

Excluded Parties Verification Procedures in MCA Entity Program Procurements

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MILLENNIUM
CHALLENGE CORPORATION
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1. Purpose

This paper provides guidance on performing eligibility verification procedures during the evaluation of bids and proposals for MCA Entity¹ program procurements in compliance with the MCC Program Procurement Guidelines (PPG).²

2. Background

A bidder, supplier, service provider, contractor, subcontractor, consultant or sub-consultant shall not be awarded a contract by an MCA Entity (funded by MCC) if they are found to be ineligible because of having engaged in coercive, collusive, corrupt, fraudulent, obstructive, and prohibited practices (including Trafficking in Persons) as defined in Part 10. Eligibility Verification Procedures and Part 14. Combating Trafficking in Persons of the PPG.

To this end, an MCA Entity shall verify the eligibility of all bidders, suppliers, contractors, subcontractors, consultants or sub-consultants who submits quotations, bids and proposals during procurement processes.

A firm declared ineligible by The World Bank for any reason including in accordance with The World Bank Group Anti-Corruption policies,³ shall be ineligible to be awarded an MCC-funded contract during the time period that the firm is sanctioned by The World Bank. In addition, any person or entity shall be excluded from procurements awarded under the compact if such person or entity has been: 1. debarred from participation in procurements funded with The World Bank assistance; or 2. debarred or suspended from participation in procurements funded by the United States Federal Government; or 3. otherwise prohibited by applicable United States law or Executive Order or United States policies including under any then-existing anti-terrorist policies.⁴ The MCA Entity shall recognize as ineligible any firm found on any of the following portals:

- System for Award Management (Excluded Parties List)
 - <https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf>
- World Bank Debarred List — <http://worldbank.org/debarr>
- State Sponsors of Terrorism — <https://www.state.gov/j/ct/list/c14151.htm>
- US Government Consolidated Screening List — <https://www.export.gov/csl-search> (which includes):
 - US Treasury, Office of Foreign Assets Control, Specially Designated Nationals List (SDN)
 - <https://sanctionssearch.ofac.treas.gov/>
 - US Department of Commerce, Bureau of Industry and Security, Denied Persons List (DPL)
 - <http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/denied-persons-list>
 - US State Department, Directorate of Defense Trade Controls, AECA Debarred List
 - https://www.pmdtcc.state.gov/ddtc_public?id=ddtc_kb_article_page&sys_id=c22d1833dbb

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- o US State Department, Foreign Terrorist Organizations List (FTOs)
 - <https://www.state.gov/j/ct/rls/other/des/123085.htm>
- o US State Department, Executive Order 13224
 - <http://www.state.gov/j/ct/rls/other/des/122570.htm>

3. 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

Concurrently with the administrative compliance review which occurs at the beginning of the evaluation process, the eligibility of the bidder or consultant shall be verified in a Partial Eligibility Verification by the MCA Entity. If a bidder or consultant is not deemed to be ineligible in this first review (i.e., no positive records have been found), its bid or proposal will be cleared to proceed to the next step in the evaluation process. If a positive record or records have been found for one or more bidders or consultants, conduct additional research to determine whether the finding is a *false positive*.⁵ If it is, clear the bidder or consultant for further evaluation and notify MCC. On the other hand, if after further investigation any firm is confirmed ineligible, reject that firm's proposal or bid.

Full Eligibility Verification

After completion of the technical review or evaluation the panel may recommend a bidder or consultant for contract award. However, before the panel's recommendation is approved, the MCA Entity conducts a Full Eligibility Verification, which consists of the same eligibility verification process in the first review with two exceptions: 1) only the successful bidder or consultant or contractor is reviewed and 2) the review will also be conducted on all key personnel and subcontractors included in the bid or proposal for that bidder or consultant. In the case where a positive record or records are found for one or more of either the bidder or contractor or any of its key personnel or subcontractors, conduct additional research to determine whether the finding is a false positive. If all positive records are deemed to be false positives, clear the bidder or consultant for award and notify MCC.

If a positive record is found on the consultant or contractor, reject the bid or proposal and examine the bidder or consultant or with the next highest evaluated bid or proposal through the Full Eligibility Verification process. If any of the originally selected bidder or consultant's key personnel or subcontractors are found to be ineligible, the MCA Entity will determine whether it is possible under the circumstances to allow the bidder or consultant 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 and signature, MCA Entities are required to periodically examine the eligibility of consultants and contractors prior to partial payments according to the requirements of the Fiscal Accountability Plan (FAP). During these checks, if any consultant or contractor is found to be ineligible on any of the required lists, proceed with contract termination immediately. If any of the selected consultant or contractor's key personnel or subcontractors are found to be ineligible after contract award and signature, 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.

4. Documentation of Eligibility Verification

Documentation of the process takes two forms. Two of the lists, the System for Award Management (SAM) and the World Bank Debarred List, 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 bidder or consultant, the MCA Entity should print out the search results page, which would read either, "No Search Results," or the name of the entity shaded in green indicating that the firm is registered and eligible (in the case of SAM) and, "No Matching Records found!" (in the case of World Bank Debarred List). These documents should be printed or screen-captured and retained as part of the overall record of the procurement.

The remainder of the lists, while updated on a regular basis, are statically rather than dynamically searchable. They are also often quite long, making it administratively burdensome to print out and retain the lists during each search. Therefore, the [Eligibility Verification Form](#) provides a space for the MCA Entity to insert the date on which each of these lists was last updated or the date the record was viewed. Some of the websites post the date of the update at the site. When this is the case, such a page should be printed or screen-captured and retained as part of the overall record of the procurement.

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 the [Eligibility Verification Form](#)).

The MCA Entity or its agent must fill out the [Eligibility Verification Form](#), inserting "N" for any instances in which there is NOT a positive material record that would show a consultant or contractor to be ineligible, and "Y" if any consultant or contractor has a positive material record showing them to be ineligible. In the event that a contractor or consultant has no positive material records on any of the lists, then they are deemed to be eligible, and this should be indicated by a "Y" in the far-right column. Full Eligibility Verification Documentation

The results of the full eligibility verification should be documented using the eligibility compliance worksheet, which should be referenced in the Combined (Technical and Financial) Evaluation Report or

Technical Review Report (or other pre-award report or documentation) and included as an annex to that report.

Endnotes

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 Part 1, Section 1.A, Paragraphs 1.7-1.9; Part 1, Section 1.B, Paragraphs 1.9 (a) through (c).
3. 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.
4. See MCC Program Procurement Guidelines at Part 1, Section 1.A, Paragraph 1.7-1.9.
5. For the purposes of eligibility verification, a false positive is a record that wrongly indicates that a firm or individual has been positively identified by virtue of having a similar or matching identity or name as another.