



Procurement Notice 2009-001

26 October 2009

MCC/MCA Procurement Community

1. Procurement Notices

MCC will issue Procurement Notices from time to time to inform all MCC and MCA Staff (including Agents and Implementing Entities) of changes to or waivers of the MCC Program Procurement Guidelines (PPG) or the Standard Bidding Documents (SBDs). Upon the issuance of a Procurement Notice, the changes indicated in the notice will be effective immediately, unless the notice specifies another effective date. The changes authorized by the Procurement Notices may be incorporated into the PPG and the SBDs during their next formal revisions. Each Procurement Notice will also be posted on MCC's website. Procurement Notices may also sometimes be referred to as "Interim Amendment Notices."

2. MCC Program Procurement Guidelines

We are pleased to announce the release of the 2009 edition of the PPG. After extensive consultations with MCC staff, MCA entities and others, we have made a number of significant changes to the PPG. The most significant change is the incorporation of the majority of the Procurement Guidance papers into the PPG. All of the changes are summarized in the attached transmittal memo.

The 2009 edition of the PPG is applicable to all procurements beginning after November 1, 2009. A procurement begins when the Specific Procurement Notice is issued. Procurements that began before November 1, 2009 continue to be governed by the July 21, 2008 edition of the PPG or any other MCA-specific guidelines that were in effect.

A Microsoft PowerPoint training presentation explaining the changes to the PPG will be distributed shortly to all MCAs and MCC staff. MCC Procurement Directors will conduct the presentation during their next missions to their respective countries. Brown bag training sessions will be held for MCC staff. Specific questions regarding the revised PPG should be directed to the MCC Procurement Director assigned to the respective country. General questions or suggestions for future improvements to the PPG should be addressed to MCCPPG@mcc.gov.

3. Procurement Guidance Papers

The MCC Procurement Guidance papers that have been incorporated into the PPG will be archived on the MCC website and will not be updated as separate documents.

4. Standard Bidding Documents

The changes to the Eligibility Verification sections of the SBDs for Consulting Services, Goods, Small Works, Large Works, and Design/Build indicated on the attached list of changes are to be incorporated immediately into any solicitation documents being developed that have not been issued. Solicitation documents currently released for contractors' response do not have to be modified.

The works related SBDs (Small Works, Large Works, Pre-Qualification, Design/Build) will be revised shortly to correct identified issues and to standardize certain legal clauses in the contracts. Comments and recommendations for improvement from the MCA Procurement Directors and Procurement Agents, as well as other primary users, are invited. General questions or suggestions for future improvements to the SBDs should be addressed to MCCSBD@mcc.gov.

5. Procurement SharePoint Website

MCC is establishing a SharePoint website that will be accessible to MCC and MCA staff, including the Procurement Agents. The site is intended to be a repository of lessons learned, training presentations, templates and a medium for exchanging ideas among the members of the MCC/MCA procurement community. Further information will be provided in the very near future regarding access and guidance on how to download/upload materials.

Gerard R. Nash
Procurement Coordinator, Sr. Procurement Director
Millennium Challenge Corporation

Standard Bidding Document Changes

The following changes shall be made to the English versions of the SBDs posted on the MCC website. MCAs using the French and Spanish versions of the SBDs should make equivalent changes to those SBDs.

1. Procurement of Consultant Services

1.10.1 Consultants (including their associates, if any), their Personnel and Sub-Consultants shall not be any person or entity under a declaration of ineligibility for Fraud and Corruption in accordance with ITC Sub-Clause 1.98, or that have been declared ineligible for participation in a procurement in accordance with the procedures set out in Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures)~~the MCC Program Procurement Guidance paper entitled “Excluded Parties Verification Procedures in MCA Entity Program Procurements”~~ that can be found on MCC’s website at www.mcc.gov. This would also remove from eligibility for participation in a procurement any firm that is organized in or has its principal place of business or a significant portion of its operations in any country that is subject to sanction or restriction by law or policy of the United States. The countries, firms, organizations and individuals subject to these sanctions and restrictions are subject to change from time to time and it is necessary to refer to the websites identified in Part 10 of the MCC Program Procurement Guidelines for the most current listing of sanctioned and restricted countries.~~As of the date of this Request for Proposals, those countries are [Cuba, Iran, North Korea, Sudan and Syria]. However, the countries subject to these sanctions and restrictions are subject to change from time to time and it is necessary to refer to the web sites identified in the guidance paper referenced above for the most current listing of sanctioned and restricted countries.~~

2. Procurement of Goods and Services

4.3 Bidders and Suppliers (including their associates, if any, Subcontractors, and any of their respective personnel and affiliates) shall not be any person or entity under a declaration of ineligibility for Fraud and Corruption in accordance with ITB Sub-Clause 3.1 above or that has been declared ineligible for participation in a procurement in accordance with the procedures set out in Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures)~~the MCC Program Procurement Guidance paper entitled “Excluded Parties Verification Procedures in MCA Entity Program Procurements”~~ that can be found on MCC’s website at www.mcc.gov. This would also remove from eligibility for participation in a procurement any firm that is organized in or has its principal place of business or a significant portion of its operations in any country that is subject to sanction or restriction by law or policy of the United States. The countries, firms, organizations and individuals subject to these sanctions and restrictions are subject to change from time to time and it is necessary to refer to

~~the websites identified in Part 10 of the MCC Program Procurement Guidelines for the most current listing of sanctioned and restricted countries. Those countries are that are subject to sanction or restriction by law or policy of the United States as of the date of this Bidding Document are specified in the BDS. However, the countries subject to these sanctions and restrictions are subject to change from time to time and it is necessary to refer to the web sites identified in the guidance paper referenced above for the most current listing of sanctioned and restricted countries~~

Bid Data Sheet

ITB 4.3

~~As of the date of this Bidding Document, the countries that are subject to sanction or restriction by law or policy of the United States include [Cuba, Iran, North Korea, Sudan and Syria].~~

~~*{the list of countries must be confirmed and updated as necessary each time this SBD is used in a specific procurement. For example, at the time this version of this SBD was finalized, it was expected North Korea would be removed from the list}.*~~

3. Procurement of Small Works

- 4.6 Bidders and the Contractor (including their associates, if any, Subcontractors, and any of their respective personnel and affiliates) shall not be any person or entity under a declaration of ineligibility for Fraud and Corruption in accordance with ITB Sub-Clause 3.1 above or that has been declared ineligible for participation in a procurement in accordance with the procedures set out in ~~Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures) the MCC Program Procurement Guidance paper entitled “Excluded Parties Verification Procedures in MCA Entity Program Procurements”~~ that can be found on MCC’s website at www.mcc.gov. This would also remove from eligibility for participation in a procurement any firm that is organized in or has its principal place of business or a significant portion of its operations in any country that is subject to sanction or restriction by law or policy of the United States. ~~The countries, firms, organizations and individuals subject to these sanctions and restrictions are subject to change from time to time and it is necessary to refer to the websites identified in Part 10 of the MCC Program Procurement Guidelines for the most current listing of sanctioned and restricted countries. Those countries that are subject to sanction or restriction by law or policy of the United States as of the date of these Bidding Documents are specified in the BDS. However, the countries subject to these sanctions and restrictions are subject to change from time to time and it is necessary to refer to the websites identified in the guidance paper referenced above for the most current listing of sanctioned and restricted countries.~~

Bid Data Sheet

ITB-4.6	<p>As of the date of these Bidding Documents, the countries that are subject to sanction or restriction by law or policy of the United States include [Cuba, Iran, North Korea, Sudan and Syria].</p> <p>[The list of countries must be confirmed and updated as necessary each time this SBD is used in a specific procurement. For example, at the time this version of this SBD was finalized, it was expected North Korea would be removed from the list.][±]</p>
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4. Procurement of Large Works

- 4.6 Bidders and their associates and personnel shall not be any person or firm under a declaration of ineligibility for fraud and corruption in accordance with ITB 3.1 above or that has been declared ineligible for participation in a procurement in accordance with the procedures set out in Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures) ~~the MCC Program Procurement Guidance paper entitled “Excluded Parties Verification Procedures in MCA Entity Program Procurements”~~ that can be found on MCC’s website at www.mcc.gov. This would also remove from eligibility for participation in a procurement any firm that is organized in or has its principal place of business or a significant portion of its operations in any country that is subject to sanction or restriction by law or policy of the United States. The countries, firms, organizations and individuals subject to these sanctions and restrictions are subject to change from time to time and it is necessary to refer to the websites identified in Part 10 of the MCC Program Procurement Guidelines for the most current listing of sanctioned and restricted countries. ~~As of the date of these Bidding Documents, those countries are [Cuba, Iran, North Korea, Sudan and Syria]. However the countries subject to these sanctions and restrictions are subject to change from time to time and it is necessary to refer to the web sites identified in the guidance paper referenced above for the most current listing of sanctioned and restricted countries.~~

5. Procurement of Design/Build Works

- 4.6 A Bidder, all parties constituting the Bidder, any subcontractors and suppliers, and their respective personnel and affiliates, shall not be any person or entity under a declaration of ineligibility for engaging in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices in accordance with ITB 3.1 above or that has been declared ineligible for participation in a procurement in accordance with Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures) ~~the procedures set out in the MCC Program Procurement Guidance paper entitled “Excluded Parties Verification Procedures in MCA Entity Program~~

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~~Procurements~~ that can be found on MCC's website at www.mcc.gov. This would also remove from eligibility for participation in a procurement any person or entity that is organized in or has its principal place of business or a significant portion of its operations in any country that is subject to sanction or restriction by law or policy of the United States. The countries, firms, organizations and individuals subject to these sanctions and restrictions are subject to change from time to time and it is necessary to refer to the websites identified in Part 10 of the MCC Program Procurement Guidelines for the most current listing of sanctioned and restricted countries. ~~Those countries that are subject to sanction or restriction by law or policy of the United States as of the date of these Bidding Documents are specified in the BDS. However the countries subject to these sanctions and restrictions are subject to change from time to time and it is necessary to refer to the websites identified in the guidance paper referenced above for the most current listing of sanctioned and restricted countries.~~

Bid Data Sheet

ITB 4.6	<p>As of the date of these Bidding Documents, the countries that are subject to sanction or restriction by law or policy of the United States include [Cuba, Iran, North Korea, Sudan and Syria].</p> <p>[The list of countries must be confirmed and updated as necessary each time this SBD is used in a specific procurement. For example, at the time this version of this SBD was finalized, it was expected North Korea would be removed from the list.]²</p>
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6. Prequalification of Works

- 4.6 An Applicant, all parties constituting the Applicant, any subcontractors and suppliers, and their respective personnel and affiliates, shall not be any person or entity under a declaration of ineligibility for coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices in accordance with ITA Sub-Clause 3.1 above or that has been declared ineligible for participation in a procurement in accordance with Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures) ~~the procedures set out in the MCC Program Procurement Guidance paper entitled "Excluded Parties Verification Procedures in MCA Entity Program Procurements"~~ that can be found on MCC's website at www.mcc.gov. This would also remove from eligibility for participation in a procurement any person or entity that is organized in or has its principal place of business or a significant portion of its operations in any country that is subject to sanction or restriction by law or policy of the United States. The countries, firms, organizations and individuals subject to these sanctions and restrictions are subject to change from time to time and it is

² ~~This list is subject to revision. Please check with the relevant attorney in the MCC Office of General Counsel prior to the use of this form in any specific Bidding Documents.~~

~~necessary to refer to the websites identified in Part 10 of the MCC Program Procurement Guidelines for the most current listing of sanctioned and restricted countries. Those countries that are subject to sanction or restriction by law or policy of the United States as of the date of this PQD are specified in the PDS. However, the countries subject to these sanctions and restrictions are subject to change from time to time and it is necessary to refer to the websites identified in the guidance paper referenced above for the most current listing of sanctioned and restricted countries.~~

Bid Data Sheet

ITA 4.6	Countries not eligible as a result of sanctions or restrictions are: [Cuba, Iran, North Korea, Sudan and Syria].
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7. Annex A: Additional Provisions (All SBDs)

E.3 The Contractor shall ensure that its activities under this Contract comply with all applicable U.S. Laws, regulations and executive orders regarding money laundering, terrorist financing, U.S. sanctions Laws, restrictive trade practices, boycotts, and all other economic sanctions promulgated from time to time by means of statute, executive order, regulation or as administered by the Office of Foreign Assets Control of the United States Treasury Department or any successor governmental authority, including, 18 U.S.C. § 1956, 18 U.S.C. §1957, 18 U.S.C. § 2339A, 18 U.S.C. § 2339B, 18 U.S.C. § 2339C, 18 U.S.C. § 981, 18 U.S.C. § 982, Executive Order 13224, 15 C.F.R. Part 760, and those economic sanctions programs enumerated at 31 C.F.R. Parts 500 through 598 and shall ensure that its activities under this Contract comply with any policies and procedures for monitoring operations to ensure compliance, as may be established from time to time by MCC, the Employer, the Fiscal Agent, or the Bank, as may be applicable. The Contractor shall verify, or cause to be verified, appropriately any individual, corporation or other entity with access to or recipient of funds, which verification shall be conducted in accordance with the procedures set out in ~~Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC's website at www.mcc.gov, the MCC Program Procurement Guidance paper entitled "Excluded Parties Verification Procedures in Purchaser Program Procurements" that can be found on MCC's website at www.mcc.gov.~~ The Contractor shall (A) conduct the monitoring referred to in this paragraph on at least a quarterly basis, or such other reasonable period as the Employer or MCC may request from time to time and (B) deliver a report of such periodic monitoring to the Employer with a copy to MCC.