ADDENDUM NO. 1

GCA-PR-23-385- Request for Proposals

Framework Agreement for Public Private Infrastructure Resilience Accelerator Services in Africa

This addendum addresses and/or clarifies the following:

Questions & Answers:

**Question 1:** The ToR mentions a project manager, a Deputy Project manager and 3 Core team members. The Project manager, or team lead, would be leading a specific project, and core team members would work on specific assignments. Therefore, if it is a project on energy in Mozambique we would propose different experts than when it is on Agriculture in Ghana or related to transport in Ethiopia.

Could you please elaborate on how you would assess key team members? Is it possible to add more or different experts during the implementation of the framework contract? How can we do justice to the variety of projects in terms of scope and location when proposing 3 key team members and one project manager at this moment?

**Response 1:** It is possible to add more and/or different experts for each Request for Proposals (RFP) within the Framework Agreement. It is, however, crucial to ensure that the experts meet the educational and experience-based requirements as described in each RFP. For this proposal, we recommend that you showcase which project manager, deputy project manager and 3 core team members you are most likely to recommend for a variety of projects. We are mostly interested in the experience, education and experience working in various African countries.

**Question 2:** Concerning the Professional & Legal capacity,

a. In case of consortium, does the current team of at least 10 staff members be for each company or into the consortium?

b. Does the registration for a minimum of 5 years be for each company or for the leader?

**Response 2:** It would be sufficient for the requirements to be satisfied by one of the members and not by each individual member of a consortium.

**Question 3:** Concerning the financial capacity, do you evaluate the liquidity of the Lead Member or the total amount of the consortium: in case we are bidding as a JV, should this apply on the whole JV ratio? Independently for each JV member or only for the lead firm?

**Response 3:** We will review only the lead firm’s financial capacity.

**Question 4:** In case of declared subcontractor, do references be take into account in the evaluation of the consortium?

**Response 4:** As per Response 6, we will accept between 3 (three) to 5 (five) references. If the subcontractor will be included in those references, then yes, these will also count.
Question 5: With reference to the above project, we would kindly request if a three-week extension of the submission deadline could be considered. Given the requirements of the project, this would enable us to fully meet your expectations and to propose a high-quality offer.

Response 5: We will not grant an extension to the deadline for this procurement, with the objective to be in a position to sign the Agreements before the year’s end and start first assignments in January 2024.

Question 6: What is the maximum number of references to be presented, if any?

Response 6: The number of references requested is 3 (three) to 5 (five).

Question 7: What is the maximum number of experts to be part of the core team, if any?

Response 7: There is no maximum number of experts to be part of the core team.

Question 8: What is the page limit for the CVs, if any?

Response 8: There is no page limit for the CVs, though we recommend to focus on key experiences in relation to the expertise required in the framework agreement.

Question 9: The terms of reference mention the following: “Your proposal and all supporting documents must be submitted to the following link GCA-PR-23-385 - Framework Agreement Submissions in PDF format (25MB maximum size), must reach GCA within the deadline stipulated above.” Should we submit:

- i) several PDF files (technical proposal + admin documentation). In this case, is the 25MB maximum applicable to all documents together or each individual document?
- ii) one consolidated PDF file comprising all necessary documents?

Response 9: Kindly submit the proposal in either one of the ways you mentioned above. Both are acceptable. The 25MB maximum applicable to each submitted document.

Question 10: 5.2.1 Professional and legal capacity: Can GCA please clarify if the employers’ liability, public liability insurance needs to be provided by all members in a joint proposal or only by the lead partner?

Response 10: The lead partner takes responsibility for the projects and therefore we require the lead partner to be fully insured. However, we would highly recommend that the lead partner also ensures their security by requesting such insurance from the other partners. Only the lead partner’s insurance needs to be presented to GCA.

Question 11: 5.2.2 Financial and economic standing: Can GCA please clarify if the audit financial statement needs to be provided by all members in a joint proposal or only by the lead partner?

Response 11: Please see Response 10. The same principle applies.

Question 12: In p.17, it is mentioned that Bidders should provide a “Summary table that demonstrates that the qualifications and experience of each team member match the technical capacity and skills requirements as described in Section 6 of the Scope of Work/Terms of Reference”. However, there is no Section 6 in the Scope of Work/Terms of Reference. Can GCA please confirm if this should have been Section 5 of the Scope of Work / Terms of Reference, which presents a table with minimum requirements for Team Lead/Project Management, Deputy Project Manager, and Core Team Members?

Response 12: Yes, there has been a typo and in page 17 we meant to quote Section 5 of the Terms of Reference.

Question 13: Required Core Skills and Experience of Key Staff: can GCA please confirm that the staff presented through the CVs is considered an example of experience and qualifications for this qualification only, and that the Consultant will be free to select staff best corresponding to the actual scope of a work-order which might be different than the staff shown in the framework proposal?

Response 13: Please see Response 1.
**Question 14:** Clause 5.1 & 5.2: We note that the limitation of liability is 4 million. This limitation of liability is likely to be disproportionate in relation to most Work Orders. In addition, there is no assurance that we can perform services up to the amount of 4 million. If the latter was the case, the limitation would be proportionate. Could you please add the following clause (wording is derived from a previous GCA framework agreement):

Suggestion for revised text:

"X. LIABILITY AND INSURANCE
X.1 The total liability of the Contractor on any and all claims, whether in contract, tort (including negligence), by way of indemnity or otherwise arising out of or connected with or resulting from this Agreement (including Call-off Orders), shall be limited to and shall not exceed in aggregate the sum of the fee of the relevant Call-off Order. Contractor’s liability is limited to a period of two (2) years after the end of the Agreement.
X.2 It is the responsibility of the Contractor to cover, through personal accident insurance contracts, any personal accident risks suffered by its personnel or by its subcontractors’ personnel, in the context of actions under this contract.
X.3 Personal accident insurance shall provide that compensation shall be paid to the injured party or, in the event of death, to whomsoever proven to be entitled, in accordance with the law of succession or other applicable legal provisions.
X.4 To the maximum extent permitted, neither party hereto shall have any liability to the other for any lost revenues, lost profits or anticipated profits, cost of capital, loss of production, loss of product, or any special, indirect, consequential or punitive damages suffered, sustained, paid by the other party hereto or any third party and whether or not foreseeable at the time of entering into this Agreement."

**Response 14:** The contract is modified to the following:

15. LIABILITY AND INSURANCE
15.1 The total liability of the Contractor on any and all claims, whether in contract, tort (including negligence), by way of indemnity or otherwise arising out of or connected with or resulting from this Agreement (including Call-off Orders), shall be limited to and shall not exceed in aggregate the sum of the fee of the relevant Call-off Order. Contractor’s liability is limited to a period of two (2) years after the end of the Agreement.

15.2 It is the responsibility of the Contractor to cover, through personal accident insurance contracts, any personal accident risks suffered by its personnel or by its subcontractors’ personnel, in the context of actions under this contract.

15.3 Personal accident insurance shall provide that compensation shall be paid to the injured party or, in the event of death, to whomsoever proven to be entitled, in accordance with the law of succession or other applicable legal provisions.

15.4 To the maximum extent permitted, neither party hereto shall have any liability to the other for any lost revenues, lost profits or anticipated profits, cost of capital, loss of production, loss of product, or any special, indirect, consequential or punitive damages suffered, sustained, paid by the other party hereto or any third party and whether or not foreseeable at the time of entering into this Agreement.

**Question 15:** Clause 9.1: We kindly suggest to remove the following wording “Any activity and deliverables provided by the Contractor shall meet agreed benchmarks, parameters and specifications and be suitable for their intended purpose.” We cannot agree to a fit for purpose provision because it is not insurable. It might happen that the services are not suitable or fit for purpose due to actions beyond our reasonable control. And due to this provision, we would be still in breach of contract if that happens.

**Response 15:** GCA agrees to update Clause 9.1 to "The Contractor shall use the degree of skill, care and diligence reasonably expected of a professional and experienced contractor providing works and services similar to those carried out under this Agreement and any Call-off Orders. Any activity and
deliverables provided by the Contractor shall be suitable for their intended purpose. The Contractor undertakes to carry out the work defined under the present Agreement/specific Call-off Orders to the reasonable professional standards and in accordance with the latest state of the art as appropriate.”

**Question 16:** Clause 11: We would like to retain all (entitlements to) intellectual property rights (in this case mainly copyrights) in relation to the results of our work. We cannot and do not want to transfer future intellectual property rights because the results are the product of years of accumulated knowledge and experience of our staff in which we have invested as a company. It is also not in the interest of the client to demand this of the consultant, because this could prevent consultants from providing innovative solutions. However, we are willing to provide a non-exclusive and non-transferable user licence for the project. Could you please confirm that we may alter the clause accordingly after award?

**Response 16:** After careful consideration, this request has been rejected. GCA will maintain all intellectual property.

**Question 17:** Clause 27: We kindly suggest change this clause as follows because we consider it unreasonable to indemnify GCA for simple acts that are not the result of our negligence. We therefore would like to link the indemnification to the failure to exercise reasonable skill and care. This proposed clause is derived from a former GCA framework contract.

Suggestion for revised text:

"27. INDEMNIFICATION
27.1 The Contractor shall indemnify and hold harmless GCA against all claims, fines, costs and damages in connection with and/or resulting from any default in relation to employees taxes and insurances in connection to the services provided to GCA during the duration period of this Framework Agreement and execution of eventual Call-Off Order(s) awarded to the Contractor.
27.2 Contractor shall further indemnify and hold harmless GCA against all claims, costs and damages in connection with and/or resulting from any act or omission to act where the Contractor fails to exercise reasonable skill, care, and diligence in relation to the Services, unless such act or omission to act directly results from any act of GCA for which it can be seriously blamed. Contractor waives any entitlement pursuant to article 7:658 sub 4 BW Dutch of laws.
27.3 Without prejudice to any other rights set out in this Contract, each Party (hereinafter the "Indemnifying Party") hereby agrees to indemnify and hold harmless the other Party (hereinafter the "Indemnified Party") from and against any and all direct losses arising out of or in relation to third-party claims of any kind which, if proven by a non-appealable decision by the courts, would constitute a breach of the warranties made by the Indemnifying Party.
27.4 If a claim is made that may give rise to a claim for indemnity under this article 27, then the Indemnified Party shall notify the Indemnifying Party of such claim immediately, give the Indemnifying Party all reasonable cooperation and shall not negotiate the claim without the consent of the Indemnifying Party in writing."

**Response 17:** GCA agrees to make the following changes to clause 27:

27. INDEMNIFICATION
27.1 The Contractor shall indemnify and hold harmless GCA against all claims, fines, costs and damages in connection with and/or resulting from any default in relation to employees taxes and insurances in connection to the services provided to GCA during the duration period of this Framework Agreement and execution of eventual Call-Off Order(s) awarded to the Contractor.
27.2 Contractor shall further indemnify and hold harmless GCA against all claims, costs and damages in connection with and/or resulting from any act or omission to act where the Contractor fails to exercise reasonable skill, care, and diligence in relation to the Services, unless such act or omission to act directly results from any act of GCA for which it can be seriously blamed. Contractor waives any entitlement pursuant to article 7:658 sub 4 BW Dutch of laws.
27.3 Without prejudice to any other rights set out in this Contract, each Party (hereinafter the "Indemnifying Party") hereby agrees to indemnify and hold harmless the other Party (hereinafter the "Indemnified Party") from and against any and all direct losses arising out of or in relation to third-party claims of any kind which, if proven by a non-appealable decision by the courts, would constitute a breach of the warranties made by the Indemnifying Party.

27.4 If a claim is made that may give rise to a claim for indemnity under this article 27, then the Indemnified Party shall notify the Indemnifying Party of such claim immediately, give the Indemnifying Party all reasonable co-operation and shall not negotiate the claim without the consent of the Indemnifying Party in writing.

All other requirements regarding the Request for Proposal remain the same.