a) such adjustments shall not alter the originally estimated period of engagement of any individual by more than ten percent (10%) or one week, whichever is larger and (b) the aggregate of such adjustments shall not cause payments under this Contract to exceed the Contract Price. If so **indicated in the SCC**, the Consultant shall provide written notice to the MCA Entity of any such adjustments. Any other adjustments shall only be made with the MCA Entity's prior written approval.
- 10.4 If additional work is required beyond the scope of the Services specified in Annex A, the estimated periods of engagement of Key Professional Personnel set forth in Annex D may be increased by agreement in writing between the MCA Entity and the Consultant. In a case in which such additional work would result in payments under this Contract exceeding the Contract Price, such additional work and payments will be explicitly described in the agreement and shall be subject in all respects to the provisions of GCC Sub-Clauses 16.4, 16.5 and 17.4.
- Resident Project Manager 10.5 **If required by the SCC**, the Consultant shall ensure that at all times during the Consultant's performance of the Services in the MCA Country a resident project manager, acceptable to the MCA Entity, shall take charge of the performance of such

Services.

11. Working Hours, Overtime, Leave, etc. 11.1 Working hours and holidays for Key Professional Personnel are set forth in Annex D. To account for travel time, foreign Personnel carrying out Services inside the MCA Country shall be deemed to have commenced, or finished work in respect of the Services such number of days before their arrival in, or after their departure from the MCA Country as is specified in Annex D.
- 11.2 The Consultant and Personnel shall not be entitled to reimbursement for overtime nor to take paid sick leave or vacation leave except as specified in Annex D, and except as specified in Annex D, shall the Consultant's remuneration be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set forth in Annex D. Any taking of leave by Personnel shall be subject to the prior approval by the Consultant who shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.
12. Removal and/or Replacement of Personnel 12.1 Except as the MCA Entity may otherwise agree, no changes shall be made in the Key Professional Personnel. If, for any reason beyond the reasonable control of the Consultant, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Key Professional Personnel, the Consultant shall, subject to GCC Sub-Clause 38.1(a), provide as a replacement a person of equivalent or better qualifications.
- 12.2 If the MCA Entity (a) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (b) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the MCA Entity's written request specifying the grounds therefore and subject to GCC Sub-Clause 38.1(a), provide as a replacement a person with qualifications and experience acceptable to the MCA Entity.
- 12.3 The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.
13. Settlement of Disputes
- Amicable Settlement 13.1 The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of this Contract and

the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

- Dispute Resolution 13.2 Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after the receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions **specified in the SCC.**
14. Commissions and Fees 14.1 The Consultant shall disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution and performance of this Contract. The information disclosed must include at least the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.
15. Entire Agreement 15.1 This Contract contains all of the covenants, stipulations and provisions agreed to by the Parties. No agent or representative of either Party has the authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth in this Contract.
16. Commencement, Completion and Modification of Contract
- Contract Entry into Force 16.1 This Contract shall come into full force, and be legally binding on the Parties in all respects, on the date this Contract is signed by the Parties or such other date as may be **stated in the SCC.**
- Effective Date and Commencement of Services 16.2 The Consultant shall commence the Services on the date **specified in the SCC**, which shall be defined as the "Effective Date."
- Expiration of Contract 16.3 Unless terminated earlier pursuant to GCC Clause 20, this Contract shall expire at the end of such time period after the Effective Date as **specified in the SCC.**
- Modifications or Variations 16.4 Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to GCC Sub-Clause 50.1, however, each Party shall give due consideration to any

proposals for modification or variation made by the other Party.

Substantial Modification

16.5 In cases of any of the below, the prior written consent of MCC is required:

- (a) the Contract value of a Contract that did not require approval under an MCC policy is raised to a value that would require approval
- (b) the original Contract duration is extended by 25% or more, or
- (c) the original value of the Contract is increased by ten percent (10%) or 1 million US Dollars or more (whichever may apply); once the 10% Contract (or 1 million US Dollars) threshold for modifications or change orders has been reached for a Contract, any subsequent Contract modification or change order that individually or collectively exceed 3% of the original Contract value will also require MCC approval.

17. Payments to the Consultant

Contract Price

17.1 Except as provided in GCC Sub-Clause 17.5, the total payment due to the Consultant shall not exceed the Contract Price **set forth in the SCC** (as may be adjusted in accordance with the terms of the SCC). The Contract Price is an all-inclusive fixed-price covering all costs required to provide the Services in accordance with the terms of this Contract. The Contract Price may only be increased above the amounts **stated in the SCC** (including, without limitation, pursuant to the terms of GCC Sub-Clauses 10.4, 46.2 and 48.2) if the Parties have agreed to additional payments in accordance with GCC Sub-Clauses 16.4, 16.5 and 17.4.

Currency of Payment

17.2 Payments shall be made in US Dollars, or the Local Currency, or, if justified for sound business reasons and approved by the MCA Entity, a combination of the two currencies.

Terms, Conditions and Mode of Billing and Payment

17.3 Payments will be made to the account of the Consultant and according to the payment schedule stated in SCC 17.1 and against an invoice. Any other payment shall be made after the conditions **listed in the SCC** for such payment have been met, and the Consultant has submitted an invoice to the MCA Entity specifying the amount. In all cases, invoices shall be delivered to the MCA Entity no later than thirty (30) days prior to the requested payment date and will not be deemed delivered until they are in form and substance satisfactory to the MCA Entity. Payments will be made to the Consultant within thirty (30) days of the date of receipt by the MCA

Entity of a valid and proper invoice or the date of the MCA Entity's acceptance of required deliverables (e.g., the delivery of reports), whichever is later. The Consultant shall comply with any other instructions related to payment as may be reasonably requested by the MCA Entity.

Payment for Additional Services 17.4 For the purposes of determining the remuneration due for additional Services as may be granted under GCC Sub-Clause 16.4, a breakdown of the Contract Price is provided in Annexes E and F.

Interest on Delayed Payments 17.5 If the MCA Entity has delayed payments beyond thirty (30) days after the payment date determined in accordance with GCC Sub-Clause 17.3, interest shall be paid to the Consultant for each day of delay at the rate **stated in the SCC**.

18. Taxes and Duties (a) The Section 2.8 of the Compact provides a comprehensive series of tax exemptions that cover the use of all funding under the Compact to protect against the payment of any taxes, duties, levies or similar charges of or in Benin by any natural or legal person, except natural persons who are citizens or permanent residents of Benin or legal persons (unless residency has been created or formed because of the Compact). The terms and a detailed description of the exemptions are provided in the Tax Schedules ("**Tax Schedules**") at Annex II to the Program Implementation Agreement. The Consultant, (including its associates, if any), Sub-Consultants, and their respective Personnel shall otherwise pay all other Taxes, as applicable. In the event that any taxes are imposed on the Consultant, its associates, Sub-Consultants, or their respective Personnel, the Contract price shall not be adjusted to account for such taxes. The MCA-Entity shall have no obligation to pay or compensate the Consultant, its associates, Sub-Consultants, or their respective Personnel for any Taxes.

(b) In conjunction with the exemption and requirements under the Tax Schedules, the Consultant, the Sub-Consultants and their respective Personnel, and their eligible dependents, shall follow the usual customs procedures of the MCA Country in importing property into the MCA Country.

(c) If the Consultant, the Sub-Consultants or any of their respective Personnel, or their eligible dependents, do not withdraw, but dispose of any property in the MCA Country upon which customs duties or other Taxes have been exempted, the Consultant, the Sub-Consultants or such Personnel, as the case may be, (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 MCA Entity if such customs duties and Taxes were paid by the MCA Entity at the time the property in question was brought into the MCA Country.

- (d) Without prejudice to the rights of the Consultant under this clause, the Consultant, the Sub-Consultants and their respective Personnel will take reasonable steps as requested by the MCA Entity or the Government with respect to the determination of the Tax status described in this GCC Clause 18.
- (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 MCA Entity (or such agent or representative designated by the MCA Entity) of any Taxes paid, and the Consultant shall cooperate with, and take such actions as may be requested by the MCA Entity, MCC, or either of their agents or representatives, in seeking the prompt and proper reimbursement of such Taxes.
- (f) The MCA Entity shall use reasonable efforts to ensure that the Government provides the Consultant, the Sub-Consultants, and their respective Personnel the exemptions from taxation applicable to such persons or entities, in accordance with the terms of the Compact or related agreements. If the MCA Entity fails to comply with its obligations under this paragraph, the Consultant shall have the right to terminate this Contract in accordance with GCC Sub-Clause 20.2(d).

19. Suspension

- 19.1 The MCA Entity may, by giving thirty (30) days' written notice to the Consultant, suspend all payments to the Consultant under this Contract 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 (a) shall specify the nature of the failure, and (b) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

20. Termination

By the MCA Entity

- 20.1 Without prejudice to any other remedies that may be available to it for breach of this Contract, the MCA Entity may, upon written notice to the Consultant, terminate this Contract in case of the occurrence of any of the events specified in

sub-paragraphs (a) through (i) of this GCC Sub-Clause 20.1, and in the case of the occurrence of any of the events specified in paragraphs (h) or (i) of this GCC Sub-Clause 20.1, the MCA Entity may suspend this Contract.

- (a) If the Consultant, in the judgment of the MCA Entity or MCC, fails to perform its obligations relating to the use of funds set out in Annex B. Termination under this provision shall (i) become effective immediately upon delivery of the notice of termination and (ii) require that the Consultant repay any and all funds so misused within a maximum of thirty (30) days after termination.
- (b) If the Consultant does not remedy a failure in the performance of its obligations under this Contract (other than failure to perform obligations relating to use of funds as set forth in GCC Sub-Clause 20.1(a) of this Contract, which such failure shall not be entitled to a cure period) within thirty (30) days after delivery of the notice of termination or within any further period of time approved in writing by the MCA Entity. Termination under this provision shall become effective immediately upon the expiration of the thirty (30) days (or such further period as may have been approved by the MCA Entity) or on such later date as may be specified by the MCA Entity.
- (c) If the Consultant (or any Member or Sub-Consultant) becomes insolvent or bankrupt, and/or fails to exist or is dissolved. Termination under this provision shall become effective immediately upon delivery of the notice of termination or on such other date as may be specified by the MCA Entity in such notice of termination.
- (d) If the Consultant (or any Member or Sub-Consultant), in the judgment of the MCA Entity has engaged in coercive, collusive, corrupt, prohibited, obstructive or fraudulent practices in competing for or in the performance of this Contract or another MCC funded contract. Termination under this provision shall become effective immediately upon delivery of the notice of termination.
- (e) 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 or on such later date as may be specified by the MCA Entity.

- (f) If the MCA Entity, in its sole discretion and for any reason whatsoever, decides to terminate this Contract. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination or on such later date as may be specified by the MCA Entity.
- (g) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 13. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination or on such later date as may be specified by the MCA Entity.
- (h) If the Compact expires, is suspended or terminates in whole or in part in accordance with the terms of the Compact. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-Clause 20.1(h), the Consultant has an obligation to mitigate all expenses, damages and losses to the MCA Entity during the period of the suspension.
- (i) If an event has occurred that would be grounds for suspension or termination under Applicable Law. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-Clause 20.1(i), the Consultant has an obligation to mitigate all expenses, damages and losses to the MCA Entity during the period of the suspension.

By the Consultant

20.2 The Consultant may terminate this Contract, upon written notice to the MCA 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 GCC Sub-Clause 20.2.

- (a) If the MCA Entity fails to pay any money due to the Consultant pursuant to this Contract that is not otherwise subject to dispute pursuant to GCC Clause 13 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 MCA 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 MCA Entity fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 13. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the 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 MCA 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 in accordance with GCC Sub-Clauses 20.1(h) or (i) for a period of time exceeding three (3) consecutive months; provided that the Consultant has complied with its obligation to mitigate in accordance with GCC Sub-Clauses 20.1(h) or (i) during the period of the suspension. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.

21. Payment
Termination

Upon 21.1 Upon termination of this Contract pursuant to GCC Sub-Clauses 20.1 or 20.2, the MCA Entity shall make, or cause to be made, the following payments to the Consultant:

- (a) payment pursuant to GCC Clause 17 for Services satisfactorily performed prior to the effective date of termination; and

(b) except in the case of termination pursuant to paragraphs (a) through (d) and (g) of GCC Sub-Clause 20.1, reimbursement of any reasonable cost (as determined by the MCA Entity or MCC) incidental to the prompt and orderly termination of this Contract; provided, that in the case of suspension of this Contract pursuant to GCC Sub-Clauses 20.1 (h) or (i), the Consultant has complied with its obligation to mitigate in accordance with such clauses.

Disputes about Events of Termination 21.2 If either Party disputes whether an event specified in paragraphs (a), (b), (c), (e) or (g) of GCC Sub-Clause 20.1 or paragraphs (a) through (d) of GCC Sub-Clause 20.2 has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to dispute resolution in accordance with GCC Clause 13, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

Cessation of Rights and Obligations 21.3 Upon termination of this Contract pursuant to GCC Clause 20, or upon expiration of this Contract pursuant to GCC Sub-Clause 16.3, all rights and obligations of the Parties under this Contract shall cease, except (a) such rights and obligations as may have accrued on the date of termination or expiration, (b) the obligation of confidentiality set forth in GCC Clause 33, (c) the Consultant's obligation to permit inspection, copying and auditing of its accounts and records set forth in GCC Clause 37 and Annex B and (d) any right or obligation which a Party may have under the Applicable Law.

Cessation of Services 21.4 Upon termination of this Contract by notice of either Party to the other pursuant to GCC Sub-Clauses 20.1 or 20.2, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the MCA Entity, the Consultant shall proceed as provided, respectively, by GCC Clauses 34 or 41.

22. Force Majeure

Definition 22.1 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, including any Sub-Consultant), (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.

- No Breach of Contract 22.2 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.
- Measures to be Taken 22.3 Subject to GCC Sub-Clause 22.6, a Party affected by an event of Force Majeure shall continue to perform its obligations under this Contract as far as is reasonably practical, and shall take all reasonable measures to minimize and otherwise mitigate the consequences of any event of Force Majeure.
- 22.4 A Party affected by an event of Force Majeure shall provide evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- 22.5 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.
- 22.6 During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the MCA Entity, shall either:
- (a) demobilize, in which case the Consultant shall be reimbursed for additional costs it reasonably and necessarily incurred and, if the Consultant is required by the MCA Entity to reactive its performance of the Services at the time of restoration of normal conditions,

the additional costs the Consultant reasonably and necessarily incurred as part of such reactivation; or

- (b) continue with the Services to the extent 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.

22.7 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 GCC Clause 13.

23. Required Provisions; Flow Through Provisions

23.1 For the avoidance of doubt, the Parties agree and understand that the provisions set forth in Annex B reflect certain obligations of the Government and the MCA Entity under the terms of the Compact and related documents that are also required to be transferred onto any Consultant, Sub-Consultant or Associate who partakes in procurements or contracts in which MCC Funding is involved and that, as with other clauses of this Contract, the provisions of Annex B are binding obligations under this Contract.

23.2 In any subcontract or sub-award entered into by the Consultant, as permitted by the terms of this Contract, the Consultant shall ensure the inclusion of all the provisions contained in Annex B in any agreement related to such subcontract or sub-award.

24. Fraud and Corruption Requirements

24.1 MCC requires that the MCA Entity and any other beneficiaries of MCC Funding, including any bidders, suppliers, contractors, Sub-Consultants and 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. MCC's AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC's AFC Policy and certify that they have acceptable commitments and procedures in place to address the potential for fraudulent and corrupt practices.

Any entity receiving an award (including, but not limited to, both contracts and grants) of MCC Funding of over \$500,000 will be required to certify that they will adopt and implement a code of business ethics and conduct within ninety (90) days of Contract award. Such entity will also include the substance of this clause in subcontracts that have a value in excess of

\$500,000. Information regarding the establishment of business ethics and conduct programs can be obtained from numerous sources, including but not limited to:

<http://www.oecd.org/corruption/Anti-CorruptionEthicsComplianceHandbook.pdf>;

<http://cctrends.cipe.org/anti-corruption-compliance-guide/>

- (a) For purposes of the Contract, the terms set forth below are defined as follows, and sometimes referred to collectively in this document as “Fraud and Corruption”:
- (i) **“coercive practice”** 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;
 - (ii) **“collusive practice”** means a tacit or explicit agreement between two or more parties to perform a coercive, corrupt, fraudulent, obstructive or prohibited practice, including any such agreement designed to fix, stabilize, or maintain prices or to otherwise deprive the MCA Entity of the benefits of free and open competition;
 - (iii) **“corrupt practice”** means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, MCA 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;
 - (iv) **“fraudulent practice”** 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;
- (v) **“obstructive practice”** means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC Funding:
- (aa) 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 a coercive, collusive, corrupt, fraudulent or prohibited practice;
 - (bb) 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; and/or
 - (cc) intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or an authorized Inspector General of MCC provided for in the Contract and under the Compact and related agreements; and
- (vi) **“prohibited practice”** means any action that violates Section E (Compliance with Anti-Corruption, Anti-Money Laundering, Terrorist Financing, and Trafficking in Persons Statutes and Other Restrictions) of Annex B (Additional Provisions) of the Contract.
- (b) MCC may cancel any portion or all of the MCC Funding allocated to the Contract if it determines at any time that representatives of the MCA Entity, the Consultant or any other beneficiary of the MCC Funding were engaged in any coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices during the selection process or the performance of the Contract, or another MCC-funded contract, without the MCA Entity, the Consultant or such other

beneficiary having taken timely and appropriate action satisfactory to MCC to remedy the situation.

- (c) MCC and the MCA Entity may pursue 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 if at any time either MCC or the MCA Entity determines that the contractor has, directly or through an agent, engaged in any coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices in competing for, or in performance of, the Contract or another MCC-funded contract.
- (d) If the MCA Entity or MCC determines that the Consultant, any subcontractor, any of the Consultant's Personnel, or any agent or affiliate of any of them has, directly or indirectly, engaged in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices, in competing for or in the performance of the Contract, then the MCA Entity or MCC may, by notice, immediately terminate the Contract, and the provisions of GCC Sub-Clause 20.1 shall apply.
- (e) Should any of the Consultant's Personnel be determined to have engaged in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices during the competition for or execution of the Contract, but the MCA Entity or MCC determines not to terminate the Contract in accordance with the immediately preceding sub-paragraph, then the relevant Consultant's Personnel shall be removed in accordance with GCC Clause 12.

25. Combatting Trafficking in 25.1
Persons

MCC, along with other United States Government entities, has adopted a zero tolerance policy with regard to Trafficking in Persons ("TIP") through its Counter-Trafficking in Persons Policy.⁵⁶ In pursuance of this policy:

- (a) **Defined Terms.** For purposes of the application and interpretation of this Sub-Clause:
 - (i) The terms "coercion," "commercial sex act," "debt bondage," "employee," "forced labor," "fraud,"

⁵⁶ <https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy>

“involuntary servitude,” and “sex trafficking” have the meanings given such terms in the MCC Counter-Trafficking in Persons Policy (“MCC C-TIP Policy”) and such definitions are incorporated by reference into this Sub-Clause; and

(ii) “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; (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.

(b) **Prohibition.** Contractors, subcontractors, Consultants, Sub-Consultants and any of their respective Personnel shall not engage in any form of Trafficking in Persons during the period of performance of any contract funded, in whole or in part, with MCC funding and must also comply with those prohibitions described in U.S. laws and Executive Orders regarding TIP, including using misleading recruitment practices; charging employees recruitment fees; or destroying, concealing, confiscating, or otherwise denying access by an employee to the employee’s identity documents.

(c) **Consultant Requirements.**

(i) Each contractor, subcontractor, Consultant or Sub-Consultant shall:

- a. notify its employees of the MCC C-TIP Policy and of the actions that will be taken against Personnel 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
- b. take appropriate action, up to and including termination, against Personnel or subcontractors or Sub-Consultants that violate the prohibitions set out in this policy.

(ii) Each Consultant shall:

- a. certify that it is not engaged in, facilitating, or allowing any activities constituting Trafficking in Persons, or related activities also prohibited under this policy, for the duration of the

Contract;

- b. provide assurances that activities constituting Trafficking in Persons, or related activities also prohibited under this policy, will not be tolerated on the part of its Personnel, subcontractors or Sub-Consultants (as the case may be), or their respective employees; and
 - c. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.
- (iii) 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 Personnel, 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 Personnel, subcontractor, subcontractor/consultant, or the employee of a subcontractor or Sub-Consultant, pursuant to these requirements.
- (d) **Remedies.** Once the incident has been confirmed and depending on the severity of each case, the MCA Entity will apply remedies, which could include:
- (i) 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;
 - (ii) the MCA Entity requiring the termination of a subcontract or sub-award;
 - (iii) suspension of Contract payments until the breach is remedied to the satisfaction of the MCA Entity;
 - (iv) 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 determined non-compliance;
 - (v) the MCA Entity pursuing sanctions against the Consultant, including declaring the Consultant 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 MCA Entity for default or cause in accordance with the termination clause of the Contract

26. Gender and Social Inclusion 26.1 The Consultant shall ensure that its activities under the Contract comply with the MCC Gender Policy⁵⁷ and the MCA Entity's Social and Gender Integration Plan, as relevant to the activities performed under this Contract. The MCC Gender Policy requires that activities funded by MCC specifically address social and gender inequalities to ensure opportunities for the participation and benefit of women and vulnerable groups, as well as to ensure that its activities do not cause significant negative social and gender impacts.
27. 27.1 [Intentionally Deleted.]
28. Prohibition of Harmful Child Labor 28.1 The Consultant shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. The Consultant will identify the presence of all persons under the age of eighteen (18). Where national laws have provisions for the employment of minors, the Consultant will follow Applicable Law. Children under the age of eighteen (18) will not be employed in hazardous work. All work of persons under the age of eighteen (18) will be subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work.
29. Prohibition of Sexual Harassment 29.1 The Consultant shall prohibit sexual harassment behaviors directed at Compact beneficiaries, MCA Entity employees or MCA Entity consultants. Examples of sexual harassment include, but are not limited to, the following behaviors: unwelcome sexual advances; requests for sexual favors; verbal or physical harassment of a sexual nature; or offensive remarks about a person's sex, sexual orientation or non-conformity with gender stereotypes. The MCA Entity may investigate allegations of sexual harassment as it determines appropriate. The Consultant shall fully cooperate with any investigation conducted by the MCA Entity regarding breach of this provision. The Consultant will ensure that any incident of

⁵⁷ Available at: <https://assets.mcc.gov/guidance/mcc-policy-gender.pdf>

sexual harassment investigated by the MCA Entity has been resolved to the MCA Entity's satisfaction.

30. Non-Discrimination and Equal Opportunity 30.1 The MCA Entity adheres to the principle of equal opportunity and fair treatment in its employment practices. The MCA Entity expects that the Consultant shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. Personal characteristics include sex, race, nationality, ethnic, social and indigenous origin, religion or belief, disability, age, sexual orientation, and gender identity. The MCA Entity expects that the Consultant shall base its employment decisions on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline. Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination.
31. Standard of Performance 31.1 The Consultant shall perform the Services and carry out its obligations under this Contract with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the MCA Entity, and shall at all times support and safeguard the MCA Entity's legitimate interests in any dealings with Sub-Consultants or third parties.
- Law Governing Services 31.2 The Consultant shall perform the Services in accordance with Applicable Law and shall take all practicable steps to ensure that any Sub-Consultants, as well as the Personnel of the Consultant and any Sub-Consultants, comply with the Applicable Law.
32. Conflict of Interests 32.1 The Consultant shall hold the MCA Entity's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or its own corporate interests.
- Consultant Not to Benefit from Commissions, Discounts, etc. 32.2 The payment of the Consultant pursuant to GCC Clause 17 shall constitute the Consultant's only payment in connection

with this Contract and, subject to GCC Clause 32.3, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations under this Contract, and the Consultant shall use its best efforts to ensure that any Sub-Consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional payment.

32.3 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the MCA Entity on the procurement of goods, works or services, the Consultant shall comply with the “MCC Program Procurement Guidelines” from time to time in effect as posted on the MCC website at www.mcc.gov/ppg and shall at all times exercise such responsibility in the best interest of the MCA Entity. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the MCA Entity.

Consultant and Affiliates Not to Engage in Certain Activities

32.4 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Services.

Prohibition of Conflicting Activities

32.5 The Consultant shall not engage, and shall cause its Personnel as well as its Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

33. Confidential Information; Rights of Use

33.1 Except with the prior written consent of the MCA Entity, or as may be required to comply with Applicable Law, the Consultant and its Personnel shall not (and shall cause any Sub-Consultants and their Personnel not to) at any time (a) communicate to any person or entity any confidential information acquired in the course of the Services, or (b) make public the recommendations formulated in the course of, or as a result of, the Services.

33.2 The Consultant and its Personnel shall not (and shall cause any Sub-Consultants and their Personnel not to), without the previous written consent of the MCA Entity, disclose this Contract, or any provision of this Contract, or any

specification, plan, drawing, pattern, sample or information provided by or on behalf of the MCA Entity in connection therewith, to any person other than a person employed by the Consultant in the performance of this Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

33.3 The Consultant and its Personnel shall not (and shall cause any Sub-Consultants and their Personnel not to), without the previous written consent of the MCA Entity, make use of any document or information related to or delivered in connection with this Contract, except for the purpose of performing this Contract.

33.4 Any document related to or delivered in connection with this Contract, other than this Contract itself, shall remain the property of the MCA Entity and shall be returned (including, except as provided in GCC Clause 34, all the copies) to the MCA Entity on completion of the Consultant's performance under this Contract.

34. Documents Prepared by the Consultant to be the Property of the MCA Entity

34.1 All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant under this Contract shall become and remain the property of the MCA Entity, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the MCA Entity, together with a detailed inventory thereof in accordance with this GCC Sub-Clause 34.1 and Sub-Clause 33.4, and in format and substance specifically required in the Terms of Reference. The Consultant may retain a copy of such documents and software, and use such software for its own use with prior written approval of the MCA Entity. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of the development or use of any such computer programs, the Consultant shall obtain the MCA Entity's prior written approval to such agreements, and the MCA Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be **specified in the SCC**.

35. Liability of the Consultant

35.1 Subject to additional provisions, if any, **set forth in the SCC**, the Consultants' liability under this Contract shall be provided by the Applicable Law.

36. Insurance to be taken out by the Consultant 36.1 The Consultant (a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at its (or the Sub-Consultants', as the case may be) own cost but on terms and conditions approved by the MCA Entity, insurance against the risks, and for the coverage **specified in the SCC** and in Annex B, and (b) at the MCA Entity's request, shall provide evidence to the MCA Entity showing that such insurance has been taken out and maintained and that the current premiums have been paid.
37. Accounting, Inspection and Auditing 37.1 The Consultant shall keep accurate and systematic accounts and records in respect of the provision of the Services under this Contract, in accordance with the provisions of Annex B and internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time changes and costs, receipt and use of goods and services and the bass thereof, together with a detailed inventory thereof.
- Reporting Obligations 37.2 The Consultant shall maintain such books and records and submit to the MCA Entity the reports, documents and other information specified in Annexes B and C, in the form, in the numbers and within the time periods set forth in such Annexes. The Consultant shall submit to the MCA Entity such other reports, documents and information as may be requested by the MCA Entity from time to time. Final reports shall be delivered in an electronic form specified by the MCA Entity in addition to the hard copies specified in Annexes B and C. The Consultant consents to the MCA Entity's sharing of the reports, documents and information delivered by the Consultant pursuant to this Contract with MCC and the Government.
38. Consultant's Actions Requiring the MCA Entity's Prior Approval 38.1 In addition to any modification or variation of the terms and conditions of this Contract pursuant to GCC Sub-Clause 16.4, the Consultant shall obtain the MCA Entity's prior approval in writing before taking any of the following actions:
- (a) any change or addition to the Personnel listed in Annex D;
 - (b) entering into a subcontract with a Sub-Consultant for the performance of any part of the Services; and
 - (c) any other action that may be **specified in the SCC**.
39. Obligations with Respect to Subcontracts 39.1 Notwithstanding the MCA Entity's approval for the Consultant to enter into a subcontract pursuant to GCC Clause 38, the Consultant shall retain sole and full responsibility for the Services and all payments due to subcontractors thereof. In the event that any Sub-Consultants are found by the MCA

Entity to be incompetent or incapable in discharging assigned duties, the MCA Entity may require that the Consultant provide a replacement, with qualifications and experience acceptable to the MCA Entity, or to resume the performance of the Services itself.

40. Use of Funds
- 40.1 The Consultant shall ensure that its activities do not violate provisions relating to use of funds and the prohibition of activities likely to cause a significant environmental, health or safety hazard, as set out in Annex B. Environmental, health, and safety hazards are defined in Appendix A of the MCC Environmental Guidelines available at www.mcc.gov.
41. Equipment, Vehicles and Materials Furnished by the MCA Entity
- 41.1 Equipment, vehicles and materials made available to the Consultant by the MCA Entity, or purchased by the Consultant wholly or partly with funds provided by the MCA Entity, shall be the property of the MCA Entity and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the MCA Entity an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the MCA Entity's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the MCA Entity in writing, shall insure them in an amount equal to their full replacement value.
42. Equipment and Materials Provided by the Consultant
- 42.1 Equipment, vehicles or materials brought into the MCA Country by the Consultant, Sub-Consultants and Personnel, or purchased by them without funds provided by the MCA Entity, and used either for provision of the Services or personal use shall remain the property of the Consultant, its Sub-Consultants or the Personnel concerned, as applicable.
43. Assistance Exemptions and
- 43.1 Unless otherwise **specified in the SCC**, the MCA Entity shall use its best efforts to ensure that the Government shall:
- (a) Provide the Consultant, Sub-Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Sub-Consultants or Personnel to perform the Services.
 - (b) Arrange for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Government's country.
 - (c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the

Personnel and their eligible dependents.

- (d) To the extent permitted by Applicable Law, exempt the Consultant, Sub-Consultants and their Personnel employed for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity.
- (e) Grant to the Consultant, Sub-Consultants and their Personnel the privilege, pursuant to the Applicable Law, of bringing into the MCA Country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services.

- 44. Access to Land 44.1 The MCA Entity warrants that the Consultant, Sub-Consultants and their Personnel shall have, free of charge, unimpeded access to all land in the MCA Country in respect of which access is required for the performance of the Services. The MCA Entity will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultant, Sub-Consultants and their Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultant or Sub-Consultants or their Personnel.

- 45. Change in the 45.1 If, after the date of this Contract, there is any change in the Applicable Law with respect to Taxes and duties which increases or Related to Taxes decreases the cost incurred by the Consultant in performing the and Duties Services, payments to the Consultant shall not be adjusted. However, the provisions of GCC Sub-Clause 18(e) shall be applicable in such a situation.

- 46. Services, Facilities 46.1 The MCA Entity shall make available to the Consultant and the and Property of the Personnel, for the purposes of performing the Services and free of MCA Entity any charge, the services, facilities and property described in Annex G at the times and in the manner specified in Annex G.
 - 46.2 In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Annex G, the Parties shall agree on (a) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (b) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (c) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to GCC Sub-Clause 17.1.

- 47. Payment 47.1 In consideration of the Services performed by the Consultant under

this Contract, the MCA Entity shall make to the Consultant payments in the manner provided in GCC Clause 17.

48. Counterpart Personnel
- 48.1 The MCA Entity shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the MCA Entity with the Consultant's advice, if specified in Annex G.
- 48.2 If counterpart personnel are not provided by the MCA Entity to the Consultant as and when specified in Annex G, the MCA Entity and the Consultant shall agree on (a) how the affected part of the Services shall be carried out, and (b) the additional payments, if any, to be made by the MCA Entity to the Consultant as a result thereof pursuant to GCC Sub-Clause 17.1.
- 48.3 Professional and support counterpart personnel, excluding the MCA Entity's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the MCA Entity shall not unreasonably refuse to act upon such request.
49. Good Faith
- 49.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.
50. Operation of the Contract
- 50.1 The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of this Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness.

Section VII. SPECIAL CONDITIONS OF CONTRACT

Amendments of, and Supplements to, Clauses in the General Conditions of Contract of this Contract	
GCC 1.1	<p>(a) “Applicable Law” means the laws and any other instruments having the force of law in Benin, as they may be issued and in force from time to time.</p> <p>(m) “Local Currency” means XOF.</p> <p>(n) “MCA Country” means the country of Benin.</p>
GCC 3.1	<p>This Contract shall be executed in the English language Yes [<input checked="" type="checkbox"/>] No [<input type="checkbox"/>] and in French language Yes [<input type="checkbox"/>] No [<input checked="" type="checkbox"/>].</p>
GCC 4.1	<p>The addresses for serving notices under this Contract are:</p> <p><u>For the MCA Entity:</u></p> <p>Millennium Challenge Account-Benin II (MCA-Benin II) Attn.: The National Coordinator</p> <p><u>Address:</u> Immeuble KOUGBLENOU, 3eme étage Domaine de l’OCBN Derrière la Compagnie Territoriale de Gendarmerie du Littoral Cotonou, République du Bénin Tel. : 00 229 21 31 78 25 Fax. : 00 229 21 31 46 92</p> <p><u>Email:</u> info-benin@charleskendall.com and copy to: info@mcabenin2.bj</p> <p><u>For the Consultant:</u></p>
GCC 8.1	<p>The Member in charge is [insert name of member]</p> <p><i>[Note: If the Consultant consists of a joint venture or another association of more than one entity, the name of the entity whose address is specified in SCC 9.1 should be inserted here. If the Consultant consists only of one entity, this SCC 8.1 should be deleted from the SCC.]</i></p>
GCC 9.1	<p>The Authorized Representatives are:</p> <p><u>For the MCA Entity:</u></p> <p>Attention Millennium Challenge Account – Benin (MCA-Benin II) Address : Immeuble KOUGBLENOU, 3^{ème} étage Domaine de l’OCBN Derrière la Compagnie Territoriale de Gendarmerie du Littoral Cotonou, République du Bénin Téléphone : + 229 21 31 78 25 Fax : + 229 21 31 46 92</p>

	<p>Email : info@mcabenin2.bj</p> <p><u>For the Consultant:</u></p>
GCC 10.3	Written notification to the MCA Entity of adjustments is required.
GCC 10.5	A resident project manager shall be required for the duration of this Contract.
GCC 13.2	<p>All disputes shall be settled by arbitration in accordance with the following provisions:</p> <ol style="list-style-type: none"> 1. <u>Selection of Arbitrators.</u> Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three arbitrators, in accordance with the following provisions: <ol style="list-style-type: none"> (a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to the International Chamber of Commerce] for a list of not fewer than five (5) nominees and, on receipt of such list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, the International Chamber of Commerce shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute. (b) Where the Parties do not agree that the dispute concerns a technical matter, the MCA Entity and the Consultant shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by the International Chamber of Commerce, Paris. (c) If, in a dispute subject to SCC Sub-Clause 13.2.1(b), one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the the International Chamber of Commerce, Paris to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute. 2. <u>Rules of Procedure.</u> Except as stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the

	<p>United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract.</p> <p>3. <u>Substitute Arbitrators</u>. If for any reason an arbitrator is unable to perform his function, a substitute shall be appointed in the same manner as the original arbitrator.</p> <p>4. <u>Nationality and Qualifications of Arbitrators</u>. The sole arbitrator or the third arbitrator appointed pursuant to paragraphs (a) through (c) of Sub-Clause SCC 13.2.1 shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultant's home country [<i>Note: If the Consultant consists of more than one entity, add: or of the home country of any of their Members or Parties</i>] or of the Government's country. For the purposes of this Clause, "home country" means any of:</p> <ul style="list-style-type: none"> (a) the country of incorporation of the Consultant [<i>Note: If the Consultant consists of more than one entity, add: or of any of their Members or Parties</i>]; or (b) the country in which the Consultant's [<i>or any of their Members' or Parties'</i>] principal place of business is located; or (c) the country of nationality of a majority of the Consultant's [<i>or of any Members' or Parties'</i>] shareholders; or (d) the country of nationality of the Sub-Consultants concerned, where the dispute involves a subcontract. <p>5. <u>Costs</u>. Upon the occurrence of a dispute, the Parties shall agree on the allocation of the costs associated with any settlement efforts before arbitration or associated with arbitration. Where the Parties fail to agree on the allocation, the allocation shall be determined by the arbitrator.</p> <p>6. <u>Miscellaneous</u>. In any arbitration proceeding under this Contract:</p> <ul style="list-style-type: none"> (a) proceedings shall, unless otherwise agreed by the Parties, be held in [<i>select a country which is neither the MCA Entity's country nor the Consultant's country</i>]; (b) the English language shall be the official language for all purposes; and (c) the decision of the sole arbitrator or of a majority of the arbitrators shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.
	<p>7. <u>MCC Right to Observe</u>. 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</p>

	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.																																												
GCC 16.1	This Contract shall enter into force on the date of signing of the Contract by both parties.																																												
GCC 16.2	The Effective Date shall be Twenty-one (21) days after contract entry into force date.																																												
GC C 16.3	The Contract shall expire on [insert date] .																																												
GCC 17.1	<p>The amount of the fixed price Contract is XXXXX [US Dollars] OR XXXXX XOF OR XXXXX [US Dollars] and XXXXX XOF (the “Contract Price”).</p> <p>The accounts are: For US Dollars: [insert account number] For XOF : [insert account number]</p> <p>Payments for the deliverables shall be made according to the following schedule of percentages of the amounts included in the Contract:</p> <p style="text-align: center;">Payment Schedule</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Deliverable Schedule</th> <th style="text-align: center;">Due Date</th> <th style="text-align: center;">Payment (%)</th> <th></th> </tr> </thead> <tbody> <tr> <td colspan="4" style="text-align: center;">Phase 1</td> </tr> <tr> <td style="text-align: center;">Inception Report</td> <td style="text-align: center;">S + 3 weeks</td> <td style="text-align: center;">5%</td> <td></td> </tr> <tr> <td style="text-align: center;">Communication Plan</td> <td style="text-align: center;">S + 2 months</td> <td style="text-align: center;">5%</td> <td></td> </tr> <tr> <td style="text-align: center;">Technical, Financial, Organizational, and Legal Due Diligence</td> <td style="text-align: center;">S + 2.5 months</td> <td style="text-align: center;">5%</td> <td></td> </tr> <tr> <td style="text-align: center;">Transaction Structuring Report and memo on turnaround and management plan</td> <td style="text-align: center;">S + 3 months</td> <td style="text-align: center;">10%</td> <td></td> </tr> <tr> <td colspan="4" style="text-align: center;">Phase 2</td> </tr> <tr> <td style="text-align: center;">Call for Expressions of Interest</td> <td style="text-align: center;">S + 2 months</td> <td style="text-align: center;">5%</td> <td></td> </tr> <tr> <td style="text-align: center;">Request for Qualification</td> <td style="text-align: center;">S + 3 months</td> <td style="text-align: center;">5%</td> <td></td> </tr> <tr> <td style="text-align: center;">Draft Request for Bids</td> <td style="text-align: center;">S + 4 months</td> <td style="text-align: center;">10%</td> <td></td> </tr> <tr> <td style="text-align: center;">RFQ Evaluation</td> <td style="text-align: center;">S + 5 months</td> <td style="text-align: center;">5%</td> <td></td> </tr> </tbody> </table>	Deliverable Schedule	Due Date	Payment (%)		Phase 1				Inception Report	S + 3 weeks	5%		Communication Plan	S + 2 months	5%		Technical, Financial, Organizational, and Legal Due Diligence	S + 2.5 months	5%		Transaction Structuring Report and memo on turnaround and management plan	S + 3 months	10%		Phase 2				Call for Expressions of Interest	S + 2 months	5%		Request for Qualification	S + 3 months	5%		Draft Request for Bids	S + 4 months	10%		RFQ Evaluation	S + 5 months	5%	
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	Final Request for Bids	S + 5 months	10%	
	Inputs in the evaluation of the bids	S + 8 months	5%	
	Negotiated MC Agreement	S + 9 months	10%	
	Final Closing Report	S + 12 months	5%	
	Phase 3			
	Draft Terms of Reference for MC Contract Monitor	S + 3 months	5%	
	Final Request for Proposals	S + 4 months	5%	
	Inputs in the evaluation of the proposals	S + 8 months	5%	
	Negotiated MC Contract Monitor Agreement	S + 9 months	5%	
	<p>The Consultant should note that payment of fees for the services is linked to approval of individual deliverables by MCA-Benin II. They should note that all reports will be considered draft until they are reviewed and approved by MCA-Benin II. MCA-Benin II will coordinate comments from other reviewing parties (e.g., IEs, MCC, etc.).</p>			
GCC 17.5	<p>The interest rate to be applied in the case of late payments is the Federal Funds Rate as stated on the website: http://www.federalreserve.gov/releases/h15/current/default.htm</p>			
GCC 34.1	<p>The Consultant shall not use the documents for purposes unrelated to this Contract without the prior written approval of MCA-Benin II.</p>			
GCC 36.1	<p>The risks and the minimum coverage shall be as follows:</p> <ul style="list-style-type: none"> (a) third party motor vehicle liability insurance in respect of motor vehicles operated in BENIN by the Consultant or its Personnel or any Sub-Consultants or their Personnel, with a minimum coverage of 100 000 USD; (b) third party liability insurance, with a minimum coverage of (1,5 times the contract amount) USD; (c) professional liability insurance, with a minimum coverage of (1,5 times the contract amount) USD; (d) employer’s liability and workers’ compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultants, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and 			

	<p>(e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.</p>
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ANNEXES TO CONTRACT

Annex A: Description of Services

[Note to MCA Entity: Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by the MCA Entity, etc. This Description of Services is to be based on the TOR issued with the RFP and incorporates changes agreed upon during negotiations. It must be noted that this Description of Services takes precedence over the Consultant's Proposal, so any changes recommended or requested by the Consultant do not alter the services the Consultant is required to perform unless agreed to during negotiations and incorporated into this Description of Services.]

This Annex A shall incorporate by reference: the proposal dated **[insert date of awarded Proposal]** submitted by **[insert name of Consultant awarded the Contract]** in connection with the procurement for this Contract (the "Proposal"). In the event of any inconsistency between this Description of Services and the Proposal, the priority of interpretation shall be given to this Description of Services.

Annex B: Additional Provisions

Capitalized terms that are used but not defined in this Annex shall have the meaning given to them in the GCC, the SCC, or in the Compact or related agreements.

The MCA Entity is responsible for the oversight and management of the implementation of the Compact on behalf of the Government, and intends to apply a portion of the proceeds of the Compact to eligible payments under this Contract, provided that (a) such payments will only be made at the request of and on behalf of the MCA Entity and as authorized by the Fiscal Agent, (b) MCC shall have no obligations to the Consultant under the Compact or this Contract, (c) such payments will be subject, in all respects, to the terms and conditions of the Compact, and (d) no party other than the Government and the MCA Entity shall derive any rights from the Compact or have any claim to MCC Funding.

A. MCC Status; Reserved Rights; Third-Party Beneficiary

1. MCC Status. MCC is a United States Government corporation acting on behalf of the United States Government in the implementation of the Compact. MCC has no liability under this Contract, and is immune from any action or proceeding arising under or relating to this Contract. In matters arising under or relating to this Contract, MCC is not subject to the jurisdiction of the courts or any other juridical or other body of any jurisdiction.
2. MCC Reserved Rights.
 - (a) Certain rights are expressly reserved to MCC under this Contract, the Compact and other related Compact documents, including the right to approve the terms and conditions of this Contract, as well as any amendments or modifications hereto, and the right to suspend or terminate this Contract.
 - (b) MCC, in reserving such rights under this Contract, the Compact or other related Compact documents, has acted solely as a funding entity to assure the proper use of United States Government funds, and any decision by MCC to exercise or refrain from exercising these rights shall be made as a funding entity in the course of funding the activity and shall not be construed as making MCC a Party to this Contract.
 - (c) MCC may, from time to time, exercise its rights, or discuss matters related to this Contract with the Parties or the Government, as appropriate, jointly or separately, without thereby incurring any responsibility or liability to any Party.
 - (d) Any approval (or failure to approve) or exercise of (or failure to exercise) any rights by MCC shall not bar the Government, the MCA Entity, MCC or any other person or entity from asserting any right against the Consultant, or relieve the Consultant of any liability which the Consultant might otherwise have to the Government, the MCA Entity, MCC, or any other person or entity. For the purposes of this clause (d), MCC shall be deemed to include any MCC officer, director, employee, affiliate, contractor, agent or representative.
3. Third-Party Beneficiary. MCC shall be deemed to be a third party beneficiary under this Contract.

B. Limitations on the Use or Treatment of MCC Funding

The use and treatment of MCC Funding in connection with this Contract does not, and shall not, violate any limitations or requirements specified in the Compact or any other relevant agreement or Implementation Letter or applicable laws or United States Government policy. No MCC Funding shall be used for military purposes, for any activity likely to cause a substantial loss of United States jobs or a substantial displacement of United States production, to support any activity likely to cause a significant environmental, health or safety hazard, or to fund abortions or involuntary sterilizations as a method of family planning. MCC Funding shall be free from the payment or imposition of all Taxes as set forth in the Compact.

C. Procurement

The Consultant shall ensure that all procurements of goods, works or services under, related to or in furtherance of this Contract shall be consistent with the general principles set forth in the Compact and in the MCC Program Procurement Guidelines from time to time in effect as posted on the MCC website at www.mcc.gov/ppg. The Consultant shall comply with the eligibility requirements related to prohibited source or restricted party provisions in accordance with U.S. laws, regulations and policy, applicable World Bank policies or guidelines and in accordance with other eligibility requirements as may be specified by MCC or the MCA Entity.

D. Reports and Information; Access; Audits; Reviews

1. Reports and Information. The Consultant shall maintain such books and records and provide such reports, documents, data or other information to the MCA Entity in the manner and to the extent required by the Compact or related documents, and as may be reasonably requested by the MCA Entity from time to time in order to comply with its reporting requirements arising under the Compact or related documents. MCC may freely use any information it receives in any report or document provided to it in any way that MCC sees fit. The provisions of the Compact and related documents that are applicable to the Government in this regard shall apply, *mutatis mutandis*, to the Consultant as if the Consultant were the Government under the Compact.
2. Access, Audits and Reviews. Upon MCC's request, the Consultant shall permit authorized representatives of MCC, an authorized Inspector General of MCC, the United States Government Accountability Office, any auditor responsible for an audit contemplated by the Compact or conducted in furtherance of the Compact, and any agents or representatives engaged by MCC or the Government to conduct any assessment, review or evaluation of the Program, the opportunity to audit, review, evaluate or inspect activities funded by MCC Funding. The provisions of the Compact and related documents that are applicable to the Government in this regard shall apply, *mutatis mutandis*, to the Consultant as if the Consultant were the Government under the Compact.

3. Application to Providers. The Consultant shall ensure the inclusion of the applicable audit, access and reporting requirements from the Compact in its contracts or agreements with other providers in connection with this Contract.

E. Compliance with Anti-Corruption, Anti-Money Laundering, Terrorist Financing, and Trafficking in Persons Statutes and Other Restrictions

1. The Consultant shall ensure that no payments have been or will be made by the Consultant to any official of the Government, the MCA Entity, or any third party (including any other government official) in connection with this Contract in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. 78a et seq.) (the “FCPA”) or that would otherwise be in violation of the FCPA if the party making such payment were deemed to be a United States person or entity subject to the FCPA, or similar statute applicable to this Contract, including any local laws. The Consultant affirms that no payments have been or will be received by any official, employee, agent or representative of the Consultant in connection with this Contract in violation of the FCPA or that would otherwise be in violation of the FCPA if the party making such payment were deemed to be a United States person or entity subject to the FCPA, or similar statute applicable to this Contract, including any local laws.
2. The Consultant shall not provide material support or resources directly or indirectly to, or knowingly permit MCC Funding to be transferred to, any individual, corporation or other entity that the Consultant knows, or has reason to know, commits, attempts to commit, advocates, facilitates, or participates in any terrorist activity, or has committed, attempted to commit, advocated, facilitated or participated in any terrorist activity, including, but not limited to, the individuals and entities (i) on the master list of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury’s Office of Foreign Assets Control, which list is available at www.treas.gov/offices/enforcement/ofac, (ii) on the consolidated list of individuals and entities maintained by the “1267 Committee” of the United Nations Security Council, (iii) on the list maintained on www.sam.gov or (iv) on such other list as the MCA Entity may request from time to time. For purposes of this provision, “material support and resources” includes currency, monetary instruments or other financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.
3. The Consultant shall ensure that its activities under this Contract comply with all applicable U.S. laws, regulations, executive orders, and policies regarding money laundering, terrorist financing, trafficking in persons, U.S. sanctions laws, restrictive trade practices, boycotts, and all other economic sanctions promulgated from time to time by means of statute, executive order, regulation or as administered by the Office of Foreign Assets Control of the United States Treasury Department or any successor governmental authority, including, 18 U.S.C. § 1956, 18 U.S.C. § 1957, 18 U.S.C. § 2339A, 18 U.S.C. § 2339B, 18 U.S.C. § 2339C, 18 U.S.C. § 981, 18 U.S.C. § 982, Executive Order 13224, 15 C.F.R. Part 760, and those economic sanctions programs enumerated at 31 C.F.R. Parts 500 through 598 and shall ensure that its activities under this Contract comply with any policies and procedures for monitoring

operations to ensure compliance, as may be established from time to time by MCC, the MCA Entity, the Fiscal Agent, or the MCA Entity's permitted account bank, as may be applicable. The Consultant shall verify, or cause to be verified, appropriately any individual, corporation or other entity with access to or recipient of funds, which verification shall be conducted in accordance with the procedures set out in Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC's website at www.mcc.gov/ppg. The Consultant shall (A) conduct the monitoring referred to in this paragraph on at least a quarterly basis, or such other reasonable period as the MCA Entity or MCC may request from time to time and (B) deliver a report of such periodic monitoring to the MCA Entity with a copy to MCC.

4. Other restrictions on the Consultant shall apply as set forth in the Compact or related documents with respect to any activities in violation of other applicable U.S. laws, regulations, executive orders or policies, any misconduct injurious to MCC or the MCA Entity, any activity contrary to the national security interests of the United States or any other activity that materially and adversely affects the ability of the Government or any other party to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of the Compact or any related document or that materially and adversely affects the Program assets or any Permitted Account.

F. Publicity, Information and Marking

1. The Consultant shall cooperate with the MCA Entity and the Government to provide the appropriate publicity to the goods, works and services provided under this Contract, including identifying Program activity sites and marking Program assets as goods, works and services funded by the United States Government, acting through MCC, all in accordance with the MCC Standards for Global Marking available on the MCC website at www.mcc.gov; provided, however, that any press release or announcement regarding MCC or the fact that MCC is funding the Program or any other publicity materials referencing MCC, shall be subject to MCC's prior written approval and must be consistent with any instructions provided by MCC from time to time in relevant Implementation Letters.
2. Upon the termination or expiration of the Compact, the Consultant shall, upon MCC's request, cause the removal of any such markings and any references to MCC in any publicity materials.

G. Insurance

The Consultant shall obtain insurance, performance bonds, guarantees or other protections appropriate to cover against risks or liabilities associated with performance of this Contract. The Consultant shall be named as payee on any such insurance and the beneficiary of any such performance bonds and guarantees. The MCA Entity and, at MCC's request MCC, shall be named as additional insureds on any such insurance or other guarantee, to the extent permissible under applicable laws. The Consultant shall ensure that any proceeds from claims paid under such insurance or any other form of guarantee shall be used to replace or repair any loss or to

pursue the procurement of the covered goods, works and services; provided, however, that at MCC's election, such proceeds shall be deposited in an account as designated by the MCA Entity and acceptable to MCC or as otherwise directed by MCC.

H. Conflict of Interest

The Consultant shall ensure that no officer, director, employee, affiliate, contractor, Sub-Consultant, agent, advisor or representative of the Consultant participates in the selection, award, administration or oversight of a contract, grant or other benefit or transaction funded in whole or in part (directly or indirectly) by MCC Funding in connection with this Contract, in which (i) the entity, the person, members of the person's immediate family or household or his or her business partners, or organizations controlled by or substantially involving such person or entity, has or have a financial or other interest or (ii) the person or entity is negotiating or has any arrangement concerning prospective employment, unless such person or entity has first disclosed in writing to the parties under this Contract and MCC the conflict of interest and, following such disclosure, the parties to this Contract agree in writing to proceed notwithstanding such conflict. The Consultant shall ensure that none of its officers, directors, employees, affiliates, contractors, Sub-Consultants, agents, advisors or representatives involved in the selection, award, administration, oversight or implementation of any contract, grant or other benefit or transaction funded in whole or in part (directly or indirectly) by MCC Funding in connection with this Contract shall solicit or accept from or offer to a third party or seek or be promised (directly or indirectly) for itself or for another person or entity any gift, gratuity, favor or benefit, other than items of *de minimis* value and otherwise consistent with such guidance as MCC may provide from time to time. The Consultant shall ensure that none of its officers, directors, employees, affiliates, contractors, Sub-Consultants, agents, advisors or representatives engage in any activity which is, or gives the appearance of being, a conflict of interest in connection with this Contract. Without limiting the foregoing, the Consultant shall comply, and ensure compliance, with the applicable conflicts of interest and ethics policies of the MCA Entity as provided by the MCA Entity to the Consultant.

I. Inconsistencies

In the event of any conflict between this Contract and the Compact and/or the Program Implementation Agreement, Procurement Agreement, or Disbursement Agreement, as applicable, the term(s) of the Compact and/or the Program Implementation Agreement, Procurement Agreement, or Disbursement Agreement, as applicable, shall prevail.

J. Other Provisions

The Consultant shall abide by such other terms or conditions as may be specified by the MCA Entity or MCC in connection with this Contract.

K. Flow-Through Provisions

In any subcontract or sub-award entered into by the Consultant, as permitted by this Contract, the Consultant shall ensure the inclusion of all the provisions contained in paragraphs (A) through (J) above.

Annex C: Reporting Requirements

In summary, the following key approvals are required by MCA/SBEE/GoB and MCC, as the funder of the proposed management contract. The schedule assumes two (2) weeks for each approval; any delay in these approvals will require a review of the schedule:

- Request for Qualification (RFQ): S + month 3
- Draft Request for Bids (RFB): S + month 4
- Shortlist and notification to Bidders: S + month 5
- Final RFB: S + month 6
- Proposal evaluation and notification of Preferred Bidder: S + month 8
- Negotiated MC Agreement: S + month 9

The TA will report to MCA-Benin II. The TA will coordinate with the SBEE Board, GoB, and MCC on all document development and interface with other outside parties as may be designated by GoB.

Presentation of Deliverables

Consultant shall present deliverables according to the schedule presented above. All draft deliverables shall be submitted electronically in French and all final deliverables shall be submitted electronically and in 15 hard copies to be delivered to MCA-Benin II in Cotonou. All final reports shall be submitted simultaneously in both English and French.

Packaging and packing for all items delivered hereunder shall be in accordance with commercial practice and adequate to ensure acceptance by common carrier and safe arrival at destination. The contract number shall be placed on each package, report, or other deliverable.

In general, all electronic documentation will be accessible via: (1) MS Windows based MS Office 2003 (or later) products, including Word for text, Excel for spreadsheets and data tables, PowerPoint for presentations and Project for schedules; (2) AutoCAD 2002 (or later) and in PDF format for original drawing files; (3) JPG format for digital photos; and (4) Manifold (used by SBEE) and ArcGIS for GIS database. Any raw data not submitted through spreadsheets should be submitted in either Microsoft Access (*.accdb file), STATA (*.data file), or SPSS (*.sav file). Any other format(s) must be agreed upon by MCA-Benin II.

Annex D: Key Professional Personnel and Sub-Consultants

Note: List under:

- D-1 Titles [**and names, if already available**], detailed job descriptions and minimum qualifications of foreign Key Professional Personnel to be assigned to work in [**Country**], and estimated staff-months for each.
- D-2 Same as D-1 for foreign Key Professional Personnel to be assigned to work outside **Benin**.
- D-3 List of approved Sub-Consultants (if already available) and same information with respect to their Personnel as in D-1 or D-2.
- D-4 Same information as D-1 for local Key Professional Personnel.
- D-5 Working hours, holidays, sick leave and vacations, as provided for in GCC Clause 11 (if applicable)

Annex E: Breakdown of Contract Price in US Dollars

Note: List here the monthly rates for Personnel (Key Professional Personnel and other Personnel) (fully loaded, including direct and indirect expenses and profit), used to arrive at the breakdown of the price - US Dollars portion (from Form FIN-4).

This Annex will exclusively be used for determining remuneration for additional services.

Annex F: Breakdown of Contract Price in Local Currency

Note: List here the monthly rates for Personnel (Key Professional Personnel and other Personnel) (fully loaded, including direct and indirect expenses and profit), used to arrive at the breakdown of the price - Local Currency portion (from Form FIN-4).

This Annex will exclusively be used for determining remuneration for additional services.

Annex G: Services and Facilities to be Provided by the MCA Entity

- **Support to be Provided by MCA-Benin II**

The TA's primary point of contact for this assignment will be the MCA-Benin II Director of Operations, followed by the Chef of Reform.

MCA-Benin II will provide the Consultant the following information and support:

- (a) Access to all reports, data and other necessary documents related to the assignment that may already be available.
- (b) Letters of introduction to facilitate access to various stakeholders, ministries, governmental authorities and agencies whose activities and roles are essential to the mission of the TA.
- (c) Invitation letters as may be needed to support visa applications for entry and exit for the TA's expatriate staff.
- (d) Facilitation of issuance of any permit required for personnel of the TA to perform its tasks in Benin.
- (e) Facilitation of the import and export of equipment that may be required for the TA's performance of consulting services, and property belonging to the TA's expatriate staff.

- **Documents to be provided by MCA**

The TA will be provided all necessary documentation of the Compact. These documents will include, but not be limited to, the following:

- a. Compact Agreement signed on September 10th, 2015, the Compact is also available on the website www.mcc.gov and www.mcabenin2.bj.
- b. IEAs as and when they become available.
- c. Relevant MCC Policies: MCC Environmental Guidelines, MCC Policy for Monitoring and Evaluation of Compact and Threshold Programs, MCC Guidance for Economic and Beneficiary Analysis, MCC Guidance for Common Indicators, MCC Gender Policy and Gender Integration Guidelines, MCC Program Procurement Guidelines (available on the website www.mcc.gov)
- d. Related reports used during the development of the Compact activities:
 - (i) Economic Constraints Analysis Report.
 - (ii) Benin Power System Project Studies – Final Feasibility Study Reports.
 - (iii) Other relevant studies.
- e. Reports referred to herein prepared by other consultants.
- f. Plan Directeur de Développement du sous-secteur de l'Énergie électrique au Bénin – Document Synthèse de l'Étude et Plan d'actions actualisé, MEEM, DGE, Août 2016
- g. Programme d'Actions du Gouvernement 2016-2021

- h. Etude de faisabilité du projet de construction de centrales solaires photovoltaïques “DEFISSOL”, Rapport d’étape 1, version provisoire, Groupement Nodalis Conseil – CAPSIM, Novembre 2016
- i. Etude de faisabilité du projet de construction de centrales solaires photovoltaïques “DEFISSOL”, Rapport d’étape 2, version provisoire, Groupement Nodalis Conseil – CAPSIM, Novembre 2016
- j. Les Composantes du Plan de redressement du sous-secteur de l’Electricité (PRSE) de la République du Bénin, MEEM, Août 2016