



INTERIM BID CHALLENGE SYSTEM Belize

Effective Date: 4-May-2023

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Definitions

Words and terms: Definitions apply to the entire document unless specifically defined in another part, subpart, section, provision, or clause. Words or terms defined in a specific part, subpart, section, provision, or clause have that meaning when used in that part, subpart, section, provision, or clause. Undefined words retain their common dictionary meaning.

Capitalized terms used in this document have the meanings set forth in the Definitions section.

Appeal	A request to MCC for review of the Protest decision by the CDT- <i>Belize</i> .
Business Day	Any day in <i>Belize</i> that is not a (i) public holiday, (ii) weekend, or (iii) day when work is suspended by public authorities due to natural calamities.
Protestor	An Offeror who files a Protest.
Compact	The Millennium Challenge Compact which <i>Belize</i> and the United States of America intend to signed, pursuant to which MCC would provide a US Dollar grant to <i>Belize</i> for a program to reduce poverty through economic growth in <i>Belize</i> .
Compact Development Funding (CDF) Grant Agreement	The funding agreement between the <i>Belize</i> and the United States of America, acting through MCC, signed on <i>March 1, 2023</i> , as the same may be amended from time to time.
Compact Development Team (CDT-<i>Belize</i>)	A government body assigned by the government of Belize to develop the Compact with MCC. Until the government establishes a MCA Belize and this MCA adopts a Bid Challenge System, all references to CDT- <i>Belize</i> will also be applicable to MCA- <i>Belize</i> .
Debriefing	A mechanism by which Offerors have an opportunity to obtain feedback from the CDT- <i>Belize</i> to ascertain the grounds on which its offer was not selected.
Interim Bid Challenge System (IBCS):	This Interim bid challenge system and the rules and procedures set forth herein.
MCC	Millennium Challenge Corporation, a United States federal government agency that provides grants funds for the procurements undertaken by the CDT- <i>Belize</i> .
Offeror	Any firm or individual that participates in a CDT- <i>Belize</i> procurement process to provide goods, works or services.
Procurement Agent or Interim Procurement Agent	The natural or legal person acting as procurement agent on behalf of the Government accountable entity to conduct the procurements.
PPG	The MCC Program Procurement Guidelines, as the same may be amended from time to time.
Procurement Rules	The PPG, or the solicitation documents applicable to the challenged procurement action, or both.
Protest	A request that a procurement action be reviewed in accordance with this

	IBCS.
Protest Fee	A fee that needs to be submitted by the Offeror to file a protest.
Secretariat	The CDT personnel designated by the CDT to act as the secretariat for proceedings under this IBCS.

BACKGROUND

On March 1, 2023, the United States of America, acting through the Millennium Challenge Corporation (“*MCC*”) and the Government of Belize (the “*Government*”), acting through the Ministry of Finance, Economic Development and Investment signed a Compact Development Funding Grant Agreement (“*Grant Agreement*”) pursuant to which MCC agreed to provide a grant of up to ten million United States Dollars (US\$10,000,000) to the Government for the purpose of providing the Government with funds and resources to support and assemble a team to facilitate successful development of a compact program to reduce poverty through economic growth. The Government has designated the Belize Compact Development Team (“*CDT-Belize*”) to oversee and implement the grant program in accordance with the terms of the Grant Agreement.

The Grant Agreement requires the Government (including any designee) to ensure that it procures all goods, works and services to implement the grant program in accordance with the MCC Program Procurement Guidelines (“*PPG*”).

The PPG further requires that the CDT establish and publish an Interim Bid Challenge System (“*IBCS*”) that provides Offerors the ability to challenge and seek review of the CDT procurement actions and decisions.

This IBCS must be included in all solicitation documents issued by the CDT.

- **For a CDF Agreement or Compact**, this IBCS remains applicable in procurements launched prior to the Government’s adoption of a formal Bid Challenge System (BCS), which usually takes place after establishing the Millennium Challenge Account Entity (MCA-Compact country) and hiring a Procurement Agent.

This IBCS does not apply to procurements that are conducted through (a) Shopping methodology, and/or (b) Individual Consultant selection methodology for which the CDT has adopted a modified version of this IBCS, called the IBCS-IS.

This IBCS applies only to Protests during the procurement process, and not to examine or review the implementation or conduct of any contract once awarded.

1. DEBRIEFING

Prior to filing a Protest related to the results of the evaluation, the Offerors are required to request a Debriefing from the CDT. The Debriefing request to the CDT must be submitted via e-mail to the Secretariat of the CDT at the email address below within **two (2) Business Days** after receipt of the notice from the CDT that gives rise to the reasons for the Protest. The CDT shall provide a written response via email within **three (3) Business Days** of receiving the request for Debriefing. The request for Debriefing is not considered a Protest.

At the discretion of the Offeror, the Debriefing can be conducted in writing via email from the CDT, or via video-conference, or in-person by the Offeror's visit to the CDT offices.

Under no circumstances will the CDT require an Offeror to be present in-person and/or pay for such visit.

The Email Address for the Secretariat of the CDT should be: aosorio.BCDT@med.gov.bz with a copy to ahoare.BCDT@med.gov.bz

2. PROTESTS

If the Offeror is not satisfied with the Debriefing, it may file a Protest according to the procedures given below. Any Offeror that submits a Protest is referred to herein as a "Protestor".

If the Offeror wishes to protest an element of the Request for Proposals, Invitation for Bids, or other solicitation document, it will not request a debriefing (since the evaluation has not taken place), but it may submit a protest prior to the deadline for proposals or bids.

The CDT shall consider a Protest from any Offeror that claims to have suffered or may suffer loss or injury due to a breach of a procurement procedure as given in the PPG and/or in the solicitation document of the said procurement by the CDT in the conduct of any procurement.

Any Offeror may file a Protest, with the following exceptions: (a) sub-contractors, sub-consultants and members of the general public are not permitted to file a Protest; (b) a Protest cannot be used to cure a deficiency in the Offeror's Offer; (c) a Protest cannot be used to allege fraud, corruption or intent of wrong doing in the procurement process; such allegations must be filed in accordance with MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations, a copy of which is available on MCC's website <https://www.mcc.gov/resources/doc/policy-fraud-and-corruption>.

The following procurement actions shall not be the subject of a Protest:

- (i) The selection of a **procurement methodology** (e.g., Shopping, QCBS, QPBS, QBS, etc.)
- (ii) The selection of **the type of procurement** (e.g., goods, works, non-consultant services, or consultant services)
- (iii) The decision by the CDT to **reject all Offers and/or cancel** the procurement;

- (iv) Technical scores assigned by the CDT, when applicable, assigned unless the Protestor can demonstrate to the satisfaction of the CDT that determination of such scores is arbitrary or capricious or characterized by an abuse of discretion.

An unsubstantiated or false allegation of this will result in the CDT declaring the Protest frivolous and confiscating the Protest Fee (see below).

For a Protest to prevail, a Protestor must prove by clear and convincing evidence that: (a) the procurement action (i) violates the Procurement Rules or (ii) is arbitrary or capricious or characterized by an abuse of discretion; and (b) the Protestor has suffered or will suffer loss or injury because of the procurement action taken by the CDT on its offer.

A Protest cannot be filed against/for a procurement action taken by the CDT on the offer of any other Offeror.

3.1 Protest Procedures

Protests must be filed in accordance with the procedures below. Any Protest that is not filed in accordance with such procedures will be rejected, with a notice of rejection citing the violation via email.

- a) The Protests can only be filed in English language. The Protestor at this stage, must file its Protest with the Secretariat of MCA-Belize at or before 5:00 p.m. (local time at the CDT *Belize City, Belize*) of the 5th Working Day after Debriefing.
- b) A Protest must be substantially in the form set forth in Annex A and must state at least the information required in said form.
- c) Form Annex A, proof of payment of the required Protest Fee, and all the attachments must be sent to the CDT via email by the Protest deadline.
- d) In form Annex A, the Protestor must include the requested remedy or relief, which may be one of the following, (1) compensation for any reasonable and verifiable cost of bid preparation and Appeal, subject to a price reasonableness analysis in accordance with the PPG and excluding attorney fees or lost profits; (2) revision of the procurement proceedings to conform to the applicable guidelines; (3) cancellation of the procurement; or (4) request a new procurement. No other remedy is allowed.
- e) A Protestor must pay the appropriate Protest Fee before the Protest in order to be considered by CDT for review. The Protest Fee shall be (i) in the amount of US\$500.00 (or its equivalent in a local currency) (ii) paid by depositing the same with the Secretariat as per the instructions provided in the Debriefing response.
- f) MCA will return the Protest Fee if the Protest is upheld in full.
- g) Nonpayment of the Protest Fee will result in rejection of the Protest without any consideration.
- h) All Protests filed in violation of above criteria will be declared frivolous, and the Protest Fee will be confiscated.

The Secretariat shall no later than 5:00 p.m. (local time at the CDT *Belize City, Belize*) on the first Business Day after the date when a Protest is filed:

1. Send an acknowledgement of the receipt of the Protest to the Protestor;
2. Send a copy of the Protest to the Interim Procurement Director of the CDT.

The CDT may decide to immediately suspend the procurement at its sole discretion if the Protest clearly shows that the Protestor and/or other Offerors and/or general public in the *Belize* will suffer irreparable harm if the challenged procurement is not suspended.

For the avoidance of doubt, any Protest that was not filed in accordance with the above procedures and in a timely manner and that was rejected as a result of such failure, will not result in any suspension of the relevant procurement action.

3.2 Review and Decision of the Protest

The CDT shall, within **ten (10) Business Days** after submission of the Protest, issue a written decision to the Protestor, and:

1. If the Protest is upheld in whole or in part, indicate the corrective measures that shall be taken by the CDT and the evidence that the Protest Fee is being returned to the Protestor.
2. If the Protest is rejected, stating the reasons for the rejection and that the Protest Fee will be confiscated.

3. APPEALS

If the Protestor is not satisfied with the decision of the CDT on its Protest, it may submit an Appeal to MCC per the following procedures. Any Protestor that submits an Appeal is referred to herein as the “Appellant.”

The Protestor may seek review by MCC after it has received the decision from CDT *Belize* within **five (5) Business days** (the Protestor’s local date and time) after it receives or should have received the decision of the CDT by sending an email request to MCC at the email addresses below.

MCC’s review of the Appeal will be limited to the Appellant claims that (a) CDT failed to consider its Protest, (b) the CDT failed to issue a written decision via email on the Protest within the time specified in this IBCS, or (c) the CDT violated the Procurement Rules in making its determination on the Protest.

MCC will issue a final decision within **ten (10) Business Days** of the receipt of the Appeal.

An Appeal:

- 1.1.1. Must be in the form set forth in Annex B, An Appeal must be in the form set forth in **Annex B**, and must state all the information required in the form.
1. Must include all the documents submitted by the Appellant to the CDT,
2. Must not allege any theory or argument that was not alleged in the Protest,
3. Must not assert any new information or include any new documents that were not provided to the CDT, and
4. Must indicate the requested remedy or relief, which may only include:
 - a) Compensation for any reasonable and verifiable cost of bid preparation and Appeal, subject to a price reasonableness analysis in accordance with the PPG and excluding attorney fees or lost profits;
 - b) Revision of the procurement action to conform to the PPG;
 - c) Termination of the procurement; or
 - d) Order a new procurement.

The Appeal should be addressed to and sent via email to:

Millennium Challenge Corporation

Attention: Vice President, Department of Compact Operations
(With a copy to the Vice President and General Counsel)
1099 14th Street NW
Suite 700, Washington, DC 20005-3550
United States of America

Email: VPOperations@mcc.gov (Vice President for Compact Operations)
VPGeneralCounsel@mcc.gov (Vice President and General Counsel)

Annex A - Protest Form

Offeror		
Name:		
(For legal persons only) Country under whose laws the Protestor is organized:		
Postal address for Protest purposes:		
Email address for Protest purposes:	Telephone number for Protest purposes:	Fax number for Protest purposes:
Name of authorized representative for the Protest (if any):		
Signature of Protestor's authorized representative:		

Challenged Procurement
Name:
Number:

Protest	
Date when Offeror became aware of procurement action:	Date of Filing of Protest:
Description of Procurement Action:	
Procurement Rules provisions violated by procurement action:	
Explanation of reason why procurement action constitutes a violation of the procurement rules in the MCC PPG or in the solicitation document of the said procurement:	
Explanation of reason why the Offeror has been or will be harmed by Procurement Action:	
If Offeror requests suspension of the Challenged Procurement, explanation of reason why Offeror will suffer irreparable harm if the Challenged Procurement is not suspended:	

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Relief Sought
Description of relief sought:
Explanation of reason why Offeror is entitled to relief sought:

Instructions:

- 1. Please use additional sheets for the required information if necessary.
- 2. Please attach copies of the relevant documents if available.

Annex B - Form of Appeal

Appellant		
Name:		
Postal address for appeal purposes:		
Email address for Appeal purposes:	Telephone number for Appeal purposes:	
Name of authorized representative for the Appellant (if any):		
Signature of Appellant or authorized representative:		

Challenged Procurement
Name:
Number:

Appeal	
Date when Appellant became aware of the CDT Decision:	Date of Filing of Appeal:
Explanation of reason why the Appellant believes that the CDT failed to decide the Protest in accordance with the Level 1 Authority's duty:	

Relief Sought
Description of relief sought:
Explanation of reason why the Appellant is entitled to relief sought:

Instructions:

1. Please attach a copy of each of the following documents, if available to the Appellant: (a) the Protest and its attachments, and any Comment and their attachments, if any, and (b) the CDT decision.
2. Please use additional sheets for the required information if necessary.