

Millennium Challenge Corporation
Program Procurement Guidance

Guidance on Writing and Reviewing Terms of Reference

August 2007



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This paper provides guidance to the MCA Entity¹ on developing Terms of Reference (TOR) in accordance with the applicable provisions² of the MCC Program Procurement Guidelines:³

Purpose and Function of the Terms of Reference

The TOR is the document that describes the consultant⁴ services that the MCA Entity needs to purchase.⁵ The TOR is the document that provides the substance to the Request for Proposals (RFP).⁶ The following points should be considered when developing a TOR:

State the objective or purpose of the procurement:

- Describe very clearly what services the MCA Entity wishes to procure and for what purpose.
- Provide as much information as possible to describe the MCA Entity's vision of the assignment.
- Consider that the TOR is going to be read by outsiders who have little or no knowledge of the project but are expected to propose a methodology and price for undertaking the assignment based on the information provided in the TOR.
- Do not be too "prescriptive" in the TOR (including using restraint in defining the staffing requirements) in order to allow and encourage consultants to propose their own methodologies for performing the services and providing the deliverables.

Provide a clear description of the background and context:

- Ensure that the context of the TOR is described so that a consultant can easily understand it. Emphasize how this contract fits into the overall MCA program; why the proposed assignment is important for the project.
- Describe the history of the project and the tasks already completed, if applicable.

¹ The MCA Entity is the entity designated by the government of the country receiving assistance from the Millennium Challenge Account as responsible for the oversight and management of implementation of the Compact on behalf of the government.

² MCC Program Procurement Guidelines at Section 1.B, Par. 2.3.

³ The Millennium Challenge Corporation ("MCC") provides funding to foreign governments under the authority of Section 605 of the Millennium Challenge Act of 2003 (the "MCA") (each a "Compact") or under Section 609(g) of the MCA (each a "609g Grant Agreement"). The MCC Program Procurement Guidelines are set out in supplemental agreements between the MCC and foreign governments and apply to MCC-funded contracts between the MCA Entity and contractors, suppliers and consultants. Contracts entered into directly by MCC are governed by the Federal Acquisition Regulations, not the MCC Program Procurement Guidelines.

⁴ As used in this guidance, the term "consultant" is used as that term is used in the MCC Program Procurement Guidelines.

⁵ The term "TOR" should not be used in reference to the description of goods or works. The documents describing these needs are called "Specifications." For rules and guidance on developing Specifications see Section 1.A, Paragraphs 2.19 and 2.20 of the MCC Program Procurement Guidelines, and MCC Guidance on Over-Specification in the Procurement of Goods.

⁶ See MCC Program Procurement Guidelines at Section 1.B, Paragraph 2.9, which lists the elements of a Request for Proposal.

- Describe how work carried out under this contract is linked and sequenced with work done by other consultants. Be explicit about required coordination with other consultants, contractors or government institutions.
- Identify other donors that are involved in the project or could have an impact on the assignment.
- Include, when appropriate, an annotated list of the institutions that the consultant will be supporting or interfacing with, so that the consultant can clearly understand the interactions and the full project. Explain the relationships within and among these institutions for purposes of delivery of the services being supported. Do not assume that the consultant will intuitively know or understand this.
- Include any publicly available studies or references (MCC guidance papers, Compact documents, etc.) relevant to the work to be done. Provide a list of special studies and documents that will be made available, and by whom, to the selected consultant.
- If the procurement includes associated goods, include a description of the goods and the performance standards or functions to be achieved through the purchase of the goods. Be sure that the technical specifications accurately reflect the minimum requirements and do not favor a certain brand or unfairly discriminate against certain brands.
- Attach any relevant templates or guidance documents to the TORs. For example, for MCC Category A projects, append the MCC Environmental Guidelines annex outlining the requirements of an EIA.

Clearly describe deliverables and required resources:

- Ensure that tasks are clearly described and numbered, and deliverables are explicitly stated. Ensure that the proposed deliverables are within the approved Work Plan⁷ and the scope of the activities described in the Compact. Similarly, review the Work Plan to make sure that all required outcomes are reflected in the TORs.
- Include a time period for the performance of the service and an anticipated timeline for submission of deliverables by the consultant. Where comments on interim deliverables are to be provided by the MCA Entity or decisions are to be taken by the MCA Entity affecting further work of the consultant, indicate such requirements and the timeframe for MCA Entity inputs.
- Be precise in defining those deliverables for which precise parameters are required (e.g., special surveys, mapping).

⁷ The term “Work Plan” refers to a work plan for the overall administration of the Compact program prepared in accordance with the terms of the Compact and related agreements.

- Include, if appropriate, a clear estimate of the amount of staff time, stated in workdays or work-months, needed to perform the needed services.
- Include, when appropriate, the required staff needed and key personnel positions.
- Include, when appropriate, the required staff qualifications, especially for key personnel.
- Include, when appropriate, requirements for intermittent technical expertise.
- Describe the language requirements during contract performance such as the language needs for staffing the working environment, giving oral presentations, and delivering interim and final reports.
- Describe types and numbers of reports to be produced, special formats, and software requirements (e.g., Excel spreadsheets, AutoCADD drawings).
- Define what the MCA Entity will provide to support the assignment, *for example*, counterparts, office space, phone, Internet connection, and printing.

Special guidance for procurement of Monitoring and Evaluation services:

- Clearly identify any data collection requirements: what data are needed; how frequently it should be collected; which units and definitions are to be used for indicators; and what measures or mechanisms should be employed to safeguard quality of data.
- Describe reporting format (such as electronic file type, software to be used, hard copy, etc.) so that those involved with monitoring and evaluation in connection with the MCA Entity can aggregate reporting and data collected across implementers.
- Describe, where relevant, the impact evaluation methodology to be used and any accommodations that would be needed in order to conduct the impact evaluation, such as the phasing of service delivery roll-out or the intake of beneficiaries.

Editing:

- Spell check and proofread.
- When required, ensure adequate translation of documents into English.

Reviewing TORs:

- It is recommended that key staff, notably directors of Procurement, Monitoring and Evaluation, Economics, and Environmental and Social Assessment, be assembled to review the TORs.

- For MCC Category A, B and D projects,⁸ the director of Environmental and Social Impact will be required to review the TORs.
- Ensure that sufficient financial resources have been allocated to procure the services described in the TOR.

⁸ For a description of Category A, B and D projects, see MCC's Environmental Guidelines, which can be found on MCC's Website – www.mcc.gov.