

Millennium Challenge Corporation  
Program Procurement Guidance

# Guidance on Excluded Parties Verification Procedures in MCA Entity Program Procurements

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## MCC Guidance on Excluded Parties Verification Procedures in MCA Entity Program Procurements

This paper provides guidance on performing eligibility verification procedures during the evaluation of bids and proposals for MCA Entity<sup>1</sup> program procurements<sup>2</sup> in compliance with the MCC Program Procurement Guidelines<sup>3</sup>:

### Background

A firm declared ineligible by The World Bank for any reasons including in accordance with The World Bank Group anti-corruption policies,<sup>4</sup> shall be ineligible to be awarded an MCC-funded contract during the period of time that the firm is sanctioned by The World Bank. In addition, any person or entity that has been blacklisted by The World Bank or debarred or suspended from participation in procurements funded by the United States Federal Government or otherwise prohibited by applicable United States law or executive order or United States policies including under any then-existing anti-terrorist policies shall be excluded from procurements awarded under the Compact.<sup>5</sup> The MCA Entity shall recognize as ineligible any firm found on any of the following:

- Excluded Parties List System (EPLS)--<http://www.epls.gov/>
- World Bank Debarred List--<http://web.worldbank.org/external/default/main?contentMDK=64069844&menuPK=116730&pagePK=64148989&piPK=64148984&querycontentMDK=64069700&theSitePK=84266>
- US Treasury, Office of Foreign Assets Control, Specially Designated Nationals List (SDN)-  
-<http://www.treas.gov/offices/enforcement/ofac/sdn/>
- US Department of Commerce, Bureau of Industry and Security, Denied Persons List (DPL)-  
-<http://www.bis.doc.gov/dpl/Default.shtm>
- US Department of Commerce, Bureau of Industry and Security, The Entity List-  
-<http://www.bis.doc.gov/Entities/Default.htm>
- US State Department, Directorate of Defense Trade Controls, Debarred Parties List-  
-<http://www.pmdtc.state.gov/debar059.htm>

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<sup>1</sup> 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.

<sup>2</sup> In addition to all major procurements, this policy also applies to smaller procurements, including, but not limited to, shopping, small purchases, and leasing.

<sup>3</sup> MCC Program Procurement Guidelines Part 1, Section 1.A, Paragraphs 1.8(d) and (e); Part 1, Section 1.B, Paragraphs 1.11 (d) and (f).

<sup>4</sup> For purposes of this Sub-paragraph, the relevant World Bank Group anti-corruption policies are set forth in the Guidelines On Preventing and Combating Fraud and Corruption in Projects financed by IBRD Loans and IDA Credits and Grants, and in the Anti-Corruption Guidelines for IFC, MIGA, and World Bank Guarantee Transactions.

<sup>5</sup> See MCC Program Procurement Guidelines at Part 1, Section 1.A, Paragraph 1.8(d) and (e).

- US State Department, Terrorist Exclusion List--<http://www.state.gov/s/ct/list/>

### **Eligibility Verification**

The following procedures are to be followed by the MCA Entity (or through its procurement agent) to verify the eligibility of firms, key personnel and subcontractors:

#### ***Partial Eligibility Verification***

The MCA Entity shall verify the eligibility of the consultant or contractor (“partial eligibility verification”) concurrently with the administrative compliance review at the beginning of the bid or proposal evaluation process. If a consultant or contractor is deemed eligible in this first review (i.e., no adverse, material records have been found), the MCA Entity will clear its bid or proposal to proceed to the next step in the evaluation process. If an adverse record(s) has/have been found for one or more contractors or consultants, the MCA Entity must conduct additional research to determine whether the finding is a “false positive.” If it is, the MCA Entity will clear the contractor or consultant for further evaluation and will notify MCC. On the other hand, if after further investigation any firm is found on any of the lists provided above, that firm will be deemed to be ineligible and its proposal or bid will be rejected.

#### ***Full Eligibility Verification***

After completion of the technical review or evaluation the panel may recommend a consultant or contractor for contract award. However, before the panel’s recommendation is approved, the MCA Entity will conduct a “full eligibility verification,” which consists of the same eligibility verification process in the first review with two exceptions: a) only the highest scoring consultant or contractor will be reviewed, and b) the review will also be conducted on all key personnel and subcontractors included in the bid or proposal for that consultant or contractor. In the case where an adverse record(s) is found for the contractor, the consultant, or any of its key personnel or subcontractors, additional research must be conducted to determine whether the finding is a “false positive.” If all positive records are deemed to be false positives, the consultant and/or contractor will be cleared for award and MCC should be notified.

In the event that the MCA Entity finds an adverse record, the bid or proposal will be rejected and the consultant or contractor with the next highest evaluated bid or proposal will then be examined through the full eligibility verification process. If, on the other hand, any of the selected consultant’s or contractor’s key personnel or subcontractors are found to be ineligible at this stage, the MCA Entity will determine whether it is possible under the circumstances to allow the consultant or contractor to make a substitution. This determination will be made on a case by case basis and will require approval by MCC regardless of the estimated value of the proposed contract.

***Periodic Eligibility Verification***

After contract award, MCA Entities shall periodically examine the eligibility of consultants and contractors prior to partial payments according to the requirements of the fiscal accountability plan. During the course of these checks, if any consultant or contractor is found to be ineligible due to its appearance on any of the required lists, the MCA Entity should proceed with contract termination immediately. If any of the selected consultant's or contractor's key personnel or subcontractors are found to be ineligible after contract award, the MCA Entity will determine whether it is possible under the circumstances to allow the consultant or contractor to make a substitution. This determination will be made on a case by case basis and will require approval by MCC regardless of the value of the contract.

**Documentation of Eligibility Verification**

Documentation of the process takes two forms. Two of the lists, EPLS and World Bank Debarred, are searchable databases that return a positive or negative search results page upon submission of a name to be searched. In order to document the eligibility of a given contractor or consultant, the MCA Entity should print out the search results page, which reads, "Your search returned no results," (in the case of EPLS) and, "No Matching Records found!" (in the case of World Bank Debarred List). These documents should be printed and retained as part of the overall record of the procurement.

The other lists, while updated on a regular basis, are statically rather than dynamically searchable, i.e. the user must look for an entry. They are also often quite long, making it administratively burdensome to print out and retain the lists during each search. Therefore, the form in Appendix A provides a space for the MCA Entity to insert the date on which each of these lists was last updated. Each of the websites posts the date somewhere on the list site.

***Partial Eligibility Verification Documentation***

The results of the partial eligibility verification should be documented using the eligibility compliance worksheet which is referenced in the technical evaluation report or technical review report and included as an annex to that report (See Appendix A).

The MCA Entity or its agent must fill out this form contained in Appendix A, inserting "E" for eligible in any instances in which there is NOT an adverse material record that would show a consultant or contractor to be ineligible, and "I" if any consultant or contractor has an adverse material record showing them to be ineligible. In the event that a contractor or consultant has no adverse material records on any of the lists, then they are deemed to be eligible, and this should be indicated by an "E" in the far right column

***Full Eligibility Verification Documentation***

The results of the full eligibility verification should be documented using the eligibility compliance worksheet (see sample in Appendix B), which should be referenced in the technical evaluation report or technical review report and included as an annex to that report.