



**MILLENNIUM
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REDUCING POVERTY THROUGH GROWTH

Transcript

June 29, 2007 ★ www.mcc.gov

Millennium Challenge Corporation Holds a Public Outreach Meeting on Doing Business With MCC

Millennium Challenge Corporation
Washington, D.C.

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Transcript

SETHNESS: OK. We'll try again with a start here.

Good morning, everybody, and welcome to the headquarters of Millennium Challenge Corporation.

It's a pleasure to see such a fantastic sell-out crowd for today's groundbreaking event. I say groundbreaking because this is the first time that we've convened a meeting of all of those most familiar with doing business with MCC in one place to share their knowledge and experience and expertise with those of you who are ready

to, in fact, do business with MCC and with our MCC partner countries. This will be one of the first of many similar events.

MCC is no different than other government agencies, in many senses. Our procurements are governed by the FAR -- the federal acquisition regulations. Where we seem to see confusion is in defining what MCC itself procures, what USAID procures using MCC funds and what our partner countries procure with their compact grants, which is far and away the largest amount of the money that's going to be at issue.

We did a little quick calculation yesterday, and it looked like somewhere -- in signed compacts, there's somewhere in excess of \$2.5 billion of procurements that will be done over the next three to five years.

This morning's meeting is an attempt to bring some clarity to any confusion that may exist in those three categories.

Let me share just a bit about the program and why we're here. First, to reinforce -- once again, I suspect most of you already know about MCC, but it bears repeating that the three fundamental principles underlying what we're doing is, first, that policy does matter and we are selective and deal with countries with above-average policies for their category.

Second, that country ownership in a very strong way produces better outcomes and one of the distinguishing characteristics of country ownership in our case is that the countries themselves are responsible for the implementation of the programs.

And finally, that tangible results measured against agreed targets are a very important part of what we're about.

Part of all this is to help build country capacity and also to encourage private-sector economic activities and opportunities at all stages of our process, both seeking input from private-sector parties during the development of the programs, ultimately taking advantage of investment opportunities that are enhanced because of the work that the countries and MCC have done to improve the investment climate in the countries and, today's immediate topic, contracting for the MCC funds.

We provide unique procurement opportunities, working not only with an innovative U.S. government corporation -- ourselves -- but also with countries motivated to improve the lives of their citizens through projects promoting poverty reduction through sustainable economic growth.

Procurement -- the delivery of goods, works and services in a timely, fair, competitive and transparent manner at best value -- is fundamental to the successful implementation of MCC's work and MCC-funded projects. Millennium Challenge account funds are awarded in three ways, as I mentioned before: contracts

from our headquarters, through threshold assistance programs through AID and through MCC country-level procurements and by the implementing entities in country.

Many of you are already familiar with the federal acquisition regulation, the FAR. This guides MCC contract award process at headquarters and the acquisitions and assistance instruments used by USAID.

The first panel we will convene here today will discuss this aspect of doing business with MCC, focusing on MCC contracts and the threshold program.

After the panelists present, we'll take your questions and I ask that you please look for Brendan, who will be wandering with a roaming mike to ask them.

It's important that you use the mike to pose your questions for the benefit of those viewing this via the live Web cast and for producing a complete transcript afterwards for future reference.

The procurement guidelines MCC requires for country program procurements are somewhat different than those used by other donors. Therefore our second panel will focus specifically on country procurements and their guidelines. Again, there will be time for you to ask questions of those on this panel.

With that overview of how we plan to proceed, it's my pleasure to now invite our first group of panelists to make their way to the table. As they do so, let me introduce them.

We are joined by our managing director for contracts here at MCC headquarters, Greg Williams.

And from USAID's Millennium Challenge Secretariat, we have Peter Delp.

After they have presented, we can take your questions. We'll start with Greg.

WILLIAMS: Thank you, Chuck.

Good morning. I too would like to welcome you to the Millennium Challenge Corporation.

As Chuck stated, I am the director of contracts. I've been with the MCC since the very beginning. I was among the first dozen or so MCC staff members.

My division is responsible for all contracts that are awarded by MCC headquarters for administrative and management support of MCC operations, as well as acquisition of services to assist MCC staff complete due diligence activities supporting the award of contracts to eligible countries.

The contract award process at headquarters is conducted in accordance with the FAR, as Chuck stated.

A significant percentage of of headquarters contract awards are awarded as orders under existing contract vehicles.

All contract vehicles are awarded using competitive acquisition procedures. The period of performance for each of the MCC contract vehicles is five years, if you include the option periods.

Contract vehicles are awarded to multiple vendors, to the maximum extent possible. And each vendor is given a fair opportunity to compete for each task order.

The MCC uses competitive contract award procedures, again, to the maximum extent possible. In addition to full and open competitions, MCC headquarters awards contracts using the U.S. General Service Administration -- that's GSA -- federal supply schedule program.

MCC contract opportunities at headquarters, that are estimated at \$25,000 and greater, are advertised at fedbizops -- www.fedbizops.gov and on the MCC Web site.

In instances when the acquisition strategy is to use an existing contract vehicle, advertising for the contract opportunity is restricted to those entities that have been awarded the applicable contract vehicle.

Headquarters frequently seeks the services of individuals, as well as firms, to support our mission. Advertising for individuals may be posted in newspapers, professional journals and on MCC's Web site.

Headquarters has contracting opportunities for information technology-related products and services, as well as services that include assessments and due diligence in the following major program areas: Architecture and engineering services, A&E; finance; agriculture; transport; water; energy; land tenure; education; health; just to name a few of the major program areas.

I'd like to take a few minutes and address some of the questions that were submitted in advance of this event.

The first question reads: "Regarding the MCC utilization of small businesses in its contracting activities, do you have information indicating the number of small businesses that have received contracts and the dollar amount of those contracts? Also, is there an implementation plan for greater meaningful utilization of small government contractors?"

Let's look at our performance during the past two years. During F.Y. '06, MCC headquarters awarded 52 percent of all awards to small-business concerns; 24 percent of total contract dollars went to small-business concerns.

Since October 1st of 2006 to present, headquarters has awarded 58 percent of all contract awards to small businesses. Small-business concerns received 27 percent of total contract dollars.

These statistics compare favorably with Small Business Administration goals. And we have shown improvement from FY '06 to FY '07. And we hope to do even better in the future with small-business contract awards. And we are looking for opportunities to make acquisitions small-business set-asides.

Second question: "What process does MCC use to determine which firms or consultants to utilize for assessment tasks in MCC-eligible countries?"

We use competitive contract award procedures to the maximum extent possible. Even if the acquisition decision -- acquisition strategy decision is to use an existing MCC contract vehicle or GSA schedule, we use competitive procedures.

When we seek the services of individual consultants, we use competitive procedures. We advertise general requirements to establish pre-qualified lists of individuals. When a specific requirement becomes known, we invite highly qualified candidates from the pre-qualified lists to submit a quote to perform the services. We minimize use of sole-source contract award procedures. That is not to say we have totally eliminated sole-source, but it is a very, very small percentage of the contract awards that we make.

Next question, "Are firms that participated in the assessment phase prohibited from participating in implementation or follow-on phases?"

This question deals with the issue of conflict of interest and eligibility for award of contracts. Firms must consult with their own legal counsel to determine if their performance in the assessment phase creates a conflict of interest as defined in FAR Part 9.

To assess if a conflict of interest exists for performance of FAR-based contracts, there are two basic considerations. One, has performance of the MCC contract permitted the firm to obtain an unfair competitive advantage or become less than objective during performance of the implementation or follow-on phases? Two, did the firm participate in the determination of requirements for the implementation or follow-on phase?

If the answer to these basic questions is yes, then there may be a conflict of interest which could make the firm ineligible for contract award.

If the firm determines that there is a conflict of interest, then they should submit a mitigation plan for consideration by the MCC. If the mitigation plan is acceptable, the firm will be determined to be eligible for contract awards for implementation or follow-on phases.

The MCC will not address hypothetical scenarios with firms or individuals to determine if a conflict of interest may exist. The firm must consult with its own attorney.

Next question, "Are non-U.S. firms permitted to compete with U.S. firms as prime contractors for MCC business?"

Yes, non-U.S. firms are permitted to compete with U.S. firms as prime contractors for MCC business, provided that they do not appear on a prohibited source list and the acquisition is in compliance with the Buy American Act and FAR Part 25. There are many rules and stipulations in FAR Part 25 to determine compliance with the Buy American Act.

Next question here, “Are MCC-funded, contractor-prepared assessments that are submitted as deliverables available under the Freedom of Information Act, or are they located in an MCC library?”

If the deliverables are considered confidential or proprietary information, they are not releasable under the Freedom of Information Act. Releasability determinations must be made on a case-by-case basis. The MCC does not maintain a public library currently. Public documents are available on the MCC Web page.

Next question here, “What are the best ways for independent consultants to become involved with MCC or its funded programs?”

I will address the part of this question that pertains to contracting opportunities initiated by MCC headquarters. I hope all have sensed a difference in procedures and process regarding whether you’re talking about contracts managed by headquarters, out of my shop, versus program procurements to support our eligible countries.

I will defer the response pertaining to the MCA equity-funded programs to Jeanmarie or Laura.

Requirements that are available for independent consultants are advertised at the MCC Web site, which is www.mcc.gov, G-O-V. They are also advertised in professional journals and newspapers. Independent consultants should monitor these media for contracting opportunities that are offered by MCC headquarters.

If the acquisition strategy is to use a pre-qualified list of independent consultants, the requirement is not advertised. We conduct a limited competition that includes the most highly qualified consultants on the pre-qualified lists. And, as I stated previously, we use competitive procedures and we advertise in order to develop the pre-qualified lists.

I would like to conclude my remarks by addressing a question from an educational institution. The university is concerned that MCC’s standard contract terms and conditions restrict faculty freedom to publish information that they obtained during performance of MCC contracts. Educational institutions have refused to perform services for the MCC, as well as other agencies, and the MCC is therefore unable to involve the talents of university-based researchers from across the country.

We recognize the significant contributions that university-based researchers can provide in support of the MCC mission. The MCC is reviewing our publishing rights policy, the policy on publishing rights, and we will announce any changes to that policy at the conclusion of that review.

I would like to thank you for your attention. And now I'll turn the podium over to Peter Delp, who will address the MCC threshold program.

DELP: Well, welcome to everyone. I know some people have come in after Chuck started the seminar.

It's really my pleasure to be here today. The last time I addressed a group on doing business with USAID was some time ago, and the audience was filled with a lot of architects and engineers. It's a little different group today. And I welcome this opportunity.

The second thing is that it really is a pleasure for USAID to be associated with the Millennium Challenge Account and the Millennium Challenge Corporation and its work and its principles.

I'd like to quickly recite the principles that I think are most pertinent for us today -- country ownership. A comment by the chairman of the Board of MCC that threshold programs are tutorials, not tests, that accountability and performance matters. And I think by Chuck introducing this session today, we see how important accountability and performance are.

And lastly, transparency -- that everything is done in daylight and that's all to the good.

I'm also glad to be following Greg, because he's the expert on contracting. I'm a former project officer for USAID, and a former -- well, currently a program officer for USAID. So I've seen both sides of it, trying to get the money as a project officer, get it to the right people to get a job done -- and then, from the program side, making sure that money is available and without too many strings attached.

And that brings me to a last point about MCC and the Millennium Challenge Account, it has notwithstanding authority. So for those of you who know how we work, that's a nice big plus.

I see a head shaking out there who knows only too well.

It means that some of the things that USAID is doing for MCC on their behalf, with their money, are being done slightly differently than the way USAID would otherwise do it. On the other hand, our basic principle is: we will follow the FAR, of course, and we will follow the ADAR (ph) where applicable. And that applies also to branding, marketing, and those sort of things.

I'm here as the coordinator for MCC at USAID in a new Office of Development Partners. It comprises the public -- or, pardon me, the Private Sector Alliances Division, formerly known as the Global Development Alliance shop.

Again, another principle of MCC, that the private sector is a partner, will become a partner and should be always thought of as a critical partner to the workings of the Millennium Challenge Account and to realize the president's objectives.

It also is comprised of an office of donors, and I think this is a very important point. Norm Nickelson's (ph) shop is now called Bilateral and Multilateral Donors. It's very important to remember that we never work alone in these countries, there are other players and actors. They have their interests as well. And we are part of a larger tableau.

I had a lot of experience in Ethiopia with donors, and, in fact, used Norm Nickelson's (ph) shop to help us sort out some of the issues with the protective safety nets that was a groundbreaking program in Ethiopia.

And, finally, then, our small division, which is just a couple people, myself included. And we have responsibility for staffing USAID on the board -- there was a board meeting yesterday morning, on participating in the representatives, the board representatives, interagency group, which meets, it seems like once a week at least, sometimes twice a week in the busy seasons, and that seems to be all the time.

And, finally, we have oversight over those threshold programs that MCC is implementing. I also try, because of that role, negotiating agreements with MCC to get funds, to stay in touch with the things that we're also doing in compacts.

We're not implementing compacts; we're doing things around the margin on compacts. We like to think that we're facilitating the success of compacts by some of the timely assistance that we're able to provide. And some of that is simply intangibles as well.

So we have a very strong relationship with MCC. We are not, as I said, implementing the compacts, but we are being charged -- and it was written in the original act that USAID would take the lead in preparing countries for compact status.

What that's meant is initially USAID was very much involved helping to develop threshold proposals; helping -- working with our country counterparts because of our field missions and even in nonpresence countries to make sure that the proposal was sound; developing the budget, and presenting that to a very small staff at MCC.

Since November of '06, that staff has grown significantly. It's an outstanding staff. We work with -- on a daily basis, Maureen -- is that it? -- I think; Maureen -- certainly on a daily basis. There's lots of issues in implementing these programs. They're in difficult areas, typically, governance, democracy, fiscal policy.

And these are areas where we consult heavily with the MCC.

So the process now has USAID's involvement after a decision is taken that USAID will be the lead implementer for a program. In all but 14 of the now-approved threshold programs, we are the lead implementer. That's not taken for granted. It's certainly within the realm of -- that threshold program would work with MCC to have, say, Treasury implement it, as in the case of Sao Tome and Principe.

I'd like to make several points today. The first one is the USAID role. I think I've sort of laid it out to you in general, but more specifically about why we're here today and doing business.

And then the second thing is to share with you some of the approaches that we've used in the 13 threshold programs that are now in various stages of implementation. And of course Guyana just signed yesterday -- or just approved yesterday.

First, on the USAID role. MCC provided an initial transfer of funds to USAID that we could provide technical assistance. And in about 11 instances we've provided technical assistance specifically designed to develop a proposal in a country.

We also work with the country to develop their proposal, and also their budget. In fact, MCC has decided that the budgets will be better grounded if USAID, where we are the lead agency, develops the budget itself based upon the activities that the country is proposing.

And then we vet that, of course, with MCC because they have some strictures on what they will pay for and not pay for. Staff salary, they choose not to pay for that for some reason. Vehicles they don't like, we understand. Big buildings, not in their budget.

So those are sort of things that we screen for. And, of course, the investment committee at MCC also weighs in as well.

Our role in threshold programs is to then, once it's been approved by the Board, cleared by the Congress, to implement. And in implementing the programs, we try to obligate the funds -- we have so far obligated all the funds bilaterally to a country under a strategic objective, typically a new strategic objective focused specifically only on the MCC threshold activities. On one or two occasions where we've had a democracy and governance objective, we've put it under that.

What that means is that there is a vehicle by which we put the money, tie it up against the country. Normally what USAID would do is traunch that money and always put in the clause, "subject to availability of funds." In all but two cases, we've put all the money up front, forward. We've obligated the full amount.

So Indonesia's \$55 million, that money has been obligated to Indonesia for that program -- \$20 million for health, \$35 million for democracy and governance.

I say that because as a contractor, I would like to know for a fact that a program has the money there, I'm not going to be jerked around later on by saying, "Well, wait a second, we changed our mind. Someone voted wrong." This happened to me in Tunisia. Someone voted wrong in the U.N. and the program got pulled out from under us, no more funds going to it. So it's up front.

The constraint, though -- the other side of it is, they want it spent in two years. That's a very tight timetable. We negotiate with the countries and with MCC about whether that's two years from the time the Board approves it, or two years from the time the money is obligated or two years from the time that we enter into our agreements to give ourselves two full years of implementation. And we've seen -- thank you, Maureen -- a lot more flexibility about what we really mean by that sort of window.

It's not in the statute, incidentally. But it is clearly the idea that this is not USAID business as usual, this is the Millennium Challenge Account trying to prepare a country for compact status. That also means not USAID business as usual, don't expect a follow-on project. Don't expect that the mission director can just automatically extend the contract for five years or four years or something like that. That's not happening.

So in terms of our arrangements that we have with the countries and also with MCC, typically these bilateral agreements have run from 24 months -- I'm wishing good luck to that mission -- and one for 36 months because of a sovereign credit rating contract that we had to sign. But the basic agreements we're signing with our partners in those countries are going for approximately 24 months or less, depending on how long it takes to be ready to do that.

Perhaps more detail than you need, but I think it is important to emphasize we are under very tight time constraints. Just as with compacts, you will find out, a lot of the preliminary work about the mechanisms that will be used and setting up things that are being done now before the compact is actually signed -- all to the good, I'm sure.

Because you start a clock there for five years, I believe, after entry into force. It's after entry into force five years, and that's a lot more money. Even with our threshold programs, we're trying to get as much done up front as we can. One way that we've responded to that is the choice of mechanisms.

So let me just talk about the second point, briefly, the USAID approaches. I've said we're bound by the FAR, we're bound by the ADAR (ph). We do have notwithstanding authority, so that may mean that we may be doing some things, for example, with police, that we have to sort of take a pause.

But our lawyers tell us, "You can do that" because it's MCA money.

That also may mean that every agreement that we sign is for source 935 (inaudible) -- except for restricted countries, right? So there's no restriction on who we partner with in terms of that.

In describing USAID approaches, I want to say, first of all, there's opportunities and there are constraints. And I can tell you the biggest constraint is timing, but there are other constraints.

And that is, associated with timing is that if you have a mechanism already that's been fully competed -- and you know what I'm going to say next, right, an indefinite quantity contract -- if you already have a mecha-

nism that's been fully competed and that there are IQC holders, those who have won that competition -- it may be one firm, it may be five firms -- some of you are in the audience today -- we can then conduct a request for fair opportunity competition amongst those who have already won that competition and select from those who will implement the task order.

Doesn't mean that we have to make sure that we spread it around amongst the IQC and make sure that everyone gets a fair opportunity. It's what you propose. If you have the capability to do it, if you can mount the team, a Portuguese-speaking team in a short period of time or the right team or whatever else, you will probably get that task order awarded to you.

That's not the only mechanism we've used, though. We have used RFPs, certainly for very large programs, and we have used RFAs. In the case of Burkina Faso, that cost us at least six months delay from the July 15th board approval to the, I think, January, February dates that we were actually setting down to negotiate the holder -- the winner of that RFA.

All these agreements allow for subcontracting or subgranting. And in fact the Philippines is using, I believe, the Asia Foundation to identify a number of small grantees, which just makes sense, so that the management burden is handled appropriately in the mission.

We also partner -- quite ably, I would say -- with sister agencies (inaudible) agency, the Department of Treasury. And a number of countries we're working with Treasury -- Paraguay, Malawi comes to mind immediately -- for significant components of the overall threshold programs.

Threshold programs, as you may know, will range from Guyana's \$6.7 million for us to \$55 million for Indonesia, \$44 million for Ukraine, typically \$34 million for Paraguay.

So these are substantial amounts of money to move in two years. They're not the scale of the compacts, obviously, but the timetable is very compressed.

When we partner with these sister agencies, we enter into participating agency agreements. You may have been contacted by some of them to identify consultants. Many of them use consultants the same way that USAID partners, typically private sector partners do. Others will use direct staff, prosecutorial staff, for example, for Department of Justice's opt out office (ph).

The programs themselves have the typical commodities portion, some training portion, and certainly technical assistance. They're not broken out that way. The budgets are not broken out along those kinds of line items. They're broken out very strictly by components and who's best to do that components, and that's led to, for example, the role of other agencies being associated with a specific component.

So if, for example, in Tanzania we're strengthening prosecution, the training is being done by Justice. If we have an institutional contractor in a country, there may be other components (inaudible) by him and by other people.

Just some numbers to show you sort of our diversity of our approaches, my figures now are preliminary. We have a poll going out to our missions. But what we do know from our available data is we have entered into seven RFPs in the 14 countries, nine cooperative agreements and 11 indefinite quantity contract arrangements. We have nine or 10 interagency agreements, about split equally between Treasury and Justice.

The number of instruments used in countries varies significantly. There's only two countries that are using one instrument now. That's Albania and Burkina Faso. But Tanzania, at the other end, is using 10 different instruments. They must have a lot of project management capability in the mission to do that. They're all varying sizes, of course.

Ukraine, a very big program, will have probably five different instruments, I think. What's the latest count, Maureen -- five, six maybe? By the time it's done, there may be more in these countries.

The average number of instruments used for a threshold program's been about three, a little bit less than three. But basically we're not doing it with one partner, we're doing it with multiple partners. We're using both private sector and, in two cases, a university -- under university linkages, kind of arrangement for parliamentary assistance. I think that's SUNY University.

As I said, I'm happy to be following Greg because I'm going to sit down now and let the questions fall on the appropriate person. But what I've tried to tell you in a nutshell is, first of all, USAID is very happy to partner with MCC, very pleased at our working relationship now. Because it's a very equal relationship, certainly at headquarters. We have more staff in the field, obviously.

We are happy to be associated with the compact programs, where it's necessary and where we can contribute. And that's been worked out by the operations staff of MCC quite well. I think the Ghana example is an excellent example where MCC used our mission resources and programs, particularly in education, quite well to help design that program.

And, of course, we look forward to seeing the results of our efforts on preparing countries for contract eligibility.

SETHNESS: Thank you, Greg.

Thanks, Peter.

I'm a little nervous about how much we're going to impose on your time, but are there questions for either Greg or Peter before we turn to the country procurement side?

QUESTION: Good morning and thank you.

My name is Dr. Elvira Beracochea, and I'm the president of an 8(a) company.

I was wondering if the MMC has any plans to advertise any 8(a) set-asides. The name of our company is MIDEGO. We are working to accelerate reaching the Millennium Development Goals.

WILLIAMS: Yes, thank you for that question.

The MCC headquarters has awarded two procurements that were 8(a) set-asides thus far. Our intentions are to do more 8(a) set-asides as well as small business set-aside type procurements.

QUESTION: How can we advertise our services better?

WILLIAMS: I encourage...

SETHNESS: Repeat the question, Greg, for the TV audience.

WILLIAMS: Oh, I'm sorry.

The question was: How can she inform the MCC of her capabilities and interest in supporting the MCC?

I encourage any firms or individuals that have an interest in doing business with the MCC to send their capabilities statements, information regarding their capabilities, to my attention. And I guess I'll give out my e-mail -- is that risky?

My e-mail is...

STAFF: There's a mailbox, opportunities@MCC.gov. Brand-new. Opportunities@mcc.gov. And that way it will go to the right office there.

(CROSSTALK)

WILLIAMS: So send your capabilities information to that central mailbox, opportunities@mcc.gov. And what we will do with that information is put it on a bidders' list, if you will. And as requirements materialize, we'll go to the list to see what candidates we have.

However, I would like to emphasize that we make every attempt to award contracts in a competitive mode. But when we're looking or trying to determine if we have enough interest for a particular set-aside, then that information will become very, very useful.

QUESTION: My name is Jaime Saez (ph), and I'm here representing SCE, Incorporated (ph). We're a small business and minority-owned company that provides infrastructure, engineering and environmental services.

We have been prequalified for both individual and corporate with MCC, approximately six months ago.

We haven't heard much from MCC. And I've tried to interact with MCC and I've had some success, but I would like to be able to get a feedback on our qualifications and see how we can do business with MCC as well as possibly subcontract to your more prime contractors.

Is that a possibility?

WILLIAMS: Yes, that certainly is a possibility. Hopefully you have information on what firms are the prime contractors.

Do you have that information? Is that -- folks?

(CROSSTALK)

WILLIAMS: You don't. We can make that information available on the MCC Web page, a list of prime contractors that have been awarded vehicles, IDIQ, indefinite delivery/indefinite quantity, type vehicles or blanket purchase agreements. And that way, you can seek out teaming arrangements and subcontracting arrangements.

And a few other methods that you might use to get information about upcoming opportunities is, again, watch the Web page. All opportunities that are -- where the acquisition strategy is not limited competition will be advertised on the Web page, MCC Web page.

I hope that will be helpful.

SETHNESS: Is there one last question before we -- OK. Go ahead.

QUESTION: Thank you. Hello, my name is Amarance Brokencamp (ph). I work for the Netherlands Embassy.

You mentioned that non-U.S. firms are permitted to compete also for contracts at the MCC. How many non-U.S. firms actually won one contract through the FAR Part 25?

And my second question is: What are the rules for a non-U.S. individual consultant, so would you also hire non-U.S. individual consultants?

Thank you very much.

WILLIAMS: Unfortunately, I don't have any information at my fingertips on how many non-U.S. firms have been successful in winning contracts from the MCC.

As far as opportunities for individuals that are non-U.S. citizens, we have awarded contracts to non-U.S. citizens that are individuals. We have awarded several. So the process to win these contracts is the same. You submit a proposal in response to a posted requirement.

SETHNESS: Thank you all for the questions.

I think we've got to move on to the next panel now.

Thanks again to Peter and to Greg.

The topic for this next section is the large dollars involved in implementation by our country partners. And as the two ladies approach the table, let me introduce Laura Trimble, our managing director for fiscal accountability, and Jeanmarie Meyer, the senior director for program procurement policy.

TRIMBLE: Good morning.

I'm going to take some time to talk to -- put fiscal accountability in context for you.

We've spent the morning talking about MCC headquarter procurements and threshold program procurements that are basically handled through the FAR. Now we're going to talk about compact procurements and the rules and the players that are involved in those procurement opportunities.

Fiscal accountability and the elements of fiscal accountability include the actors, the rules and the processes to ensure that we have the proper checks and balances in decision-making, that the funds are managed properly and that the procurements are handled in an open and fair and transparent manner.

You have this in your handout. This is a little pictorial of the elements of fiscal accountability and who the players are in the process. I'm going to take some time and speak to you about just a couple of them. I'm going to talk about the accountable entity, the fiscal agent, the procurement agent as well as the project managers.

As we've said repeatedly about MCC, it's heavily geared toward country ownership and country implementation. And certainly where the compact countries are concerned, this is the primary vehicle for the programs to be implemented, where in the threshold programs, USAID is the primary implementer through contractors.

First thing that we require in dealing with a compact country is that they establish an accountable entity. And this is an organization that can be a government ministry, it can be another legal entity. We have founda-

tions that have been established, standalone government agencies that have been established. Sometimes it's entities within an existing ministry. But it must be a legal entity that has decision-making authority.

This accountable entity, it's going to manage the implementation of all the projects. It's going to have the primary resource allocation and approval of expenditures responsibility. It will approve all of the procurements, including signing all of the contracts. And this is the organization that MCC will have the primary point of contact with.

Now, accountable entities are really management and administration bodies. They are not necessarily the project managers of the program. They will be entering into agreements with other entities to carry out the technical oversight of the implementation of the various components of the program.

And project managers will fall into two general categories. One is an implementing entity. And that is MCC's term for a government body, whether we have the implementing entity engage with the Ministry of Transport to oversee roads projects, the Ministry of Irrigation for irrigation projects and so on.

Those entities will have to be functioning and tested and due diligenced by MCC's technical staff before they are deemed appropriate to manage the implementation of our programs.

If that is not the case, we will procure outside project managers to serve the function as a project manager over a component area. And we have done both. It is often a mix in every country.

But these are the bodies that will oversee the contractors and the firms ultimately procured to carry out the program.

The project managers, they're responsible for managing the implementation of the program components. They will support procure proceedings -- writing terms of reference, maybe handling the procurement itself if they're deemed to be procurement agents. And Jeanmarie will talk about that in a bit.

They are also going to be the primary entity that's going to be certifying the receipt of goods and services, and thus, you know, initiating the payments request process where invoices are not paid until the goods have been received as they have been required.

Another key element in fiscal accountability is the management of the money. We have a single fiscal agent. We don't want multiple entities instructing the banks to pay. So while we may have multiple project managers, they will have to be submitting their certifications and their invoices to a fiscal agent that will be an agent of the accountable entity, the major central oversight body.

And they are the key authority that will instruct the bank to pay being presented with valid invoices and appropriate approvals whether the certification of the goods and services receipt and the approval of the accountable entity.

So that's how money will flow to the vendors in this process.

Again, we use a number of entities as possible fiscal agents. Certainly, ministries of finance. And we have also on many occasions used external fiscal agents that will be procured competitively.

So at that point I want to turn this conversation over to Jeanmarie Meyer, who will talk specifically about the procurement agents, the procurement policies of the compact countries.

MEYER: Good morning and thank you all for coming.

What I want to talk about a little bit is who are the players, what are the rules, where you're going to find procurement information, and a couple of points about how the system works.

I'm going to go back -- we're just going to start with and go back to the chart that Laura started with. What we have here is the procurement agent, a key player. But I want to start with the accountable entity.

Every accountable entity has a director of procurement. That director of procurement manages the procurement agent or agents and is a key interface with MCC.

So the accountable entity does not conduct the procurements, they sign the procurement contracts. They have agents that conduct the procurements.

The agents manage all the procurements for the goods, works or services.

The procurement agents -- as Laura said, fiscal agent, there's only one. Procurement agents can be more than one. They can be implementing entities or they can be independently procured.

When we have an implementing entity acting as a procurement agent, they will only do the procurements that that entity is also the project manager for.

If we think of the procurement process as the processing for selecting the contractors, the project managers are managing the contracts. So that when a procurement agent is an implementing entity, they are helping select the contractors, conducting the process for selecting the contractors for those contracts that that entity will also be the key project manager for.

The procurement procedures: I want to -- the procurement procedures are part of the compact documents. That's where you're going to find the rules that the accountable entities, that our partner countries must apply when they're conducting MCC-funded procurements.

Now, we've gone through a little bit of a change so that's why I've kind of given you two. In our present compacts, we have a document called the procurement agreement. This will be posted at all the local Web pages, and the procurement guidelines are part of the procurement agreement. The procurement agreements

have a main text. They have -- as attachments, they have guidelines and they also have some other schedules as part of them. But that's where you're going to find the rules.

Going forward, we've changed our compact documents and we have now a program implementation agreement and the MCC program procurement guidelines. This is a fully self-contained document that incorporates all the pieces that were formerly in the procurement agreement is now in one document, and it is found on the Web site in the compact documents.

We have now -- we've also gone -- we had in several of our -- well, going forward the last couple years, we took a more -- an approach of more flexibility, went into the countries and said, "What is the best way to do the procurements in this country?" We didn't have one uniform set of guidelines.

We found going forward that -- or after experience of 11 compacts -- we had 10 procurement agreements that looked almost alike. So given that experience, we made a decision to make a uniform set of procurement guidelines.

They're really -- I want to emphasize, there's not a lot that changed. They changed more in format than in substance. Because these procurement guidelines are -- well, first of all, I want to make a point that in the compact, there's a provision that sets out the principles: open, fair, competitive and transparent. You hear those a lot in the context of procurement, but we're very serious about them.

We just had a procurement college in May brought in procurement directors, procurement agents. We spent a lot of time talking about the basic principles. The rules are meaningless if they're not applied consistent with these principles, and we're very serious about that.

The procurement guidelines that we have are based basically on the World Bank procurement guidelines. If you know the World Bank procurement guidelines and if you're familiar with them, they have sort of like two separate set of guidelines. They have one that would be for goods and works, and another for consulting services.

Ours blends these together. But they do follow the same format, so you've got a part one and a part two -- I mean, a Part 1a and a Part 1b -- and they track by paragraph and number the latest edition of the MCC procurement guidelines.

So if you're familiar with those and you know those, then that is the substance that -- the key substance of the MCC program procurement guidelines.

But we have a few exceptions. The key exceptions that we take in our guidelines, first, there is no geographic preference. There's no preferences for the local, no extra points for local participation, as you will often find in the World Bank procurements.

There's also no Buy America preference. There's no preference for -- how do I say -- like, in the World Bank, as you know, there's certain things -- so many countries that can be shortlisted. You can have no more than two for a particular country. None of that. There is no geographic manipulation. It's all completely untied and open.

Secondly, we have added the U.S.-prohibited sources. We do honor the World Bank blacklist, but then we also add the U.S.-prohibited sources to the list of excluded from the MCC program procurements.

Third, the currency issue. The procurements are only conducted either in U.S. dollars or the local currency. The MCC, our partner countries cannot entertain bids in euros -- U.S. dollars, local currency.

The third is -- another point -- and this is very important, I think, for all of you, is that we require the use of the English language. In conducting the procurement, all the advertisements must be in English and if the procurement is valued over \$100,000, the solicitation documents must be in English.

Now, certainly they can require -- like, in a French-speaking country in Africa -- they can require as part of the the proposal document someone who, if you're going to put a team leader down there, who can speak French.

That's OK.

But what we want you to be able to do is assess your interest in the procurement and participate in the procurement without having to translate documents before you know it's something you're interested in.

So if it's over \$100,000, the documents are in English and English (inaudible).

You may also have low advertising essentially. So I'm going to go into a little bit about where you find it. But I want to emphasize this, because we require that everything over \$50,000 -- the equivalent of 50,000 U.S. dollars -- is openly advertised. There's no really prequalified short list. They may do a short-listing process for a particular procurement, for a consultant procurement or a prequalification for a particular procurement for goods or work.

But that will be procurement specific.

Every procurement over \$50,000 will be open. OK

So, now, where do we find out about what is going on out there?

First, we have two basic notice requirements. First is a general procurement notice. This is to give you advance notice of what procurements are coming in the pipeline. Our entities need to advertise this general

procurement notice probably at least every six months. It could come out more often. It depends on their procurement plan and their procurement strategy.

But, going forward, it needs to be updated -- the plan needs to be updated every six months, and that usually means that they have to do a general procurement notice every six months.

What is in that notice? That notice is a list of the procurements that they expect to do. It gives you a descriptive list of the kind of procurements that they're planning.

It won't -- they can decide how much they want to tell you about the proposed budget for the procurements. Some will roll them up and give a total of, you know, how many million dollars for the whole list of procurements. Some will roll them up as to projects. Some have also just said, this is the budget for that particular procurement.

But at least you're put on notice to the kinds of things that will be coming in the pipeline, with some advance notice to prepare and also to watch out for them.

These notices must be published on the local Web site. Every accountable entity has to have a Web site. They must be published on the local Web site. They also must be published in dgMarket and in U.N. Development Business Online.

I want to emphasize about the dgMarket, though. We have a special arrangement with dgMarket. You don't have to have a subscription to dgMarket to be able to access information about MCC procurements.

There's a special Web page, the Millennium Challenge Corporation Procurement. It's under procurements. And you can go and you can get all the information about the general notice, also the specific notice. So let me go on to that.

We use -- our key terms of art, a specific procurement notice. This would be the notice of a particular procurement opportunity. Again, these are -- it would be the normal notice that you're used to, like in a synopsis about what they're buying, if it's a short-list, what they're kind of criteria would be for -- requirements would be for qualifying or short-listing.

And it would be that kind of information that you're used to about the procurement. The deadline for and the place where you get the proposal documents or the bidding documents, et cetera.

Now, these have to be -- and, as I said, anything over the equivalent of 50,000 U.S. dollars has to be posted and advertised.

They have to be -- at over \$50,000, they have to be posted at the local Web site and at dgMarket. Again, it's a free access to these advertisements.

If it's over \$100,000, it also has to be posted on the United Nations Development Business.

Now, the arrangement we have with dgMarket is not just to get the notice, but you can really also get the bidding documents and all this stuff. And remember, the notice will be in English if the documents are over \$100,000 U.S., the equivalent of \$100,000, those will also be in English.

Now, a little bit about the solicitation documents because obviously -- this is not going to look like the federal acquisition regulation documents. If you're used to the World Bank documents, they'll look a lot more like that.

Now, we at this time are preparing what we'll call model documents for our entities to kind of adapt to their -- for their use.

But I want to emphasize that in all of the procurement agreements from the very first one and the procurements guidelines from the very first compact that we did in Madagascar required our partner country to develop their standard solicitation document.

When I use the word "standard," these are like, this is what's going to be required, this is what they're going to follow. And we approve them. And then that will be their individual standard solicitation documents for that country, for that compact going forward.

So our model documents will be something that they can adapt to make their standard documents. I want to make that difference because then the World Bank, as you know, you've got standard documents and then they use the data sheet for adapting.

What we've asked is our countries really to make their own standard document that'll be -- there'll be consistency, but it'll be -- and one of the things that I think is important to us in this is that we are a little -- our roles a little bit are different from the World Bank. And there's not a required shortlisting. There's some things.

And we don't want people to think they know what's in these documents because they know the World Bank, because that's going to cause you problems. You really need to read these documents and see those nuances in the process. Otherwise, you can have a fatal flaw in your bid that you think you've done because if it was a World Bank procurement, it'd have all these pieces. We have enough little differences in process that you really need to pay attention to those documents.

So we didn't want to lull you into something that you thought was familiar and then it's really different. So it's an important point.

As part of our oversight -- and I wanted to emphasize this, the operational points -- MCC has taken review, a lot of review during the process leading up to the selection. And I think that this should help your

comfort level that you -- again, we emphasize we want competition and we want it to be fair and we want bidding documents to be as open and unrestrictive in their specifications as possible.

So we are taking -- and the reason I bring this up is, this approval matrix is part of the procurement guidelines. So it gives you an idea of thresholds in which MCC no objection or approvals are required at various steps in the process. You'll be familiar with that.

One last thing I want to mention is: We also require all of our partner countries to have a bid challenge procedure. We find this is very important. We've kind of incorporated the standards from the World Trade Organization procurement agreement.

And it requires a first-level review at our accountable entity level and decision (ph) and then an appeal to an independent body and in short time frame so we can have -- and suspending the process as you're used to in a short time frame.

Now, one other thing I want to add is, I think if any of you have worked in other countries, there's a lot of difference. In the U.S., sort of a big protest, people are sort of used to and it doesn't ruin you for life in the business.

But in the foreign context, a lot of our foreign partners are sort of like, "Oh, bid protests, well, we'll never do business with them again" kind of mentality. Because they really do see this -- they're not as comfortable with litigation as we are here.

And I want to emphasize that we were really encouraging our people to understand that the process can be used as a very productive tool in trying to get the procurements right, to trying to get the procurement documents right.

So I wanted to tell you that I'm not encouraging you to protest, but I want to tell you that it is -- we view it as a tool and a very important monitoring tool.

So we don't mean that you shy away from it and shy away then from competing. Because we really encourage you to take advantage of these procurement opportunities and we'd like to see more involvement in the procurements that we have.

I think that's it for my comments. Thank you.

SETHNESS: There we go. Thank you. OK.

Thanks very much, Laura, Jeanmarie.

Questions?

Why don't we start over there and sweep across?

QUESTION: Simple one: What is dgMarket?

(LAUGHTER)

TRIMBLE: That's why I actually put it up on the slide. It is a -- how do I say? -- it is like competitor to UNDB, in a way. They have organized and set up an international Web site for posting procurement opportunities. And if you literally go on to www.development -- I think it's just dgMarkets.com, and you'll see. And there's links from our Web site to dgMarket, too. So from our main MCC Web site you can link to it.

But it's -- that's just -- I mean, it is just a name of their online publication of procurement opportunities.

QUESTION: Two quick questions. First, on the requirement for using the English language for solicitations, can countries require that that proposal be submitted both in English and in the native language as a requirement?

And number two, with regard to dgMarkets, how long have you had this free arrangement in place?

MEYER: OK. I'll answer the second one first.

I think we've had it -- I'm not -- we've had it a couple months, I think, in place. Since the beginning, since we had the very first compact, the first (inaudible) agreement, we required publication in dgMarket.

But over the last year, we've had a lot more discussion with them about a special Web site, because at first they were -- things were getting posted but they were getting lost. It wasn't really transparent. I mean, the requirement was being met technically...

SETHNESS: I think that's what drove the question.

(LAUGHTER)

We have been doing a lot of work with them and have made a lot of progress on getting to a more user-friendly...

MEYER: Absolutely. And your feedback, if it's still not user friendly, because they've been working with us and we've been working a lot to try to make that and improve that.

On the first question, yes, we have allowed our partner countries to require and require the proposals to be submitted in both languages.

And let me emphasize something to you about this. Even though it says that the English language controls, if you do do that, be very careful about your alternate language, your other language, be it France or Spanish edition, because what we found is we require them to organize, particularly for service procurements, when they've got evaluation criteria, we require them to organize technical evaluation panels.

If you're used to doing business in Africa, we don't allow the use of the (inaudible) boards, nothing like that. They have to have technical evaluation panels of people technically qualified, a peer group, with clearly no conflict of interest in the outcome of the procurement.

Because of that requirement, we have difficulty getting truly qualified, technically qualified people and the best technically qualified people who were also bilingual.

So we do allow them to submit the proposals in both languages, and I emphasize, if you are going to go forward and do that, make sure that your French or English -- I mean, French or Spanish edition or Portuguese edition, that proposal is good. Even though the English will control, it will be to your benefit to have a good translation of that alternative proposal.

QUESTION: My question relates to the question on the (inaudible). Do you have a specific Web address, a URL, for the special (inaudible) dgMarkets, because I've also had problems with that.

Also, do you publish the -- you have the evaluation panels. Are those results published, if you're one of the bidders on them? Do you publish then those results? Do the bidders get the feedback on how they rated in the panels?

MEYER: On the first question, there's a link on our Web site and I -- frankly, I thought it was -- do any of you know? I thought it was www.dgmarket.com.

There's a link on the Web site. We'll make sure that that is highlighted and stuff. I mean, if you're having trouble getting to it...

(CROSSTALK)

MEYER: OK. Thank you.

We'll follow up because we did have trouble with that, and we thought we could cure that problem. Registration for access to MCC procurement opportunities should be free. It does not require a subscription. So if you're having trouble with that, we'll come back around. And I apologize and we'll see. We'll follow up on that.

Thank you very much for that feedback.

The second question was...

SETHNESS: Are the results of the technical evaluation panels published?

MEYER: You know, we follow the World Bank way, so it's a little bit different. If there's a shortlisting process -- I'm sorry, for a consultant services's there's a technical evaluation process. It's a two-envelope system, the technical evaluation and then the opening of the financial proposals. And that would be the way most of these are done.

At the technical evaluation, after the technical evaluation, all the firms are notified whether they met a threshold. Most of the time they set a minimum threshold, and only those who made a score above the threshold are allowed to -- the financial proposals are opened only for those above the threshold.

Now, there is some -- generally in that letter that they send out, many of them have the practice that they give you the score. The Bank does that, but we don't require they absolutely give you the score. But we do require them to tell you (inaudible) and also to grant you a debriefing.

And part of that -- let me explain a little bit. We get a little concerned about everybody knowing everybody's score in some of these. So we -- I mean, they can if they want, but we haven't required it. But we do require them to give you a debriefing and let you know how you did and have a...

QUESTION: Thank you very much for the insights and all the valuable information.

How are the technical evaluation panels composed? Do you have standardized guidelines for that? Is there an MCC representative? Is it just host country representatives?

TRIMBLE: This, I think -- we think that this is a very, very important part of how we try to distinguish the application of the guidelines from maybe a normal procedure for World Bank procurement.

As I mentioned before, and I'll review that, a technical evaluation panel -- and, again, that will be something that's organized when you have an evaluation criteria other than price. If you have a bid that's based on is it responsive, and then a low price, you've got a technical review panel, and that's a different thing.

So the technical evaluation panel, which is what you're asking, we have a basic criteria that -- and we do have a guidance paper on this. It will be posted soon on our Web site. You'll see the details of this. But basically they need to appoint a panel procurement-specific. They need to have the technical background and qualifications for that particular procurement.

Now, sometimes we need a diverse -- an environmental (inaudible) construction -- I mean, we need the diversity. But so the panel represents the expertise to really evaluate that proposal, OK?

It must be a panel of peers. We do not allow a minister, like, and three or four people that work for him -- him or her.

Also, there is the conflict-of-interest issue, and they have to do a confidentiality statement. And also if something comes up after the proposals are open, if there's a conflict, because this confidentiality statement that they sign up front is continuous.

So they would have to recuse themselves and excuse themselves if there is an issue after the bids are open, because a lot of places the people submitting bids don't know who's going to be on the panel. But is often -- it doesn't have to be, but it is often secret until the process is over.

And so sometimes there can be an inadvertent conflict of interest. They don't know. So that is monitored.

Now, are we part of the panel? No. We are very particular about MCC people are not and MCC is not part of the panel. This is country ownership. It's the country's procurement. They sign the contract. We are not part of the panel.

What we are concerned about, and we and the procurement agent -- a procurement agent, we also say, is not really a voting member of the panel, like. They are there to protect the process.

Until the procurement agents are fully functioning, our staff will sometimes go in there. But we are protecting the process. We do not read the proposals. We do not evaluate them. But we are there to protect the process.

QUESTION: (OFF-MIKE)

TRIMBLE: Yes. But sometimes they have had to go out of because they don't have the technical personnel and they've literally had to procure the expertise out of country to get it. We had that incident in a couple -- in one particular big contract in Georgia.

SETHNESS: Just to clarify, the question without microphone was: Does that mean that it's host country technical people?

The answer was yes.

We're going to run out of time shortly. I don't want to lose all of you. But let's do two more questions, I guess.

QUESTION: In a case of a non-responsive country -- (inaudible) country -- what is the next step physically in that process?

MEYER: Of a non-responsive...

QUESTION: RFP.

MEYER: RFP or proposal?

QUESTION: Proposal.

MEYER: A non-responsive proposal?

QUESTION: Yes.

MEYER: Well, assuming that -- I mean, there's various bases that a proposal would be deemed non-responsive. And essentially if it's non-responsive, it's rejected. And in the instructions to bidders in all these RFPs, there's certain touchpoints. And it basically, if there's a major deviation from the requirements that are supposed to be in the proposal, it says, this will be rejected. In some places it says it may be rejected. It depends how serious the deviation is, OK?

SETHNESS: There was a question back over there, and that may be our last question.

Let me start the commercial a bit. This has been televised. It's going to be up on the Web site, www.mcc.gov if you want -- if you think you missed anything and want to review it.

QUESTION: This is sort of a technical question. I've got the Ghana compact, the guidelines. There's a lot of footnotes that say reserved.

What does that mean?

MEYER: Thank you for asking that question.

As I said earlier, what we have is we try to preserve the World Bank paragraph and numbering, including the footnote numbering. In some places, when the Bank had a footnote that was, like, Bank-specific -- like their loan and such and such requirement or if we were taking an exception to it, deleting the footnote was going to mess up the footnote numbering and wasn't going to parallel the Bank's.

So the way we handled that was said, "Reserve." And that preserves the footnote numbering so that when you get to pretty close -- like, if you want to know if footnote 29 of the Bank, you can see that it's there.

So it was a device to keep that numbering system. That's what we did also with the paragraphs.

SETHNESS: Right. Pure place holder.

Unless somebody else has a -- wait a minute. There's one more burning question over in the far side. Oh, OK.

QUESTION: I just wanted to let the group know that we have a subscription to dgMarket but I just logged in without signing in. And all you have to do is search for MCC under “Buyers” and you go right to your procurement list.

So it’s quite easy.

MEYER: Thank you so much.

SETHNESS: OK, good. We’ll try that.

There was one more question over here.

Thank you very much.

QUESTION: Good morning.

Could the host country require that local partnership -- that we bid through local partnerships?

MEYER: I’m not -- I mean, if I understand your question correctly I would say no, that we do not allow local preference, extra points for local participation.

SETHNESS: Well, I hope you found this informative.

Again, I thank you all for coming.

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