

Millennium Challenge Corporation
Program Procurement Guidance

Guidance on Reporting and Considering Past Performance by Contractors in MCA Entity Program Procurement

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MCC Guidance on Reporting and Considering Past Performance by Contractors in MCA Entity Program Procurements

This paper provides guidance to the MCA Entity¹ on implementing the provisions of the MCC Program Procurement Guidelines² that contemplate that contractor eligibility to receive and maintain MCC-funded awards shall be affected by such contractor's past performance on MCC-funded contracts. Introducing a complete contractor past performance reporting system ("CPPRS"), this paper includes three parts—the policy, the procedures and the requisite forms. Each will be discussed in turn.

CPPRS Policy

The CPPRS Policy has been put in place, with immediate binding effect, 1) to mandate regular reporting on contractor performance and 2) to facilitate information sharing and standardize use of information relating to performance so that better informed decisions can be made across MCC partner countries regarding awarding new contracts or maintaining current contracts with specific contractors. The MCA Entity shall ensure that, for each procurement resulting in a total contract awarded that is valued or estimated to be valued in excess of USD \$100,000,³ a past performance report on the contractor's performance is submitted at least annually (quarterly if one or more aspects of performance are problematic) during the period of contract performance. To accomplish this, the MCA Entity shall use the CPPRS procedures described herein and the forms contained herein. The MCA Entity shall consult the MCC local office in the MCA Entity's country at specific stages in the procurement process to seek relevant CPPRS information on bidders or potential bidders as further described herein. In addition, each MCA Entity must include a provision within their solicitation document(s), and contracts, as the case may be, to ensure that contractors are aware of the CPPRS obligation and how information gathered as a result of compliance with the CPPRS might be used.

CPPRS Procedures

There are several steps relating to the reporting obligation under CPPRS; they are as follows:

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 May be known as Procurement Guidelines

³ Total value or estimated total value should be based on the base period of performance as well as any option periods of performance.

Completion and Filing of CPPRS Evaluation Forms

1. At least annually and as often as quarterly,⁴ the relevant Project Director⁵ within the MCA Entity accurately and completely fills out a past performance report form for each eligible contractor (contract value > USD\$100,000) using the CPPRS evaluation form set forth herein (the “**CPPRS Evaluation Form**”).⁶ (The form can also be found independently on the MCC website.)
2. The Procurement Director within the MCA Entity then reviews to ensure completion and clarity, including placement of appropriate signatures on the CPPRS Evaluation Form.
3. The Procurement Director within the MCA Entity forwards the CPPRS Evaluation Form to the evaluated contractor for comment. Notice will be deemed given when transmitted in accordance with the notice provisions in the evaluated contractor’s contract. From the time notice is given, the evaluated contractor is given 15 calendar days to provide comments and/or signatures.
4. Upon receipt of any comments and/or signature on the CPPRS Evaluation Form from the evaluated contractor, or if the time lapses for an evaluated contractor’s response without any such response, the Procurement Director within the MCA Entity forwards the CPPRS Evaluation Form to the MCA Entity’s director general or chief executive officer, or whoever is acting in his or her stead, for review and final action.
5. The director general, chief executive officer or the person acting in his or her stead provides final disposition of the contractor’s evaluated performance, including any adjustment to the overall rating he or she, in his or her discretion, deems appropriate. The director general’s role here cannot be delegated.⁷ All CPPRS Evaluation Forms must be endorsed by the director general, chief executive officer or his or her designee prior to being forwarded to the Contracts and Grants Management Division at MCC Headquarters.
6. The MCA Entity then forwards a completed past performance record (“**CPPRS Evaluation Report**”), via e-mail, to mcccpprs@mcc.gov to be incorporated into the CPPRS database. The CPPRS database is an organic tool that amasses information from any CPPRS Evaluation Reports into a simple excel spreadsheet database maintained by MCC staff.

⁴ The obligation to report on performance quarterly is mandatory 1) on all contractors providing fiscal or procurement agent services and 2) on any contractor whose performance is marginal or below in one or more areas.

⁵ The relevant project director is the one in charge of the project for which the evaluated contractor is providing goods, works or services. In the case of program administration contracts, the Procurement Director is the relevant project director, and the deputy chief executive officer will serve as the “Procurement Director” for purposes of steps 2-4.

⁶ The CPPRS Evaluation Form is used to rate contractors in the following four areas: (1) quality of product or service; (2) cost control; (3) timeliness of performance; and, (4) business relations. The above-referenced form contains both rating guidelines for these four areas, as well as, block-by-block instructions to complete the form. An “interim” CPPRS Evaluation Form refers to a past performance record being completed while contract performance is ongoing. The CPPRS Evaluation Form submitted after the contract’s completion is deemed “final”.

⁷ It should be noted, however, that, as regards either the Procurement Director or the Director General/CEO, to the extent that they have any real or apparent conflict of interest, due to a past or ongoing personal relationship or a past professional relationship with the contractor or any of its staff under evaluation, he or she should advise the MCC local office of such conflict. MCC may determine, among other things, that a recusal from the reporting process as relates to that contractor might be appropriate. The MCA Entity shall comply with whatever decision the MCC local office makes.

In terms of the aforementioned steps, it should be noted that all MCA-Entity parties involved with the CPPRS must be free of any and all conflicts of interest relating to the contractor under evaluation. Conflicts of interest would include but are not limited to, personal or professional (other than under the current contract being reviewed) relationships with the contractor under review. If there is any prior or current relationship, other than the contractual relationship giving rise to the need to use the CPPRS, the conflicted MCA-Entity party must recuse himself or herself from their role in CPPRS as it relates to the evaluated contractor and an appropriate substitute should be appointed to perform the conflicted MCA Entity party's function. If there are questions regarding an apparent rather than actual conflict of interest, those should be addressed to the local MCC office.

Checking the CPPRS Database and Consideration of Information contained therein

For eligible procurements, the timing related to when the MCA Entity is obligated to consult the MCC office in country will depend on the category of the procurement. The chart below sets forth the phase at which consultation and consideration of relevant CPPRS Evaluation Reports should occur per procurement category:

	Goods and Works	Consultant and Non-Consultant Services
Consultation should occur as part of:	Prequalification (if applicable), otherwise Qualification	Technical Evaluation

The steps relating to checking and considering CPPRS Evaluation Reports are as follows:

1. The Procurement Director of the MCA Entity shall ensure that contractor past performance is listed appropriately as a criterion to be considered in the relevant documents of all procurements being launched going forward so that bidders are aware that past performance is being considered as well as how it will be considered.
2. Depending on the category of procurement, once the bidder pool or potential bidder pool is identified, the MCA Entity should contact the MCC local office in its country to gather any CPPRS Evaluation Reports submitted for contractors comprising the bidder or potential bidder pool.
3. Once received, the complete file of CPPRS Evaluation Reports shall be transmitted to the body in charge of deliberations relating to the procurement. For goods and works, to the extent a prequalification is held, the information shall be provided to the review panel and shall be given due consideration for purposes of determining which bidders shall be invited to participate in the procurement.⁸ If there is no prequalification phase, the information shall be provided to the review panel at the qualification phase and shall be considered as a qualification factor. For services, both consultant and non-consultant services, the information shall be provided to the technical evaluation panel at the commencement of its deliberations.⁹

⁸ At the prequalification stage, the consideration is weighted.

⁹ During the technical evaluation, the consideration is weighted.

4. The deliberating body shall provide a timely written synopsis to the MCA Entity regarding how consideration of relevant CPPRS Evaluation Reports affected the procurement. If requested by the MCC, the MCA-Entity shall provide the synopsis to the MCC office in its country.