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OFFICE OF INSPECTOR GENERAL
for the Millennium Challenge Corporation

**FOLLOW-UP AUDIT OF THE
MILLENNIUM CHALLENGE
CORPORATION'S CONTRACT
AWARD PROCESS**

AUDIT REPORT NO. M-000-07-003-P
September 6, 2007

WASHINGTON, D.C.



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*Office of Inspector General
for the
Millennium Challenge Corporation*

September 6, 2007

Ambassador John Danilovich
Chief Executive Officer
Millennium Challenge Corporation
875 Fifteenth Street, N.W.
Washington, DC 20005

Dear Ambassador Danilovich:

This letter transmits the Office of Inspector General's final report on the *Follow-up Audit of the Millennium Challenge Corporation's Contract Award Process* for your review and comments. Although there were no recommendations for your action, we did consider your comments to the draft report and have included those comments in their entirety in Appendix II of this report.

I appreciate the cooperation and courtesy extended to my staff during this audit.

Sincerely,

John M. Phee /s/
Assistant Inspector General/Millennium Challenge Corporation

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SUMMARY OF RESULTS

This follow-up audit was conducted to determine whether the Millennium Challenge Corporation (MCC) took appropriate corrective actions on nine recommendations made by the Office of Inspector General (OIG) in the *Audit of the Millennium Challenge Corporation's Contract Award Process*, Audit Report No. M-000-06-001-P, October 11, 2005.

In response to the recommendations from the prior audit report, MCC acknowledged the applicability of the Federal Acquisition Regulation (FAR) and has taken actions to incorporate the FAR into its procurement operations. These actions included (1) strengthening its small business program by developing a *Small Business Program Handbook*; (2) establishing small business procurement goals; and (3) reporting its contracting actions to a centralized Federal database so that progress toward goal achievement can be assessed (see pages 3 and 4).

MCC improved its controls in the contracting process. It developed a requirement and standard formats for justifications related to sole-source procurements to help ensure that the need for sole-source contracts was warranted and properly authorized. It clarified the roles and responsibilities of MCC officials in the procurement process to help prevent unauthorized contracting actions (see pages 4 and 5).

The results of this follow-up audit show that MCC has taken appropriate corrective action on each of the nine recommendations from the previous audit. Thus, the OIG has no additional recommendations at this time.

BACKGROUND

In October 2005, the Assistant Inspector General for the Millennium Challenge Corporation (MCC) issued an audit report entitled *Audit of the Millennium Challenge Corporation's Contract Award Process*. Overall, the report concluded that MCC had complied with certain requirements of the Federal Acquisition Regulation (FAR). However, the report identified several areas for further improvements:

- MCC believed there was flexibility in the applicability of Federal procurement regulations to MCC,
- MCC did not always provide adequate and sufficient documentation for its sole-source procurements,
- MCC nonprocurement personnel did not always follow procurement regulations or their actions created the appearance of partiality,
- MCC had not established policies and procedures regarding the use of personal services contractors (PSCs), and
- MCC allowed a non-US citizen to work at its headquarters without ensuring that the individual had eligibility to work in the United States.

The Office of Inspector General (OIG) issued nine recommendations to correct these deficiencies. MCC concurred with all nine recommendations and agreed to implement corrective actions to address them. It is the responsibility of MCC to determine when satisfactory final action on the audit recommendations has been achieved. MCC communicates to the OIG when the final actions have occurred.

AUDIT OBJECTIVE

This follow-up audit was conducted to determine whether MCC had taken appropriate corrective actions on nine recommendations made by the OIG in the *Audit of the Millennium Challenge Corporation's Contract Award Process*, Audit Report No. M-000-06-001-P, October 11, 2005.

This follow-up audit was conducted to answer the following question:

Did the Millennium Challenge Corporation take corrective actions to justify final actions on the recommendations from the *Audit of the Millennium Challenge Corporation's Contract Award Process*, Audit Report No. M-000-06-001-P, October 11, 2005?

Appendix I contains a discussion of the audit's scope and methodology.

AUDIT FINDINGS

MCC has taken appropriate actions to justify final action (i.e., justify closure of recommendation) on all nine recommendations made by the OIG in *Audit of the Millennium Challenge Corporation's Contract Award Process*, October 11, 2005. Generally, the nine recommendations addressed noncompliance with laws and regulations, such as the FAR and the Small Business Act, and the OIG recommended that MCC develop policies and procedures to help ensure future compliance. Detailed below are each of the recommendations and a summary of the work done in this audit by the OIG to identify MCC's actions to address the recommendations. Each of the summaries contains an OIG conclusion as to whether the actions constitute final action on the recommendations.

Recommendation No. 1: *We recommend that the Millennium Challenge Corporation prepare a memorandum acknowledging applicability of Federal procurement laws and regulations to MCC domestic operations and distribute the memorandum to all MCC staff.*

In response to Recommendation No. 1, MCC issued a memorandum on October 24, 2005, to all staff reemphasizing that MCC follows the FAR as a matter of law. Further, in a discussion with procurement officials, MCC pointed out that the Procurement Operating Policies that augment the FAR were posted on the MCC Web site, and all MCC employees have access to this information. The audit work related to the other recommendations—in particular, with regard to small business programs and sole-source acquisitions—showed that MCC was following the FAR. The OIG believes the actions taken by MCC were sufficient to constitute final action to address the recommendation.

Recommendation No. 2: *We recommend that the Millennium Challenge Corporation prepare and implement a business and economic development program for its domestic procurements that provides consistent guidance and establishes internal guidelines for its contracting and program personnel to implement the laws and regulations concerning procurement preference programs.*

In response to Recommendation No. 2, MCC issued the *Small Business Program Handbook* in October 2006, which acknowledged the applicability of FAR, Part 19, "Small Business Programs," and augmented these regulations. The *Handbook* includes guidance on the roles and responsibilities of procurement officials in (1) implementing MCC's small business program, (2) preparing the procurement forecast to identify planned procurements and update the Small Business Administration (SBA), and (3) developing the annual procurement preference goals. The OIG believes that the actions taken by MCC were sufficient to constitute final action to address the recommendation.

Recommendation No. 3: *We recommend that the Millennium Challenge Corporation through negotiation with the Small Business Administration (SBA) establishes annual performance preference goals.*

MCC established small business procurement goals on January 30, 2006. Its goals coincide with the minimum statutory small business procurement goals by percentage of dollars expended for contracts by Federal agencies:

- 23 percent of contracts for small businesses,
- 5 percent of contracts for women-owned small businesses,
- 5 percent for small disadvantaged businesses,
- 3 percent for HUBZone¹ small businesses, and
- 3 percent for service-disabled veteran-owned small business.

The SBA's 8(a) Business Development Program does not have a statutory procurement goal. In consultation with the SBA, MCC established a goal of 3 percent. MCC contacted and obtained approval of the SBA for its required goals. The OIG believes that the actions taken by MCC were sufficient to constitute final action to address the recommendation.

Recommendation No. 4: *We recommend that the Millennium Challenge Corporation establish a plan, including implementation dates, for installing a contract information reporting system to provide information to the Federal Procurement Data System.*

MCC commenced coding its contract information into the Federal Procurement Data System (FPDS) on October 1, 2005, and continued to do so as evidenced by the FPDS Register reports obtained during the audit.² To validate the information input into FPDS, the OIG selected a judgmental sample of data input and found that the coding was accurate. The OIG believes that the actions taken by MCC were sufficient to constitute final action to address the recommendation.

Recommendation No. 5: *We recommend that the Millennium Challenge Corporation establish procurement policies and procedures that contain specific requirements for the use of sole source acquisitions, including what elements must be contained in the sole source justification and in contract file documentation such as (1) specific identification of how the contractor was chosen, (2) what attempts were made to find other sources and what other sources were contacted, and (3) identifying pricing information obtained from similar sources.*

MCC established policies and procedures for sole-source acquisitions in its Procurement Operating Procedures. These policies and procedures incorporated the requirements of FAR, Subpart 6.3, "Other Than Full and Open Competition," and depending on the contract dollar amount, included two standard formats for Justification of Other than Full and Open Competition. The justification for contracts exceeding \$100,000 included a description of MCC's efforts in soliciting as many sources as possible and the market research conducted. For contracts of \$100,000 or less, MCC uses FAR's simplified acquisition procedures, which do not contain the same competitive requirements as large-dollar acquisitions. Both justifications require the contracting officer to determine

¹The HUBZone (Historically Underutilized Business Zone) Empowerment Contracting Program provides Federal contracting opportunities for qualified small businesses located in distressed areas.

² MCC met the intent of the OIG's recommendation by providing information to the Federal Procurement Data System although it did not establish a plan or install a contract information reporting system to do so. MCC did not believe that these intermediate steps were necessary because FPDS could be immediately and readily accessed through the FPDS Web site.

and certify that the anticipated cost to the Government will be fair and reasonable. The OIG believes that the actions taken by MCC were sufficient to constitute final action to address the recommendation.

To validate that MCC was complying with its policy on sole-source acquisitions, the OIG selected and reviewed a judgmental sample of five sole-source contract actions relating to three contracts. It found that MCC had completed a written sole-source justification for each of the three contracts.³ The justifications detailed the solicitation process and market research and contained the contracting officer's certification that the pricing was fair and reasonable. As such, MCC complied with its policy on sole-source acquisitions for the contract actions reviewed.

Recommendation No. 6: *We recommend that the Millennium Challenge Corporation establish clear written policies—to be incorporated into existing in-house training courses—that delineate what pre-award and solicitation activities personnel can engage in and what specific actions they must avoid.*

MCC incorporated into its Contracting Officer Technical Representative (COTR) training course the acquisition responsibilities of the contracting officer and the COTR. The training course identifies the limitations of the COTR and specifically states that “As a COTR, you have no authority to enter into contracts, task/call orders or purchase orders and you have no authority to modify the same.” This recommendation was made in October 2005, and MCC's procurement operations have since evolved. MCC now accepts that the FAR applies to its domestic procurement operations. The FAR contains detailed guidance on the contracting authority of agency officials in Subpart 1.6, “Career Development, Contracting Authority, and Responsibilities.” The OIG believes that the actions taken by MCC were sufficient to constitute final action to address the recommendation.

Recommendation No. 7: *We recommend that the Millennium Challenge Corporation decline to exercise the option years for the staff recruitment blanket purchase agreement cited in the audit report.*

On March 13, 2006, MCC sent a letter to the staff recruitment firm declining to exercise the option years beyond the base year contract. The OIG believes that the actions taken by MCC were sufficient to constitute final action to address the recommendation.

Recommendation No. 8: *We recommend that the Millennium Challenge Corporation establish a policy covering contracting for personal services contracts (PSCs) that identifies any limitations on a PSC's duties, salaries (including negotiation and computation), and benefits.*

In response to this recommendation, MCC formally established a policy in January 2006 in its Procurement Operating Procedures (chapter 37) that covered contracting for PSCs. The policy identified limitations on PSCs' duties, salaries, and benefits. The OIG

³ The sample universe consisted of client-identified sole-source contracts from February 2006, the date of policy inception, to May 2007, the date of the OIG request. The judgmental sample consisted of the high-dollar contract and related contract actions as well as two other contracts totaling \$1.09 million, or 47 percent of the total dollar amount of contract actions during the period reviewed.

believes that the actions taken by MCC were sufficient to constitute final action to address the recommendation.

In addition, to test the reasonableness of the established limitations, the OIG compared MCC's policies with other U.S. Government international development agencies (namely, the State Department and USAID) to determine whether MCC's PSC policy was comparable to theirs. Based on a comparative analysis, the OIG concluded that MCC's PSC policy was comparable to these other agencies' PSC policies in terms of duties, salaries, and benefits.

Recommendation No. 9: *We recommend that the Millennium Challenge Corporation develop policy and procedures to require documentation of the work status of non-citizen individuals to perform work for MCC in the United States.*

To address this recommendation, MCC signed a contract with My Biz, a firm that processes all contractors' applications. As part of the My Biz requirements, all applicants must submit a notarized and completed I-9 form, which is an employment eligibility verification form required by the U.S. Immigration Reform and Control Act. The OIG believes that the actions taken by MCC were sufficient to constitute final action to address the recommendation.

In addition, the OIG reviewed MCC's contract with My Biz to determine whether the contract specifically required My Biz to verify applicants' employment eligibility. Based on the review, the OIG determined that the contract satisfied this requirement.

Further, the OIG judgmentally selected five contractors' applications processed by My Biz to determine whether the required I-9 form was processed as part of the application process. The OIG found that all applicants had submitted this required form.

EVALUATION OF MANAGEMENT COMMENTS

Management concurred that all prior recommendations had been addressed and appreciated the support of the Office of Inspector General for the actions that the MCC had taken to address the nine recommendations.

SCOPE AND METHODOLOGY

Scope

The Assistant Inspector General for the Millennium Challenge Corporation (MCC) conducted this follow-up audit of MCC's contract award process in accordance with generally accepted auditing standards.

In conducting this follow-up audit, the audit team assessed MCC's adherence to select requirements of the Federal Acquisition Regulation (FAR) during the timeframe of October 2005 through June 2007. The audit fieldwork was conducted from May 15, 2007, through June 28, 2007, at MCC headquarters in Washington, DC.

Methodology

In planning and performing the audit work, the audit team conducted interviews with MCC officials in the procurement department. These interviews were conducted to obtain and identify relevant information on management actions taken to address the nine recommendations in a prior audit report. The audit team also interviewed an official in MCC's Security Office to assess how MCC determined the eligibility of personal services contractors (PSCs) to work in the United States.

In addition, the audit team performed the following steps:

- Identified and judgmentally selected three sole-source procurements to ensure that MCC complied with the FAR,
- Reviewed MCC data input into the Federal Procurement Data System to ensure their accuracy,
- Reviewed and compared MCC's policies and procedures on PSCs with those of other judgmentally selected U.S. Government international development agencies,
- Judgmentally selected five consultants' contracts and reviewed related documents to determine MCC's compliance with its policies on PSCs, and
- Interviewed personnel from the Small Business Administration to obtain information on its requirements for Federal agencies.

MANAGEMENT COMMENTS



MEMORANDUM

August 24, 2007

TO: John Phee
Assistant Inspector General for the Millennium Challenge Corporation

FROM: Michael Casella /s/
Deputy Vice President for Administration and Finance

SUBJECT: MCC Management Comments on Follow-up Audit of the Millennium
Challenge Corporation's Contract Award Process

The MCC appreciates the opportunity to respond to the text and recommendations of this follow-up audit. The MCC concurs with the findings of the audit, and appreciates the support of the Office of the Inspector General for the actions that the MCC has taken to address the nine recommendations contained in the original audit. The MCC looks forward to continued cooperation with the OIG as we work to maintain a compliant and effective contract awards process.

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