



## **Terms of Reference**

### **Procurement Policy and Procedure Activity**

#### **Senior Project Manager/Advisor for Public Private Partnership Procurement Policy and Procedures**

#### **Introduction**

The United States of America acting through the Millennium Challenge Corporation (“MCC”) and the Government of the Republic of Indonesia (the “Government”) have entered into a US\$600,000,000 Compact for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in Indonesia through three projects: the Green Prosperity (“GP”) Project; the Community-Based Nutrition to Prevent Stunting Project; and the Procurement Modernization Project. The Government of Indonesia, acting through the Millennium Challenge Account Indonesia (“MCA-Indonesia”) intends to apply a portion of MCC funding to eligible payments under a contract for which this Request for Qualifications is issued pursuant to the Procurement Modernization Project. Any payments made 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 MCA-Indonesia shall derive any rights from the Compact or have any claim to the proceeds of MCC funding.

The objective of the Procurement Modernization Project is to achieve cost and efficiency savings on procured good, works and services, while assuring their quality satisfies the public need, and to achieve the delivery of public services as planned. These savings should lead to greater provision of goods, works and services to the economy that will positively impact economic growth.

Further, the Procurement Modernization Project will help support the implementation of the legal and institutional reforms of Perpres 54 and Perpres 70, newly enacted Presidential Decrees on Procurement in Indonesia. These regulations require that permanent, independent procurement service units (ULPs or PSUs) be established through the government, at national and subnational levels. The most important next steps in the procurement reform agenda for Indonesia are to build the professional procurement workforce, create institutionalized roles and structures that provide sufficient authority to implement good practice, and to provide a career path to incentivize adherence to best practice.

To this end, the MCC-funded Procurement Modernization Project will be implemented by the National Office of Public Procurement (“LKPP”) through two main activities: (1) Improving the procurement function by increasing the capacity and professionalization of the procurement function (the “Procurement Professionalization Activity”) and (2) Supporting the development of procurement policies and procedures for public private partnerships (“PPPs”) and for

environmentally and socially Sustainable Procurement (“SP”) (the “Policy and Procedure Activity”).

Public Private Partnerships (PPP) has been chosen as the mainstream approach in developing infrastructure in Indonesia. In the early 1990s, Indonesia started to allow private sector participation in the infrastructure sector but only economic infrastructure. By 1997 it had attracted over US\$20 billion in investment, dominated by electricity (US\$10.2 billion), telecoms (US\$8.4 billion) and transport (US\$2.1 billion). These earlier PPPs were implemented under a less transparent legal and regulatory approach. As PPPs elsewhere became much more competitive, and partly as a consequence of the Asian financial crisis, the Indonesian government decided a better framework was necessary if it were to compete with other countries in attracting foreign direct investments. Consequently, the GoI initiated a program to develop such a framework, the culmination of which was Presidential Decree (Keppres) 7/1998. However, Keppres 7/1998 was overtaken by the Asian crisis.

In 2005, with the assistance from the World Bank, Presidential Regulation (Perpres) 67/2005, replacing Keppres 7/1998, was issued as part of a renewed effort to spear head PPP in Indonesia. Perpres 67/2005 is a landmark in the Indonesian legal and regulatory landscape, if only for the statement that financial government support can be provided to a PPP project. Since then, Indonesia has continued its effort, with the assistance of multilateral and bilateral agencies, to strengthen the foundation for PPP taking into account lessons learned from PPP undertakings around the world and in particular in PPP projects in the UK and Australia and recent rules and regulations issued in the Philippines and Colombia. In this context, Indonesia has updated and amended Perpres 67/2005 with Perpres 13/2010 and Perpres 56/2011 and developed a cross-sector operational guidelines manual (OGM). However, successful PPP programs have clear, well-understood and documented policies and guidelines. These are generally principles-based and emphasize value-for-money and process integrity. They also tend to conform with the sector regulations that apply to individual implementing agencies.

With this Request for Qualifications, MCA-Indonesia is seeking a senior level consultant to assist LKPP develop Public Private Partnership (PPP) procurement policies and procedures, conduct a pilot program to test and refine the procedures before finalizing the new procedures and develop a training program to be included within the Human Capacity Development Program of the MCC-funded Procurement Modernization Project during the start-up period with options to extend through the full five-year term of the Compact if needed.

### **Scope of Work**

The lack of capacity in the bureaucracy to execute PPP projects is a problem long since realized but its resolution still remains a huge challenge. There are several aspects to the problem. One relates to changing the mindset of the officials that the role of government has changed from being a direct provider of infrastructure and related services to more of a facilitator and manager of the same. At a more practical level, PPP implementation has suffered from set backs because government officials do not have the kind of technical skills required.

Recent attempts at tendering PPPs have taken as long as three years, much too long to attract investors and make projects financially viable for PPPs. This sub-activity is designed to address these problems with the goal to accelerate infrastructure development especially in locations most harmed by the lack of procedures and capacity.

The proposed work program begins with a thorough review of recently attempted PPP projects to identify gaps, bottlenecks and issues that must be cured when developing the tendering procedures. It then involves the drafting of a strategy that includes planning for developing guidelines and standard bidding documents for competitive tendering of PPPs projects and developing a practical toolkit with templates and model documents for procurement planning and implementation.

This activity continues with a pilot program to demonstrate the guidelines, standard bidding documents, and toolkit in the context of tendering at least one PPP social infrastructure project and one economic infrastructure project. The pilot projects will be selected on the basis of interest in receiving assistance and approvals from Bappenas.

The strong focus in this sub-activity on implementation will not only lead to standardization of the procurement of PPPs but also build institutional capacity and confidence in PPP transactions that hopefully will accelerate private sector investment in infrastructure in Indonesia.

The purpose of this consultancy is to provide LKPP the technical support necessary to develop and manage the implementation of this activity.

### **Tasks**

The Consultant's assignment shall include supporting LKPP in the following tasks:

1. Develop the implementation strategy for the PPP activity.
2. Develop Terms of Reference ("TOR") for consultants who will support developing the PPP policies and procedures.
3. Manage and monitor the performance of MCC-funded consultants implementing the PPP activities.
4. Ensure that stakeholders understand the scope and objectives of the PPP activity.
5. Identify pilot PPP projects to test proposed PPP policies and procedures.
6. Apply and test the draft PPP procedures in pilot PPP projects.
7. Evaluate and revise, as needed, the draft PPP policies and procedures.
8. Develop and deliver the training and mentoring program for PPP activity.
9. Ensure that the training and professional mentoring programs for PPP build skills through case studies, simulated experiences and training tools.
10. Ensure that the PPP activity establishes a sustainable training program with highly qualified trainers.
11. Ensure the PPP training and mentoring activity includes knowledge management and sharing that is sustainable.
12. Mentor the PPP program staff of LKPP.
13. Provide support to ensure compliance with the terms and conditions set out in the MCC Compact and Program Implementation Agreement ("PIA") including the Monitoring and Evaluation targets in Annex III of the Compact and the Assessment Requirements in Schedule 4 of the PIA and MCC gender policies.
14. Ensure coordination within LKPP on implementation of the Procurement Modernization Program.
15. Other tasks may be assigned as related to the scope of this Consultancy.

### **Deliverables**

- **Inception Report** that provides a brief assessment of current status of PPP activity and suggest strategy to get the PPP activity moving quickly.
- **Trip Reports or progress reports** that provide: a) updates on the implementation of the PPP activity, b) comments on issues that need to be considered or addressed, c) evaluation of the implementation of the PPP activity and d) recommendations to address issues and to improve the structure and implementation of the PPP activity. The reports will be based on the strategy and the work plan approved with the selected consultant.
- **Terms of Reference** as needed to support implementation of the PPP activity.
- **Training materials** supporting of the PPP activity as requested by LKPP and MCA-Indonesia. These training materials will be delivered in English. LKPP will hire the services of an official translator to translate the documents to Bahasa Indonesia.
- **Final Reports:** these reports will include the final observations and recommendations of the Consultant highlighting any additional analysis that may be required to ensure the overall advancement of the PPP activity.

The deliverable schedule is as follows:

REPORT	EXPECTED DATE
Inception Report	Within thirty days after the contract signing
Trip Reports	Within one week of a mission in Indonesia
Regular Progress Reports	As requested by LKPP or MCA-Indonesia but not to exceed more than 6 reports annually
Final Reports	Within two months before the end of the base and each option

All the reports should be English and should be presented in three (3) printed copies and one (1) soft copy.

### **Period and Place of Performance**

The contract base period will be 12 months. The Consultant will be expected to provide a level of effort of five months, with at least 4 months in Indonesia. The specific time periods will be agreed between LKPP and the selected Consultant. It is anticipated that a level of service will decrease for each of the 4 options years. The level of service will be subject to negotiation between the parties when the options are exercised.

### **Qualifications**

Following are the minimum qualifications required:

- Fifteen (15) years or more of professional work experience in tasks that are relevant to the activities of this assignment and that demonstrate that the Consultant possesses the knowledge and skills to perform the assignment successfully is required.
- Bachelor level degree or equivalent is required.
- Operational experience in developing PPP projects is required.

- Experience in developing PPP training materials and providing PPP training is required.
- Experience in positions of leadership is preferred.
- Experience in responsibilities and duties that demanded oral and written communication skills and interaction with a wide variety of stakeholders to identify needs and achieve results. This will be confirmed during the interview phase.
- Experience in responsibilities and duties that required exceptional attention to detail, data quality, and accuracy of information. This will be confirmed during the interview phase.
- Experience in responsibilities and duties that required high ethical standards. This will be confirmed during the interview phase.
- Experience in PPP projects in developing or emerging market economies is preferred.
- Fluent in English (speaking, reading and writing) is required. This will be confirmed during the interview phase.

### **Project Coordination**

The Director of the Procurement Modernization Project at MCA-I, or his/her delegate will serve as the project manager however the consultant's reports and deliverable will be submitted **to a designated point of contract with the National Office of Public Procurement (LKPP).**

### **Services and Facilities to be provided by MCA-Indonesia**

- Office space will be provided to the consultant while in Indonesia.
- Airfare for domestic travel within Indonesia when travel requested by LKPP or MCA-I.
- Airport tax associated with domestic travel
- Lodging expenses beyond the Jakarta metropolitan area when domestic travel has been requested by LKPP or MCA-I

### **Facilities to be provided by the Consultant**

- Consultant will provide all other equipment and expenses as needed to perform the services except as specifically stated to be provided by MCA-I. This includes but is not limited to: computer, travel to Indonesia, lodging while in Jakarta, local transportation (except domestic airfare).