

b. Scope of Application of Procurement Operations Manual

This Procurement Operations Manual covers all forms of approved procurement to be undertaken by MCA-Vanuatu using funds provided directly from the MCC or from parallel and complimentary sources; this includes consultancy services, civil works contractors and large scale supplies for the individual components of the project and the ad hoc supplies and services required to support the MCA-Vanuatu operations in Port Vila.

Procurement procedures are set out in a number of documents. The documents mentioned below have been used as the basis for developing a broader framework for this Procurement Operations Manual:

- Millennium Challenge Compact between The United States of America acting through the Millennium Challenge Corporation and the Government of the Republic of Vanuatu.
- Procurement Agreement between Millennium Challenge Corporation and MCA-Vanuatu.
- Procurement Guidelines (based on World Bank procedures).
- Standard Bidding Documents (based on World Bank Standard Bidding Documents which have been modified specifically for use by MCA-Vanuatu).

The guidelines contained in this Procurement Operations Manual cover the procedures governing the procurement of goods, works and services (consulting and non-consulting) to be followed by MCA-Vanuatu for the implementation of the Transport Infrastructure Development Project. The procedures seek to;

- i. Guide procurement activities within MCA-Vanuatu,
- ii. Provide uniform procedures for the procurement of goods, works and services

The objectives of these procedures are to ensure the use of MCC funds with due care to economy, efficiency, transparency, accountability, and consistency in procurement management at all levels. All procurement undertaken by MCA-Vanuatu shall be based on attainment of best value for money through solicitation of bids from eligible sources through open and fair processes that provide a high degree of competition and optimum value. Best value for money means taking into account the optimum combination of total life cost of the goods, works or service necessary to meet the project's objectives. All procurement decisions must be based on robust assessments of all the options in each set of circumstances throughout the life of a contract by employing mechanisms of effective contract monitoring and control. All contractors, consultants and other private sector firms involved in any aspect of procurement

using MCC funds will be required to adhere to the procedures detailed in this Manual.

The procurement procedures incorporate the stipulations on eligibility of individuals and firms contained in the Procurement Guidelines appended to the Procurement Agreement between the Millennium Challenge Corporation and MCA-Vanuatu.

1. Project Procurement Organisation and Management

a. Introduction

Procurement will generally be initiated by MCA-Vanuatu and will be administered by the MCA-Vanuatu Procurement Agent. The approval process depends on the value of the procurement and whether it relates to individual components of the project or ad hoc supplies and services required to support the MCA-Vanuatu operations. The purpose of this section is to introduce the various bodies and organisations involved in Project Procurement organisation and management.

b. Levels of Authority

REVIEW OF PROCUREMENT DECISIONS: Consultant Services				
Procurement Procedure or Method	Decision ¹	LEVEL OF REVIEW (Thresholds expressed in USD)		
		Director MCA-Vanuatu	MCA-Vanuatu Steering Committee ²	MCC
Quality and Cost Based Selection	Request for Expression of Interest	All	Above 500,000	Above 500,000
	Shortlist	All	Above 100,000	Above 100,000
	Proposal Documents	All	Above 500,000	Above 500,000
	Technical Evaluation Report	All	Above 100,000	Above 100,000
	Proposed Award and Final Contract	All	Above 100,000	Above 100,000
	Handling of Protest	All	All	All
Quality Based Selection and Selection under Fixed Budget	Choice of this selection procedure	All	All	All
	Request for Expression of Interest	All	Above 500,000	Above 500,000
	Shortlist	All	Above 100,000	Above 100,000
	Proposal Documents	All	Above 500,000	Above 500,000
	Technical Evaluation Report for QBS only	All	Above 100,000	Above 100,000
	Proposed Award and Final Contract	All	Above 100,000	Above 100,000
	Handling of Protest	All	All	All
Least Cost Selection	Choice of this selection procedure because procurement is valued under 200,000	All	None	None
	Request for Expression of Interest	All	None	None

¹ Within each “procurement Procedure or Method,” each separate “Decision” shown is an independent requirement, and all requisite approvals must be received for each such “Decision” before proceeding, sequentially from top to bottom, to the next “Decision” requirement.

² Notwithstanding the thresholds set forth in this table with respect to the Steering Committee, the Steering Committee may exercise its authority to review any procurement decision with prior notice to the Director of the Management Unit.

REVIEW OF PROCUREMENT DECISIONS: Consultant Services		
		LEVEL OF REVIEW (Thresholds expressed in USD)

Procurement Procedure or Method	Decision ³	Director MCA-Vanuatu	MCA-Vanuatu Steering Committee ⁴	MCC
	Shortlist	All	Above 100,000	Above 100,000
	Proposal Documents	All	None	None
	Proposed Award and Final Contract	All	Above 100,000	Above 100,000
	Handling of Protest	All	All	All
Selection Based on Consultant's Qualifications	Choice of this selection procedure because procurement is valued under 200,000	All	None	None
	Request for Expression of Interest	All	None	None
	Shortlist	All	Above 50,000	Above 50,000
	Proposal Documents	All	None	None
	Technical Evaluation Report	All	None	None
	Proposed Award and Final Contract	All	Above 50,000	Above 50,000
	Handling of Protest	All	All	All
Single Source Selection	Choice of this selection procedure	All	Above 50,000	Above 50,000
	Proposed Award and Final Contract	All	Above 50,000	Above 50,000
	Handling of Protest in respect of choosing Single Source Selection Procedure	All	All	All
Selection of Individual Consultants	Choice of this selection procedure	All	Above 50,000	Above 50,000
	Shortlist	All	Above 50,000	Above 50,000

³ Within each "procurement Procedure or Method," each separate "Decision" shown is an independent requirement, and all requisite approvals must be received for each such "Decision" before proceeding, sequentially from top to bottom, to the next "Decision" requirement.

⁴ Notwithstanding the thresholds set forth in this table with respect to the Steering Committee, the Steering Committee may exercise its authority to review any procurement decision with prior notice to the Director of the Management Unit.

REVIEW OF PROCUREMENT DECISIONS: Consultant Services				
Procurement Procedure or Method	Decision ⁵	LEVEL OF REVIEW (Thresholds expressed in USD)		
		Director MCA-Vanuatu	MCA-Vanuatu Steering Committee ⁶	MCC
	Technical Evaluation Report	All	None	None
	Proposed Award and Final Contract	All	Above 50,000	Above 50,000
	Handling of Protest	All	All	All
All Procurement Actions	Contract Modifications and Change Orders	All	For all contract awards approved previously if change increases the value of the Contract by 10% or more, or raises a contract which did not require approval above an approval threshold or extends the Contract original term by 25% or more without value increase.	If change increases value of Contract by 10% or more

⁵ Within each “procurement Procedure or Method,” each separate “Decision” shown is an independent requirement, and all requisite approvals must be received for each such “Decision” before proceeding, sequentially from top to bottom, to the next “Decision” requirement.

⁶ Notwithstanding the thresholds set forth in this table with respect to the Steering Committee, the Steering Committee may exercise its authority to review any procurement decision with prior notice to the Director of the Management Unit.

REVIEW OF PROCUREMENT DECISIONS: Goods, Works and Non-Consultant Services				
Procurement Procedure or Method	Decision ⁷	LEVEL OF REVIEW (Thresholds expressed in USD)		
		Director MCA-Vanuatu	MCA-Vanuatu Steering Committee ⁸	MCC
Pre-qualification	Pre-qualification documents and advertising procedures	All	Above 1,000,000	Above 1,000,000
	Evaluation Report with proposed list of entities qualified	All	Above 500,000	Above 500,000
	Handling of Protest	All	All	All
International Competitive Bidding	Bidding Documents	All	Above 1,000,000 Goods Above 5,000,000 Works	Above 1,000,000 Goods Above 5,000,000 Works
	Extension of Bid Validity	All	Above 1,000,000	Above 1,000,000
	Evaluation Report with Proposed Award and Final Contract	All	Above 250,000	Above 250,000
	Handling of Protest	All	All	All
Limited Bidding	Selection of Limited Bidding because only a limited number of suppliers are available in the market	All	Above 100,000	Above 100,000
	Other justification	All	Above 50,000	Above 50,000
	Shortlist	All	Above 100,000	Above 100,000
	Bidding Documents	All	Above 500,000	Above 500,000
	Extension of Bid Validity	All	Above 1,000,000	Above 1,000,000

⁷ Within each “procurement Procedure or Method,” each separate “Decision” shown is an independent requirement, and all requisite approvals must be received for each such “Decision” before proceeding, sequentially from top to bottom, to the next “Decision” requirement.

⁸ Notwithstanding the thresholds set forth in this table with respect to the Steering Committee, the Steering Committee may exercise its authority to review any procurement decision with prior notice to the Director of the Management Unit.

REVIEW OF PROCUREMENT DECISIONS: Goods, Works and Non-Consultant Services				
Procurement Procedure or Method	Decision ⁹	LEVEL OF REVIEW (Thresholds expressed in USD)		
		Director MCA-Vanuatu	MCA-Vanuatu Steering Committee ¹⁰	MCC
	Evaluation Report with Proposed Award and Final Contract	All	Above 1,000,000	Above 1,000,000
	Handling of Protest	All	All	All
Shopping	Selection of Shopping because procurement is valued under 30,0000	All	None	None
	Shortlist	Over 2,000	None	None
	Record of Purchases	Weekly	Monthly	None
	Handling of Protest	All	All	Quarterly record of decisions
Direct Contracting	Selection of Direct Contracting to add to or extend existing contract	All	Above 100,000	Above 100,000
	Selection of Direct Contracting to be compatible with existing equipment	All	Above 50,000	Above 50,000
	Selection of Direct Contracting because only obtainable from one source	All	Above 100,000	Above 100,000
	Selection of Direct Contracting because procurement is valued under 2,000	None	None	None
	Selection of Direct Contracting on any other grounds	All	Above 50,000	Above 50,000

⁹ Within each “procurement Procedure or Method,” each separate “Decision” shown is an independent requirement, and all requisite approvals must be received for each such “Decision” before proceeding, sequentially from top to bottom, to the next “Decision” requirement.

¹⁰ Notwithstanding the thresholds set forth in this table with respect to the Steering Committee, the Steering Committee may exercise its authority to review any procurement decision with prior notice to the Director of the Management Unit.

REVIEW OF PROCUREMENT DECISIONS: Goods, Works and Non-Consultant Services				
Procurement Procedure or Method	Decision ¹¹	LEVEL OF REVIEW (Thresholds expressed in USD)		
		Director MCA-Vanuatu	MCA-Vanuatu Steering Committee ¹²	MCC
	Proposed Contract	Over 2,00 (Under 2,000 review monthly report)	Above 50,000	Above 50,000
	Handling of Protest in respect of selection of Direct Contracting	All	All	All
Force Account	Selection of procedure using equipment owned by or employees of Government of Vanuatu for performing works	All	All	All
	Proposed contracts	All	All	All
All Procurement Actions	Contract Modifications and Change Orders	All	For all contract awards approved previously if change increases the value of the Contract by 10% or more, or raises a contract which did not require approval above an approval threshold or extends the Contract original term by 25% or more without value increase.	If change increases value of Contract by 10% or more

¹¹ Within each “procurement Procedure or Method,” each separate “Decision” shown is an independent requirement, and all requisite approvals must be received for each such “Decision” before proceeding, sequentially from top to bottom, to the next “Decision” requirement.

¹² Notwithstanding the thresholds set forth in this table with respect to the Steering Committee, the Steering Committee may exercise its authority to review any procurement decision with prior notice to the Director of the Management Unit.

c. Millennium Challenge Account Vanuatu

All procurements are initiated by MCA-Vanuatu. MCA-Vanuatu are, either directly or by liaising with an appropriate organisation or individual, responsible for:

- preparing Terms of Reference for Consultant's Services, the scope of works for Works contracts or specifications for supplies and goods;
- instructing and managing the work of the Procurement Agent;
- reviewing and commenting on documents produced by the Procurement Agent;
- participating in evaluation panels;
- securing the necessary approvals and 'No Objections' from the Steering Committee and the Millennium Challenge Corporation as defined in the levels of Authority table above.

d. Procurement Agent

The Procurement Agent is responsible, on behalf of MCA-Vanuatu, among other things, for managing the procurement processes, ensuring that all procurement-related approvals required under the Compact are obtained and managing post-award contract administration issues. MCA-Vanuatu has appointed an international consulting firm to undertake the responsibilities of the Procurement Agent.

e. Steering Committee

The Steering Committee oversees the overall implementation of the Compact. The Steering Committee is among other things responsible for approving all procurements, contracts and related documents in accordance with the Level of Authority table above.

f. Millennium Challenge Corporation

The Millennium Challenge Corporation reviews procurement documents submitted to it by MCA-Vanuatu and, in accordance with the levels of Authority table above issues 'No Objections' where documents are acceptable.

g. Public Works Department

The Public Works Department is a major beneficiary under the Compact as funds have been allocated for the purchase of a variety of heavy plant and equipment, workshop tools and other items. The Public Works Department is responsible for ensuring that the Specifications for the plant, equipment, workshop tools etc are appropriate to their needs. The Public Works Department will channel all requests through MCA-Vanuatu who, in turn, will liaise with the Procurement Agent.

h. Fiscal Agent

The Fiscal Agent is the Department of Finance in the Ministry of Finance. The Fiscal Agent is responsible on behalf of MCA-Vanuatu, among other things, for holding program funds, make payments to contractors and consultants under the Program and maintaining detailed records of funds received and expended.

2. Procurement Planning

MCA-Vanuatu shall develop and adopt a procurement plan on a semi-annual basis for acquiring the goods, works and services needed to implement the Compact (each, a “Procurement Plan”), each of which Procurement Plans shall be subject to MCC approval and shall:

- (a) Identify the purchasing needs for the goods, works, and services required to implement the Compact for at least the six (6) month period immediately following the effective date of such Procurement Plan;
- (b) Identify the proposed method of procurement for each purchase according to the procedures set out in the Procurement Guidelines and the Levels of Authority table above; and
- (c) Estimate the proposed budget for such procurement, and such other information as may be requested in writing by MCC from time to time.

Each Procurement Plan shall be submitted to MCC for prior written approval not less than five (5) business days prior to its publication.

Immediately upon receipt of MCC’s written approval of a Procurement Plan, MCA-Vanuatu shall publicize, at least on a semi-annual basis, procurements planned for the upcoming period identified in the approved Procurement Plan. Publication by MCA-Vanuatu of a Procurement Plan shall provide reasonable notice of planned procurements and shall include a posting on the MCA-Vanuatu Website, or such other appropriate website designated by MCA-Vanuatu and approved by MCC, the Development Gateway Market website at www.dgmarket.com (dgMarket) and the United Nations Development Business online website at www.devbusiness.com (UNDB Online), publication in a daily newspaper of wide circulation in Vanuatu, and public announcement in such other media outlets as appropriate or as requested from time to time by MCC. Each publication under this Section, including on the MCA-Vanuatu Website, or such other website designated by MCA-Vanuatu and approved by MCC, shall be in English and, at the discretion of MCA-Vanuatu in French.

MCA-Vanuatu shall ensure that all goods, services and works shall be procured using the procurement method as approved in each Procurement Plan, unless MCC otherwise agrees in writing. Compliance (satisfactory to MCC) with the approved Procurement Plan shall be a condition precedent to MCC Disbursements or Re-Disbursements, as applicable, for the related Program or Project expense.

If MCA-Vanuatu proposes to deviate from, or to use a procurement method different than the one approved in the applicable Procurement Plan, MCA-Vanuatu shall request the

written approval of MCC at least ten (10) business days prior to initiating the procurement. If MCC does not object to the change, the applicable Procurement Plan shall be modified to reflect the approved change(s).

3. Procurement Selection Methods

a. Introduction

This section describes the different methods to be used for procurement by MCA-Vanuatu. The principles of these methods are based on the World Bank's "Guidelines for Procurement under IBRD Loans and IDA Credits" and "Guidelines for Selection and Employment of Consultants by World Bank Borrowers". These in turn are based on internationally acceptable standards for public procurement.

In all cases the approvals process detailed in section 2b, Levels of Authority, shall be followed. Reference must also be made to existing Government of Vanuatu procurement guidelines which set out thresholds and procedures for smaller purchases.

b. Tendering Procedures: Goods, Works and Non-Consultant Services

The under-listed procurement methods shall be followed.

- i Prequalification
- ii International Competitive Bidding
- iii Limited Bidding;
- iv Local or international shopping (for goods);
- v Direct Contracting (Orders);
- vi Force Account

Detailed guidelines for the processes and evaluation procedures are included in section 7.

i Prequalification

Prequalification of bidders shall be conducted for large or complex works, or in any other circumstances in which the high costs of preparing detailed bids could discourage competition, such as contracts to be let under design and build contracting. This ensures that invitations to bid are extended only to those who have adequate capabilities and resources. Prequalification shall be based entirely upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account the following;

- i Bidder's experience and past performance on similar contracts,
- ii Bidder's capabilities with respect to personnel, equipment, and construction facilities;
- iii Bidder's financial position.

ii International Competitive Bidding (ICB)

ICB procedures are the preferred procurement method, the intention being to obtain the widest possible range of competitive bids. ICB tenders shall be openly

advertised and all eligible bidders shall be allowed to submit bids. ICB tender documents must contain technical specifications which are generic and based on an international trade standard.

iii Limited Bidding

Limited bidding is conducted by direct written invitation, without open advertisement, to a selected list of contractors or suppliers. The use of Limited Bidding procedures requires prior approval in accordance with the Levels of Authority detailed in section 2b.

Reasons which justify restricted tendering as a departure from ICB procedures would be:

- i limited number of interested/eligible contractors or suppliers;
- ii time constraints or emergency;
- iii other mitigating factors.

Tender documents must contain technical specifications which are generic and based on an international trade standard.

iv Local or international shopping (for goods);

Shopping shall be used for procuring readily available off-the-self goods of standard specifications, or commodities that are small in value. Quotations shall be solicited from as many different suppliers as possible but generally not less than three (except for very small requirements valued at less than 100,000 vatu in which case a single quotation is acceptable). Invitations for quotations shall be in writing and will indicate the description and quantity of the goods as well as desired delivery time, and place of delivery, including date, time and place of submission of quotations.

v Direct Contracting (orders)

Direct contracting (single source) involves contracting, without competition, a particular manufacturer, supplier, or contractor, and is allowed in any of the following circumstances:

- when standardization is important, and equipment and spare parts are needed to expand or repair existing equipment must be procured from the original supplier or from a supplier of identical goods;
- when the equipment or goods are proprietary and obtainable only from one supplier;
- when critical items are to be procured from specialist suppliers as a condition of a performance guarantee;
- when the civil works are a natural extension of an earlier or ongoing job, or when engaging the same contractor is shown to be more economical and ensures compatibility of work quality;
- when additional items are required under an existing contract, which was awarded in accordance with ICB procedures; and
- in exceptional cases, such as in response to natural disasters.

In all these cases, the prices to be paid must be reasonable and competitive bidding can be shown to offer little or no advantage.

Direct contracting for standardization is justifiable if the original equipment is suitable and outweighs the possible advantages of having another make of equipment and an alternative supplier.

Similarly, in direct contracting (negotiation) for extension of civil works, the following must be shown:

- the original contract was awarded following ICB or limited bidding procedures;
- the unit rates of the earlier contract, were updated in accordance with the provisions in the original contract to reflect any increase or decrease in the cost of construction, and were valid and reasonable;
- the contractor's performance has been satisfactory; and
- the additional work would be unlikely to result in lower prices if subjected to bidding.

If a number of distributors stock the same parts and are free to compete for their supply, then proprietary parts must be purchased through competitive bidding.

vi Force Account

Execution of works by force account (departmental workforces) means undertaking works using the resources of a public agency without competitive bidding or negotiated contracts.

Force account is employed when the size of the works and its location make it unsuitable to adopt competitive bidding (this may include work such as village access roads and other small and remote scattered works). Force account may also be used in other special cases where local contractors do not express interest in undertaking the works or where force account can be demonstrated to be the most efficient and effective method of implementation.

The construction facilities must be efficient and the implementing agency capable (with advisers' or consultants' assistance) of undertaking the works quickly and to the required quality, at reasonable cost.

c. Tendering Procedures: Consultant Services

The under-listed procurement methods shall be followed.

- i Expression of Interest
- ii Quality and Cost Based Selection
- iii Quality Based Selection and Selection under Fixed Budget
- iv Least Cost Selection
- v Selection Based on Consultant's Qualifications
- vi Single Source Selection
- vii Selection of Individual Consultants

Detailed guidelines for the processes and evaluation procedures are included in section 7.

i Expression of Interest

For the majority of contracts, and as required in section 2b Levels of Authority, a Call for Expressions of Interest shall be advertised. The advertisement shall state the intention of MCA-Vanuatu to procure Consultancy services and to invite interested consultants to be considered for short listing for an intended assignment. The advertisement shall also state a brief outline of the assignment.

ii Quality and Cost Based Selection

QCBS is the preferred procurement method and uses a competitive process among short-listed firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. Cost as a factor of selection shall be used judiciously. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment.

iii Quality Based Selection and Selection under Fixed Budget

QBS is appropriate for the following types of assignments:

- (a) complex or highly specialized assignments for which it is difficult to define precise TOR and the required input from the consultants, and for which MCA-Vanuatu expects the consultants to demonstrate innovation in their proposals;
- (b) assignments that have a high downstream impact and in which the objective is to have the best experts; and
- (c) assignments that can be carried out in substantially different ways, such that proposals will not be comparable.

iv Least Cost Selection

This method is only appropriate for selecting consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist. Under this method, a “minimum” qualifying mark for the “quality” is established. Proposals, to be submitted in two envelopes, are invited from a short list. Bids that achieve a minimum qualifying mark in the technical evaluation are then compared on price and the lowest priced bid shall then be selected.

v Selection Based on Consultant’s Qualifications

This method may be used for small assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases MCA-Vanuatu shall prepare the TOR, request expressions of interest and information on the consultants’ experience and competence relevant to the assignment, establish a short list, and select the firm with the most appropriate qualifications and references. The selected firm shall be asked to submit a combined technical-financial proposal and then be invited to negotiate the contract.

vi Single Source Selection

Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost, lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection shall be used only in exceptional cases. The justification for single-source selection shall be examined in the context of the overall interests of project, and the impact on economy and efficiency and the provision of equal opportunity to all qualified consultants.

Single-source selection may be appropriate only if it presents a clear advantage over competition: (a) for tasks that represent a natural continuation of previous work carried out by the firm, (b) in emergency cases, such as in response to disasters and for consulting services required during the period of time immediately following the emergency, (c) for very small assignments, or (d) when only one firm is qualified or has experience of exceptional worth for the assignment.

When continuity for downstream work is essential, the initial RFP shall outline this prospect, and, if practical, the factors used for the selection of the consultant shall take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition subject to satisfactory performance in the initial assignment. For such downstream assignments, MCA-Vanuatu shall ask the initially selected consultant to prepare technical and financial proposals on the basis of TOR furnished by MCA-Vanuatu, which shall then be negotiated.

If the initial assignment was not awarded on a competitive basis or if the downstream assignment is substantially larger in value, a competitive process acceptable to MCA-Vanuatu and MCC shall normally be followed in which the consultant carrying out the initial work is not excluded from consideration if it expresses interest. MCA-Vanuatu and MCC may consider exceptions to this rule only under special circumstances and only when a new competitive process is not practicable.

vii Selection of Individual Consultants

Individual consultants are employed on assignments for which (a) teams of personnel are not required, (b) no additional outside (home office) professional support is required, and (c) the experience and qualifications of the individual are the paramount requirement. When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.

Individual consultants are selected on the basis of their qualifications for the assignment. Advertisement is not required and consultants do not need to submit proposals. Consultants shall be selected through comparison of qualifications of at least three candidates among those who have expressed interest in the assignment

or have been approached directly by MCA-Vanuatu. Individuals considered for comparison of qualifications shall meet the minimum relevant qualifications and those selected to be employed by MCA-Vanuatu shall be the best qualified and shall be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience, and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and government organization.

Individual consultants may be selected on a sole-source basis with due justification in exceptional cases such as: (a) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively; (b) assignments with total expected duration of less than six months; (c) emergency situations resulting from natural disasters; and (d) when the individual is the only consultant qualified for the assignment.

4. General Procurement Issues

a. Approval Process

All procurements will be approved in accordance with the Levels of Authority set out in Section 2b.

b. Eligibility of Bidders

MCC permits firms and individuals from all countries to offer goods, works and services for MCC funded projects.

As exceptions to the foregoing, firms of a Country or goods manufactured in a Country may be excluded if:

- (i) as a matter of law or official regulation, Vanuatu prohibits commercial relations with that Country, provided that MCC is satisfied that such exclusion does not preclude effective competition for the supply of the Goods, Works or Services required, or
- (ii) 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, Vanuatu prohibits any import of goods from that Country or any payments to persons or entities in that Country.
- (iii) Any person or entity that has been blacklisted from participation in procurements funded with the World Bank assistance or debarred or suspended from participation in procurements funded by the United States Government or otherwise prohibited by applicable United States Law or Executive Order or United States policies, including under any then-existing anti-terrorist policies shall be excluded from procurements awarded under the Compact.

At the present time firms, goods and services from the following countries are excluded from tendering: Cuba, Iran, North Korea, Sudan and Syria.

c. Specifications/Terms of Reference

Specifications can either enhance or inhibit competition. MCC procurement guidelines require that competition be sought to the maximum possible degree. This can be accomplished by describing goods, works or services in a manner that meets the project's needs and encourages competition. The following specifications (descriptive) categories are listed in the desired order of use:

- Generic (Performance or Design). Wherever possible the specifications must be stated in such a way as to not favour any single supplier. They should be given as performance and/or size range. Under appropriate circumstances, performance specifications (setting forth the performance requirements), design specifications (setting forth the essential characteristic of the goods being bid), or qualified products list may be used.
- Brand Name or Equivalent. When it is determined to be impractical to develop a generic specification, a brand name may be used to convey the general style, type, character and quality of the article or service required. The name of a certain brand, make or manufacturer must not restrict bidders to the specific brand or

manufacturer identified, e.g. the phrase “or equivalent” shall be inserted after the specific brand or manufacturer’s name. When citing a brand name and wherever possible, more than one brand that will satisfy the requirements should be given;

- Proprietary. A proprietary specification restricts the acceptable products to those of one manufacturer. It is appropriate to use a proprietary specification when the desired product must be compatible with or is an integral component of existing equipment or products, or where pre-qualification of products is necessary to support specific needs of a program; is covered by a patent or copyright; must yield absolute continuity of results; or is one with which a user has had extensive training and experience and the use of any other similar piece of equipment would require considerable reorientation and training. Upon solicitation, every effort must be made to obtain full competition among the distributors, which carry the manufacturer's product.
- Sole Source. Requirements for goods, works or services that are available from only one source shall be supported by a sole source justification.

Terms of Reference must define the task to be completed in sufficient detail to enable potential bidders to assess their competence and ability to undertake the assignment and to be able to calculate the cost of doing the work.

Minimum levels for qualifications and experience must be included for key personnel but these should not be set at such a high level as to restrict the number of bidders able to fulfil the requirements. Academic qualifications must be appropriate to the task and where appropriate an alternative option, such as membership of a relevant professional association, should be included. The criteria can also include a minimum number of years of experience in the same or a similar field and specific geographic experience. Similar criteria can be included to establish the bidders competence and experience. These criteria are to be clearly defined and specified in the Terms of Reference as they will be used during the evaluation to score the bids received.

d. Conflict of Interest

A conflict of interest arises where any individual involved in the procurement process has the opportunity to influence the decisions or actions and gain access to, and benefit from valuable information about the procurement process. Conflicts of interest and the appearance of a conflict of interest must be avoided at all times. Any individual involved in the procurement process must be alert to situations which could lead to actual, potential or perceived conflict of interest and ensure that sufficient safeguards are in place to avoid such situations from arising.

The following steps should be taken to avoid any possible conflict of interest:

1. Avoid actual or potential conflict between an individual’s official duties and their private interest. Private interest includes the individual’s close relatives or associates to whom the individual is indebted or to whom they owe favours.
2. No person or entity shall participate 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 which 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 the person or entity is negotiating or has any arrangement concerning prospective employment.

3. No person or entity 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 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, favour or benefit, other than items of minimal value and otherwise consistent with such guidance as MCC may provide from time to time.
4. Declare all conflict of interest or relevant private interest to the Director of MCA-Vanuatu and MCC as soon as the individual is aware of them to enable the MCA-Vanuatu and MCC to decide whether to allow the individual to continue or be involved with the specific procurement exercise.
5. Observe prevailing regulations and not make unauthorised disclosure of information or take advantage of tender related information for personal gain.
6. Anyone involved in the procurement process, preparing of tender documents, specifications and accessing tenders must declare their interest if any or as soon as they become aware of them, to avoid conflict of interest during the process.
7. Anyone who will be involved in the evaluation process is required to sign a Declaration of Impartiality and Confidentiality.

A Bidder and all parties constituting the Bidder shall not have a conflict of interest. Bidders shall be considered to have a conflict of interest if they have participated as a consultant in the preparation of the design or technical specifications of the goods, works or services that are the subject of the Tender;

Where a firm, or a firm from the same economic or financial group, in addition to consulting and contracting also has the capability to manufacture or supply goods or to construct works, that firm, or a firm from the same economic or financial group, cannot normally be a supplier of goods or works, if it provided consulting services related to the supply of goods or works, unless it can be demonstrated that there is not a significant degree of common ownership, influence or control.

e. Code of Ethics

The rules and ethical principles guiding all personnel involved in the procurement function include but are not limited to the following:

1. Personnel must avoid any personal business or professional activity that would create conflict between personal interest and the interest of MCA-Vanuatu.
2. Personnel must not request or accept cash, loans and credits from present and potential suppliers/contractors/consultants that would influence procurement decisions.
3. Personal interests, that possibly have a conflict of interest with the organization, have to be reported to the appropriate authorities.

4. Personnel must not request or accept presents, recreation, favours and services from suppliers.
5. All information and information sources regarding the procurement process need to be handled in a way that is exclusively in the interest of MCA-Vanuatu.
6. Personnel cannot accept a discount from (potential) suppliers on goods for personal use.
7. All potential suppliers, contractors and consultants must get the same, correct information at the same time.
8. Suppliers, contractors and consultants will not be requested to give information regarding competitors.
9. All information in suppliers', contractors' and consultants' offers for goods, works and services will be handled confidentially.
10. Personal issues must not affect the selection of suppliers.
11. Procurement agencies/units will pursue the highest level of expertise.
12. All agreements and appointments will be kept.

MCA-Vanuatu shall ensure that no payments have been or will be made to any official of the Government, the MCA Entity, or any third party (including any other government official) 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 Agreement, including any local laws.

f. Compliance with Anti-Money Laundering Legislation.

MCC Funding must not be used for money-laundering activities and all parties involved in procurement shall comply with any policies and procedures for monitoring operations to ensure compliance, as may be established from time to time.

g. Compliance with Terrorist Financing Statutes and Other Restrictions.

MCC Funding shall not be used to provide material support or resources directly or indirectly to any individual, corporation or other entity that is known, or could reasonably be known, to commit, attempt to commit, advocate, facilitate, or participate 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, or
- (iii) such other list as the MCA-Vanuatu 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.

All parties involved in procurement shall ensure compliance with all applicable U.S. laws, regulations and executive orders regarding money laundering, terrorist financing, 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. Section 1956, 18 U.S.C. Section 1957, 18 U.S.C. Section 2339A, 18 U.S.C. Section 2339B, 18 U.S.C. Section 2339C, 18 U.S.C. Section 981, 18 U.S.C. Section 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. Appropriate verification may be undertaken of any individual, corporation or other entity with access to or recipient of funds, which verification may include verifying if such name appears on applicable watch lists such as the lists maintained on www.epls.gov and the other lists specified in the immediately preceding paragraph.

Parties involved in the procurement shall not engage in drug trafficking, terrorism, sex trafficking, prostitution, fraud, felony, any misconduct injurious to MCC or the MCA Entity, any activity contrary to the national security interests of the United States and/or Vanuatu 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 Supplemental Agreement or that materially and adversely affects the Program Assets or any Permitted Account.

h. Fraud and Corruption

MCC requires that MCA-Vanuatu and any other beneficiaries of MCC Funding, including Bidders, suppliers, and contractors under MCC funded contracts observe the highest standards of ethics during the procurement and execution of contracts. For the purposes of this provision, fraud and corruption includes but is not necessarily limited to:

- (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of any thing of value to influence the action of a public official in the procurement process or the execution of a contract in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (15 USC 78a et seq.) or any applicable laws of the republic of Vanuatu;
- (ii) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;
- (iii) “collusive practices” means a scheme or arrangement between two or more Bidders, with or without the knowledge of MCA-Vanuatu, designed to establish bid prices at artificial, non-competitive levels;

- (iv) “coercive practices” means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;
- (v) “prohibited practice” means any action related to, inter alia, Corruption, Money Laundering or Terrorist Financing.
- (vi) “obstructive practice” is
 - (aa) deliberately destroying, falsifying, altering or concealing evidence material to an investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice and threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, and
 - (bb) acts intended to materially impede the exercise of MCC’s inspection and audit rights.

MCC and MCA-Vanuatu have the right to require that Bidders, suppliers, contractors and consultants engaged on contracts funded by the MCC grant permit MCC and MCA-Vanuatu to inspect their accounts and records and other documents relating to the Bid submission and contract performance and to have them audited by auditors appointed by MCC.

i. Misprocurement

MCC and/or MCA-Vanuatu can reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, prohibited or obstructive practices in competing for the Contract in question.

MCC will cancel the portion of the grant allocated to a contract if it determines at any time that representatives of MCA-Vanuatu or of a beneficiary of the grant engaged in corrupt, fraudulent, collusive, coercive, prohibited or obstructive practices during the procurement or the execution of that contract, without MCA-Vanuatu having taken timely and appropriate action satisfactory to MCC to remedy the situation;

MCA-Vanuatu retains the right to refuse to deal with a firm or individual if it at any time determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, prohibited or obstructive practices in competing for, or in executing, a MCC-funded contract.

j. Bid Challenge System

Any Bidder, that claims to have suffered or that may suffer loss or injury due to a breach of a duty by MCA-Vanuatu in the conduct of a procurement exercise, may submit his complaint to MCA-Vanuatu in accordance with requirements of the Bid Challenge System details of which can be found on the MCA-Vanuatu website: www.governmentofvanuatu.gov.vu.

k. Applicable Law, Settlement of Disputes and Arbitration

The conditions of contract shall include provisions dealing with the applicable law (generally this will be the laws of Vanuatu, excluding any provisions or application of French law) and the forum for the settlement of disputes. Settlement of disputes shall take place in Vanuatu, with the possibility for international arbitration in the case where non-Vanuatu entities are parties to the contract.

In case of works contracts, supply and installation contracts, and turnkey contracts, the dispute settlement provision shall also include mechanisms such as dispute review boards or adjudicators, which are designed to permit a speedier dispute settlement.

MCA-Vanuatu and the Supplier, Consultant or Contractor shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.

If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the MCA-Vanuatu or the Supplier, Consultant or Contractor may give notice to the other party of its intention to commence arbitration.

The bidding documents should contain a clause appropriate for a foreign Supplier, Consultant or Contractor (see paragraph (a) below) or a clause appropriate for a Supplier, Consultant or Contractor who is a national of Vanuatu (see paragraph (b) below). At the time of finalizing the Contract, the respective applicable clause should be retained in the Contract.

(a) Contract with foreign Supplier:

For contracts entered into with foreign suppliers, International commercial arbitration may have practical advantages over other dispute settlement methods. MCC should not be named as arbitrator, nor should it be asked to name an arbitrator. Among the rules to govern the arbitration proceedings, MCA-Vanuatu may consider the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules of 1976, the Rules of Conciliation and Arbitration of the International Chamber of Commerce (ICC), the Rules of the London Court of International Arbitration or the Rules of Arbitration Institute of the Stockholm Chamber of Commerce.

If MCA-Vanuatu chooses the UNCITRAL Arbitration Rules, the following sample clause should be inserted in the contract:

GCC 10.2 (a)—Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

If MCA-Vanuatu chooses the Rules of ICC, the following sample clause should be inserted in the contract:

GCC 10.2 (a)—All disputes arising in connection with the present Contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules.

If MCA-Vanuatu chooses the Rules of Arbitration Institute of Stockholm Chamber of Commerce, the following sample clause should be inserted in the contract:

GCC 10.2 (a)—Any dispute, controversy or claim arising out of or in connection with this Contract, or the breach termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce.

If MCA-Vanuatu chooses the Rules of the London Court of International Arbitration, the following clause should be inserted in the contract:

GCC 10.2 (a)—Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which rules are deemed to be incorporated by reference to this clause.

(b) Contracts with a Supplier, Consultant or Contractor who is a national of Vanuatu:

In the case of a dispute between MCA-Vanutu and a Supplier, Consultant or Contractor who is a national of Vanuatu, the dispute shall be referred to adjudication or arbitration in accordance with the laws of Vanuatu, excluding any provisions or application of French law.

5. Advertising and Notification of Procurement Opportunities and Awards

Invitations to prequalify or to bid, as the case may be, shall be advertised as Specific Procurement Notices in at least one newspaper of national circulation in Vanuatu (or in the official gazette, or in an electronic portal with free access). Such invitations shall also be published at the MCA-Vanuatu website or such other appropriate website designated by MCA-Vanutu, in addition to UNDB online and in dgMarket. Notification shall be given in sufficient time to enable prospective bidders to obtain prequalification or bidding documents and prepare and submit their responses.

Specific Procurement Notices shall be concise but contain sufficient detail on the intended procurement to enable prospective bidders to assess their interest in and capacity to provide the required goods, works or services, without having to request the full Request for Proposals or Invitation for Bids.

Within two weeks of receiving MCC's "no objection" to the recommendation of contract award, MCA-Vanuatu shall publish at the MCA-Vanuatu website or such other appropriate website designated by MCA-Vanuatu, in addition to UNDB online and in dgMarket the results identifying the bid and lot numbers and the following information: (a) name of each bidder who submitted a bid; (b) bid prices as read out at bid opening; (c) name and evaluated prices of each bid that was evaluated; (d) name of bidders whose bids were rejected and the reasons for their rejection; and (e) name of the winning bidder, and the price it offered, as well as the duration and summary scope of the contract awarded.

6. Procurement Procedures

a. Call for Expressions of Interest/Prequalification

Expressions of Interest may be requested in cases where there are a potentially large number of interested firms or individuals or where MCA-Vanuatu does not have information on the type of expertise available in the market. Similarly a prequalification exercise may be undertaken to establish a shortlist of competent and qualified bidders for the supply of complex or specialised equipment or goods or works.

There is no standard format proposed for a Call for Expressions of Interest or Prequalification notice; both should be concise but include enough information to enable potential bidders to assess whether they may have the competence and experience to undertake the work/supply the goods. The requirement does not need to be fully defined at the time the Call for Expressions of Interest or Prequalification notice is issued but the requirement should not be subject to significant changes otherwise the exercise will be a waste of time for MCA-Vanuatu and the potential bidders.

Calls for Expressions of Interest or Prequalification notices should include an indication of the knowledge, skills, resources, experience, etc that the company or individual will need to demonstrate in order to be seriously considered for shortlisting. These criteria must then be used to evaluate the responses.

b. Standard Bidding Documents

A set of Standard Bidding Documents have been prepared for MCA-Vanuatu. These are to be modified to suit individual procurements. The documents are generally self explanatory and include notes on completion and, in some cases, optional wording to suit different circumstances.

c. Handling Bidders' Questions and Providing Responses

A single point of contact should be specified in the Call for Expressions of Interest, Request for Proposals and Invitation for Bids if Bidders are allowed to request clarifications and/or ask questions concerning the assignment/tender. All personnel who may be in a position to receive questions or requests for clarifications from Bidders must be instructed to direct Bidders to the official point of contact.

The Call for Expressions of Interest, Request for Proposals and Invitation for Bids must specify the time period allowed for MCA-Vanuatu to respond to questions and requests for clarification and the latest date by which Bidders may submit questions and requests for clarification prior to the bid closing deadline.

1. Equality and Transparency

All Bidders must receive the same information, in writing, at the same time.

In the event that one Bidder receives, verbally or in writing, information in any way related to the tender this could lead to a Bid Challenge from another bidder. A Bid Challenge will result in a delay in the finalisation of the tender and the contract. Any indication of the transparency of the bidding process having been compromised may result in the tender being suspended or cancelled or, if an award has been made, a Misprocurement declared.

2. Handling Verbal Questions or Requests for Clarification

Apart from during the Pre-bid Meeting (if one is allowed for in the tender process), all questions or requests for clarification raised by Bidders must be in writing. If a bidder, in person or by telephone, raises a verbal question or request for clarification with any official the Bidder must be instructed to present the question or request for clarification in writing to the official contact point.

Apart from during the Pre-bid Meeting verbal answers must not be given to Bidders' questions.

3. Handling Bidders' written questions or requests for clarification at the Pre-bid Meeting (if allowed for in the process)

Answers to written questions or requests for clarification presented in advance of the Pre-bid Meeting may be answered verbally using a pre-prepared written response.

A full written record of all written questions or requests for clarification received in advance of the Pre-bid Meeting and the written answers will be prepared and issued, within the period specified in the RFP/IFB following the end of the Meeting, to all the Bidders, irrespective of whether they are in attendance at the Meeting.

4. Handling Bidders' verbal questions or requests for clarification at the Pre-bid Meeting (if allowed for in the process)

Simple verbal questions or requests for clarification of a procedural nature can be answered verbally at the Pre-bid Meeting as long as the question or request for clarification and answer are recorded verbatim and included in the written record of the Meeting and issued, within the period specified in the RFP/IFB after the end of the Meeting, to all the Bidders, irrespective of whether they are in attendance at the Meeting.

Complex and technical verbal questions or requests for clarification: there is no obligation on the part of any official in attendance at the Pre-bid Meeting to provide an immediate verbal answer to any complex and technical verbal questions or requests for clarification. Such questions or requests for clarification are to be recorded verbatim and the Bidders advised that a written response will be issued, within the period specified in the RFP/IFB following the end of the Meeting, to all the Bidders, irrespective of whether they are in attendance at the meetings. If necessary, the Bidder can be requested to submit the question or request for clarification in writing in the case of a particularly complex question or request for clarification.

The Procurement Agent will be responsible for keeping a record of and subsequently circulating (subject to the approval of the Director of MCA-Vanuatu) the proceedings at the Pre-bid Meetings to all Bidders and involved officials as appropriate.

5. Handling Bidders' written questions or requests for clarification:

Bidders' written questions or requests for clarification must be sent either by e-mail, to the address given in the RFP/IFB (i.e. procurement@pa-mcavanuatu.vu), or by post to the correspondence address in the RFP/IFB (i.e. MCA-Vanuatu's office in Port Vila), written questions or requests for clarification received by any other means at any other e-mail or postal address must be forwarded immediately by the recipient to one of the officially designated addresses.

Written questions or requests for clarification will be circulated for comment to relevant personnel by the Procurement Agent according to the instructions given by the Director of MCA-Vanuatu. All questions must be answered within the period specified in the RFP/IFB. The Procurement Agent will, under the direction of the Director of MCA-Vanuatu, draft a written reply. A list of questions or requests for clarification and approved replies, with all references to the origin of the question or requests for clarification removed, will then be sent by the Procurement Agent to all Bidders.

Questions or requests for clarification and answers may be consolidated into a single response, however, the issue of written responses should not be delayed pending receipt of further questions or requests for clarification.

At a time specified in the RFP/IFB the Procurement Agent will send a complete set of all questions or requests for clarification and the respective answers to all Bidders.

6. Substantive Changes to the scope of work or IFB terms and conditions

In the event a Bidder's question or requests for clarification results in a substantive change to the scope of work or the RFP/IFB terms and conditions an

Addendum may be issued at the discretion of the Director or MCA-Vanuatu. Very significant changes may require the bid closing deadline to be extended.

At a time specified in the RFP/IFB the Procurement Agent will send to all Bidders a complete set of all Addenda issued.

d. Registering to Bidders' Questions, Requests for Clarification and Answers

Bidders are to be instructed to direct all their questions or requests for clarification to a dedicated e-mail address: procurement@pa-mcavanuatu.vu. The inbox is to be checked by the Procurement Agent three times a day, as a minimum; circa 08.00, 11.30 and 16.00. If the question or request for clarification has arrived direct by e-mail a copy will be sent immediately, for information, to MCA-Vanuatu.

Unless specified otherwise in the Request for Proposals or Invitation for Bids, all Bidders' questions must be answered within the period specified in the RFP/IFB. Copies of the question, edited to remove reference to the origin, and the answer must be sent to all Bidders at the same time.

Bidders also have the opportunity to send questions or requests for clarification by traditional mail and these will arrive at the MCA-Vanuatu office. MCA-Vanuatu will provide copies to the Procurement Agent in hard or e-copy immediately on receipt for the Procurement Agent to register and co-ordinate the response.

On receipt of a question or request for clarification direct by e-mail or via MCA-Vanuatu the details will be entered on an Excel spreadsheet or database. Questions or requests for clarification will be allocated a number sequentially and the details of the originator of the question etc will be filled in. A hard copy of the question will be filed sequentially according to the number allocated on the Excel spreadsheet or database.

The question 'as asked' will be copied, into the same Excel spreadsheet or database or a separate package as appropriate, sequentially according to the number allocated on the Excel spreadsheet or database. The original text will be edited to remove any references to the origin of the question. This will be copied into the same Excel spreadsheet or database or a separate package as appropriate.

The exact process for handling Bidders' questions will depend very much on the nature of the question.

- Some procedural questions may be straight forward and can be answered following a discussion between the Procurement Agent and MCA-Vanuatu; these will generally be explanations and clarifications. The Procurement Agent should be in a position to recommend a suitable response to MCA-Vanuatu or suggest a number of options for MCA-Vanuatu to choose from.

- More detailed or technical questions may require consultation with national and/or international experts. The Procurement Agent may be in a position to recommend a suitable response to MCA-Vanuatu or suggest a number of options for MCA-Vanuatu to choose from but should certainly be in a position to recommend experts that can be consulted. MCA-Vanuatu to advise on course of action.
- Highly complex technical questions may require the involvement of, for example, national and/or international specialists and possibly even the relevant MCC adviser. The Procurement Agent is unlikely to be in a position to propose a suitable response or suggest appropriate experts to contact and will therefore be guided by MCA-Vanuatu.

The Procurement Agent should arrange to discuss the specific process to be followed with MCA-Vanuatu as soon as possible after receipt of a question. This could be in person, by e-mail or by telephone. The Procurement Agent should undertake some preliminary research in order to be able to advise MCA-Vanuatu on the best course of action. In the absence of anyone of authority immediately available in MCA-Vanuatu the Procurement Agent shall carry out background research to develop a potential answer or range of answers to the question posed.

The Procurement Agent will liaise with MCA-Vanuatu and, if given authority by MCA-Vanuatu, may also liaise directly with other parties, e.g. external experts or MCC, otherwise all correspondence is channelled through MCA-Vanuatu.

Details of the date, time etc and who the question has been referred to will be entered into the Excel spreadsheet or database. The date, time etc of the response from the person to whom the question was referred will be entered in the same spreadsheet.

Following discussions with MCA-Vanuatu the Procurement Agent will prepare, directly or by coordinating inputs from the agreed sources, a draft answer. This is to be copied into the Excel spreadsheet or database or a separate package as appropriate, alongside the corresponding question. Details of the date, time etc that the draft response is sent to MCA-Vanuatu will be entered on the Excel spreadsheet or database. MCA-Vanuatu will organise the necessary approvals/agreements.

The text of the approved answer will be copied into the same Excel spreadsheet or database or a separate package, as appropriate, alongside the corresponding question. The Procurement Agent will prepare a formal response to be sent to all Bidders, cc'd to MCA-Vanuatu. This will show the question's sequential number, as allocated in the Excel spreadsheet or database, the edited question (i.e. the one where all references to the origin of the question have been removed) and the approved answer. The date, time etc that the response is sent to the Bidders will be input into the Excel spreadsheet or database.

Bidders can submit questions up until 21 days before the bid submission deadline. No later than 14 days before the bid submission deadline, details of all requests for

clarification and the related responses will be circulated to all Bidders by e-mail and hard copy and copied by e-mail to MCA-Vanuatu. The Procurement Agent will maintain a running copy of all the questions and requests for clarification received and the issued replies.

Bidders are expected to present questions in writing in advance of the Pre-bid Meeting, if the procurement process includes a Pre-bid Meeting. Written answers can be prepared and read out at the Meeting. Bidders can ask questions or request clarification at the Meeting but it is not obligatory for the officials present to give an immediate answer. It is perfectly acceptable to note the question and advise that a written answer will be issued to all Bidders promptly after the Meeting. The Procurement Agent is responsible for keeping accurate minutes of the Meeting. A full set of the written questions (edited to remove any references to the origin of the question) received in advance of the Meeting, the questions tabled at the Meeting (without identifying the source), the respective written answers and the minutes of the Meeting will be circulated to all Bidders, irrespective of whether they were present or not, promptly after the Meeting.

Where a question or request for clarification raises a significant issue or highlights a crucial error and/or omission in the IFB, an amendment to the IFB may be required. In this case a draft Addendum will be prepared by the Procurement Agent and sent to MCA-Vanuatu for review and approval. The approved text will be issued to all Bidders, and cc'd to MCA-Vanuatu, as soon as possible. Such an Addendum becomes part of the IFB and the subsequent contract, therefore wording changes should be minimised as far as possible. Answers to questions or requests for clarification are essentially additional explanatory notes that do not affect or change the terms of the IFB or the draft contract and may be included in the final contract as an Appendix but are not critical.

Addenda will be sequentially numbered and a register of issued Addenda, including the date and time of issue, will be maintained by the Procurement Agent. Addenda do not have to be sent out within 5 working days, the answer to the question that prompts the issue of an Addendum will include reference to an Addendum to be issued later. Addenda can be grouped together to avoid confusion and reduce the flow of Addenda to Bidders but their issue must not be delayed unreasonably. A full set of all Addenda issued will be sent electronically and in hard copy to all Bidders at the latest 14 days before the bid submission deadline with the details of all requests for clarification and the related responses.

The Procurement Agent will maintain a hard copy file of all questions or requests for clarification, answers and Addenda issued.

e. Handling Of Received Expressions of Interest, Bids or Proposals

All responses to Calls for Expressions of Interest, Requests for Proposals and Invitations for Bids and any letters of withdrawal, substitution or modification,

arriving in advance of the Bid Closing Deadline must be received by MCA-Vanuatu. Documents must be recorded in a log book noting the sender's name, nationality, date and time of receipt; each entry must be verified and initialled by a duly authorised official in MCA-Vanuatu. The documents must be kept, unopened, in a secure location until the Closing Deadline.

The sender's name, nationality, date and time of receipt of any bids, and any letters of withdrawal, substitution or modification, arriving after the Bid Closing Deadline must be recorded in a logbook. All logbook entries must be verified and initialled by a duly authorised official in MCA-Vanuatu. These documents are to remain sealed and be kept in a secure location until the Opening Ceremony has taken place and are then to be returned to the sender unopened.

f. Formation of the Evaluation Panel

The Director of MCA-Vanuatu will nominate a minimum of three individuals to be members of Evaluation Panels. These individuals shall have appropriate knowledge, experience and qualifications to enable them to assess the competence and quality of the Expressions of Interest, Proposals or Bids received. The Panel members must be totally impartial and must not have an affiliation with or relationship to, either directly or through a close family member, any of the firms or individuals that have submitted Expressions of Interest, Proposals or Bids, or any other individual, firm or group who may have a vested interest in securing a particular outcome to the evaluation. Evaluation Panel members are required to sign a Statement of Confidentiality and Impartiality prior to the start of an evaluation. Refusal to sign the Statement will disqualify an individual from participating in an Evaluation. Ideally individuals should be able to participate in the Opening Ceremony. Availability to participate in the Technical Evaluation and the Financial Evaluation is essential. If at any time a Panel member is unable to continue with their duties a replacement must be appointed and the evaluation afresh with the newly constituted panel. One member of the Panel will always be provided by MCA-Vanuatu.

g. Expressions of Interest, Bids or Proposals Opening Procedures

i. General

The exact procedures for the Opening Ceremony will be defined in the Call for Expressions of Interest, Request for Proposals or Invitation for Bids.

At the time specified in the Call for Expressions of Interest, Request for Proposals or Invitation for Bids the Evaluation Panel members, personnel from MCA-Vanuatu and any other official observers will witness the removal of the Expressions of Interest, Proposals or Bids, recorded in the logbook, from the secure storage location. The sealed documents will then be taken to either the location of the public bid opening, if the process includes a public bid opening, or a secure location, where the authorised personnel can open and record the contents of packages.

Officials, observers, members of the public and Bidders' representatives (the latter two if it is a public bid opening) are required to complete the relevant attendance sheets.

ii. Technical

The Opening Ceremony procedures will be defined in the specific Call for Expressions of Interest, Request for Proposals or Invitation for Bids. In general, the order in which documents will be opened is:

1. Withdrawn documents; details of the withdrawal letter are recorded and the original document is kept, unopened, for subsequent return to the sender.
2. Substituted documents; details substituted document are recorded and the original document is kept, unopened, for subsequent return to the sender.
3. Modifications; details of the modifications are recorded along with relevant unmodified information from the original document.
4. Other documents; all other documents will then be opened in the order they appear in the logbook.

Information to be recorded may be specified in the specific Call for Expressions of Interest, Request for Proposals or Invitation for Bids. In general, it is appropriate to record the following:

1. Sender's name;
2. Condition of the outer packaging (is there evidence of potential tampering?);
3. Package contents; if the Call for Expressions of Interest, Request for Proposals or Invitation for Bid required that contents be separately packaged, e.g. technical and financial offers, has this been done.
4. The documentation specified to be included in the technical offer, e.g. Letter of Tender and the Bid Security.

In the case of Bids for supplies there may be a single Technical and Financial Bid Opening in which case the offered price is also announced.

Having made the announcement the duly authorised official will return all the documents to their original packaging before opening the next package.

When all bids and withdrawal, substitution or modification documents received before the Bid Closing Deadline have been opened and the relevant information announced the Bid Opening Ceremony will be officially closed.

Each opened package will be kept secure until the end of the Bid Opening Ceremony when all the documents received by the Bid Closing Deadline will be returned to a secure location until the Bid Evaluation Panel is convened.

iii. Financial

If a two stage process has been defined in the Request for Proposals or Invitation for Bids the Financial Bid Opening will take place after the technical bids have

been opened and evaluated and the evaluation report has been approved and/or received a No Objection in accordance with the Levels of Authority table at section 2 b above.

Where a Bidder's technical offer has been deemed to meet the minimum requirements or has scored above the stipulated minimum points threshold the financial offer can be opened. The date and time for the opening of the financial bids is not defined until the technical evaluation report has been approved. Where the process includes a public bid opening, every effort should be made to give the relevant Bidders the chance to make the necessary travel arrangements to attend the opening.

At the time specified for the bid opening, the Evaluation Panel members, personnel from MCA-Vanuatu and any other official observers will witness the removal of the financial offers from the technically compliant Bidders from the secure storage location. The sealed documents will then be taken to either the location of the public bid opening, if the process includes a public bid opening, or a secure location, where the authorised personnel can open and record the contents of packages.

Officials, observers, members of the public and Bidders' representatives (the latter two if it is a public bid opening) are required to complete the relevant attendance sheets.

The Opening Ceremony procedures and the information to be recorded will normally be defined in the specific Request for Proposals or Invitation for Bids. In general, it is appropriate to record the following:

1. Bidder's name;
2. Condition of the outer packaging (is there evidence of potential tampering?);
3. Package contents;
4. The Bidder's technical score;
5. The total bid price;
6. Any other information as specified in the Request for Proposals or Invitation for Bids.

Having made the announcement the duly authorised official will return all the documents to their original packaging before opening the next package. The Financial Bid Opening Ceremony will be officially closed.

Each opened package will be kept secure until the end of the Financial Bid Opening Ceremony when all the documents will be returned to a secure location until the Financial Bid Evaluation Panel is convened.

All unopened Financial Bids will be returned to Bidders intact.

h. Bid Evaluation Procedures

i. General

The Director of MCA-Vanuatu will nominate at least three individuals to be members of the Bid Evaluation Panel, at least one will be a member of the MCA-Vanuatu staff. The selected personnel will have the necessary technical skills required to evaluate the Expressions of Interest, Proposals or Bids and will be able to allocate sufficient time to the task to be able to attend the Technical and Financial Bid Openings (if conducted separately) and complete all the evaluations. If an Evaluation Panel member is unable to complete an evaluation a new Panel must be convened and the process re-started. All Evaluation Panel members must be impartial and have no financial and/or family and/or other links to any of the firms or individuals whose Expressions of Interest, Proposals or Bids are to be evaluated. Prior to commencing the evaluation each Panel member and any official observers will be required to sign an Impartiality and Confidentiality Statement, this is binding until the evaluations have been completed, reports approved and a contract awarded or the tender process has been cancelled. At no time will any Panel member discuss any issues relating to the tender or evaluation with anyone apart from personnel duly authorised by the Director of MCA-Vanuatu.

The Procurement Agent will provide a briefing to Evaluation Panel members on the procedures before the evaluation starts.

The evaluations are to be completed as quickly and efficiently as possible.

ii. Technical

The Call for Expressions of Interest, Request for Proposals or Invitation for Bids will include details of the criteria against which the Expressions of Interest, Proposals or Bids are to be assessed. The preferred method of evaluation is based on numerical scoring where the points reflect the relative importance of different criteria. Only the criteria included in the original Call for Expressions of Interest, Request for Proposals or Invitation for Bids can be used for the evaluation.

The Procurement Agent will prepare evaluation grids based on the criteria included in the Call for Expressions of Interest, Request for Proposals or Invitation for Bids. Each Panel member will review and score the Expressions of Interest, Proposals or Bids independently. The Procurement Agent will summarise the results and calculate an average score for each criteria and a total average score for each Expression of Interest, Proposal or Bid.

Where there are significant variations between the criteria or overall scores allocated by individual evaluators the Procurement Agent will facilitate a discussion between the Panel members in order to try to achieve a balanced consensus.

In the case of a combine Technical and Financial evaluation, if appropriate, the Financial Offer will be checked for arithmetic accuracy, adjusted for errors and the lowest priced technically compliant bidder will be recommended for the award of contract.

For each Technical Proposal or Bid, the Evaluation Panel members will note any issues which may need to be discussed during contract negotiations.

iii. Financial

In the case of a two stage process, a minimum technical points threshold will normally be set and only the Financial offers relating to those Technical Bids achieving or exceeding the minimum will be put forward for evaluation.

If appropriate, the Financial Offer will be checked for arithmetic accuracy and any adjustment made for errors. The Financial evaluation process will be defined in the Request for Proposals or Invitation for Bids and will depend on whether the contract is a lump sum, time based or unit cost based.

For each Financial Offer, the Evaluation Panel members will note any issues which may need to be discussed during contract negotiations.

The financial evaluation involves the identification of the lowest priced bidder. All other financial offers are scored, inversely, against the lowest priced offer.

iv. Combining Technical and Financial Scores

The Request for Proposals or Invitation for Bids will define the relative weightings of the Technical and Financial scores. The total scores for each Proposal or Bid will be adjusted according to the weighting and then combined to produce an overall evaluation score. The Bidder with the highest overall score will be recommended for the award of contract.

v. Reporting

The Procurement Agent is responsible for preparing the Technical, Financial and Final Combined Evaluation Reports. These are based on the actual process followed and the results of the evaluations. Each report will be submitted in draft to the Panel members for correction, comment or amendment before being signed by the Panelists. The reports will then be submitted to MCA-Vanuatu for review and approval as necessary in accordance with the Levels of Authority table at section 2b.

i. Contract Award

Following review and approval of the recommendation for award, as necessary in accordance with the Levels of Authority table at section 2b, the Procurement Agent will prepare the contract documents and advise MCA-Vanuatu on any contract negotiation issues. The preferred bidder will be advised that their offer has been selected, subject to conclusion of contract negotiations. A draft copy of the contract, containing details of the scope of work and the accepted price will be forwarded to the bidder for review. If necessary, the bidder will be invited to contract negotiations, in person or by telephone or other means of communication as appropriate. As soon as terms are agreed the contract will be finalised by the Procurement Agent with assignment dates and any amendments arising from the contract negotiations. The contract will then be issued for signature by the Contractor and MCA-Vanuatu. If terms cannot be agreed the process restarts with the next best bidder, this process

continues until a contract can be concluded or all the acceptable bidders have declined the contract in which case the requirement is to be re-tendered.

j. Notifications to Applicants and Bidders

Following conclusion of a contract the unsuccessful bidders are notified and a notice of award is published on the MCA-Vanuatu Website, or such other appropriate website designated by MCA-Vanuatu and approved by MCC, the Development Gateway Market website at www.dgmarket.com (dgMarket) and the United Nations Development Business online website at www.devbusiness.com (UNDB Online). The information to be published is detailed in section 6 above.

7. Requisitioning

a. Introduction

Requisitioning relates to the provision of goods and services to support MCA-Vanuatu's operations in Port Vila. Requisitioning may cover, inter alia, stationery items and general office supplies, telephone and internet services, fuel supplies etc. The general process is as follows:

- MCA- Vanuatu identifies requirement;
- MCA-Vanuatu and the Procurement Agent agree a specification and/or purchasing strategy
- The requisition form with a description of goods/services to be purchased is sent to the Procurement Agent;
- The Procurement Agent issues written requests for quotations in accordance with Government of Vanuatu procurement procedures;
- The Procurement Agent evaluates the quotations received;
- All quotes and the recommendation summary are then sent to the Purchasing Officer at the MCA-Vanuatu to be attached to the requisition;
- The Purchasing Officer of the MCA-Vanuatu Office prepares the requisition and attaches all documents for the following persons to sign:
 1. Purchasing Officer – MCA-Vanuatu;
 2. Director – MCA-Vanuatu;
 3. Procurement Agent;
 4. Purchasing Officer – MCA-Vanuatu;
 5. Fiscal Agent
- The Local Purchase Order is issued by the Fiscal Agent for the goods/services to be purchased.

b. Obtaining Quotations

The Procurement Agent issues written requests for quotations which include a specification for the goods/services to be procured. The number of suppliers invited to quote will depend on:

The value of the purchase; all purchasing is conducted in accordance with Government of Vanuatu procurement regulations, e.g. for low value purchases only one quotation is required, for higher value requirements three quotations are obtained (where possible).

The availability of alternative sources of supply in the domestic market; e.g. TVL operates a monopoly on telephone and internet services and there are limited choices for air travel between the islands and internationally.

Where possible, requirements will be grouped together to offer more attractive opportunities for suppliers, thus encouraging more competitive bids, and call-off contracts should be used where appropriate.

c. Evaluation Procedures

The Procurement Agent will evaluate the quotations received in terms of their conformity to the requirements detailed in the request for quotations. All quotations meeting or exceeding the requirements will be compared on price and the cheapest offer will be recommended for award of contract.

d. Contract Award

The Procurement Agent's recommendation will be sent to MCA-Vanuatu for initial review and to be attached to the formal requisition. If the recommendation is acceptable to MCA-Vanuatu, the Procurement Agent will advise the selected supplier that a Local Purchase Order (LPO) is being prepared. Once the requisition has been fully approved an LPO is issued by the Fiscal Agent.