



BAKER TILLY DALAIVAN AUDIT

INDEPENDENT AUDITOR'S REPORT

MILLENNIUM CHALLENGE ACCOUNT MONGOLIA

Audit of the Fund Accountability Statement of the Millennium Challenge Corporation (MCC) Resources Managed by MCA-Mongolia under the Compact Agreement dated July 27, 2018 between MCC and the Government of Mongolia for the period May 3, 2017 to March 31, 2021

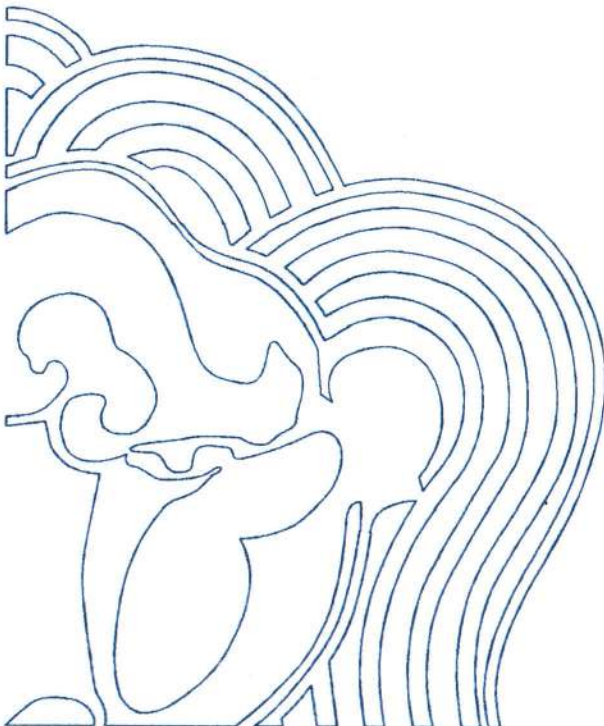


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MCA-Mongolia's Board of Directors

Voting members

| | |
|-----------------|--|
| B. Battsetseg | Chairman, Minister for Foreign Affairs of Mongolia |
| D. Ganbold | Member, State Secretary of the Ministry of Environment and Tourism |
| S. Magnaisuren | Member, State Secretary of the Ministry of Construction and Urban Development |
| S. Narantsogt | Member, State Secretary of the Ministry of Finance |
| B. Nasantogtokh | Member, State Secretary of Ministry of Energy |
| T.Gantumur | Member, General Manager of Ulaanbaatar City and Head of the Governor's Office |
| N.Batsukh | Member, Professor, Geology and Hydrogeology Department of School of Geology and Mining Engineering, Mongolian University of Science and Technology |
| B.Tsolmon | Chief Executive Officer of the Zorig Foundation |
| O.Amartuvshin | President of MNCCI |

Non-voting members

| | |
|--------------|---|
| Alex Russin | Member, MCC Resident Country Director in Mongolia |
| E.Sodontogos | Member, Chief Executive Officer of MCA-Mongolia |

MCA-Mongolia's Management Team

| | |
|----------------|---|
| E.Sodontogos | Chief Executive Officer |
| S.Zorigt | Deputy Chief Executive Officer |
| P.Bayar | General Counsel |
| B.Batbayar | Director of Internal Audit |
| B.Batsukh | Downstream Wells Director |
| T.Khishigt | Wastewater Recycling Director |
| L.Unurjargal | Sustainability Director |
| B.Uuganbayar | Monitoring and Evaluation Director |
| A.Otgonchimeg | Gender and Social Inclusion Director |
| G.Uranchimeg | Director of Finance |
| E.Enkhgerel | Program Administration Director |
| T.Enkhtungalag | Procurement Director |
| Ts.Dashzeveg | Environmental and Social Performance Director |
| B.Amarsanaa | Communications Director |

List of abbreviations

| | |
|--------------|---|
| AICPA | American Institute of Certified Public Accountants |
| CDF | Compact Development Funding |
| C-CDF | Compact CDF |
| CHP | Combined heating and power plant |
| CPS | Common Payment System |
| CWWTP | Central Wastewater Treatment Plant |
| FA | Fiscal Agent |
| FAP | Fund Accountability Plan |
| GAGAS | Generally Accepted Government Auditing Standards |
| IBC | Interior Business Center |
| ICOFR | Internal Control over Financial Reporting |
| MCC | Millennium Challenge Corporation |
| MCA-Mongolia | Millennium Challenge Account - Mongolia |
| MICPA | Mongolian Institute of Certified Public Accountants |
| MNCCI | Mongolian National Chamber of Commerce and Industry |
| MOFA | Ministry of Foreign Affairs |
| MOET | Ministry of Environment and Tourism |
| MOE | Ministry of Energy |
| MOCUD | Ministry of Construction and Urban Development |
| MNT | Mongolian Tugrugs (national currency of Mongolia) |
| NSO | National Statistical Office |
| OSNAAUG | Department of Housing and Public Utilities |
| PA | Procurement Agent |
| TDB | Trade and Development Bank |
| WSRC | Water Services Regulatory Commission |
| USUG | Water Supply and Sewerage Authority |
| USA | United States of America |
| US\$ | U.S dollars |



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Transmittal Letter

Subject: Audit of the Fund Accountability Statement of the MCC Resources managed by the MCA-Mongolia under the Grant and Implementation Agreement dated May 3, 2017 and Compact Agreement dated July 27, 2018 between the United States of America acting through the Millennium Challenge Corporation and the Government of Mongolia acting through the Ministry of Foreign Affairs for the period May 3, 2017 to March 31, 2021

Dear Sirs,

We are pleased to present our report on the MCC Resources managed by the MCA-Mongolia for the period May 3, 2017 to March 31, 2021. This report is prepared in accordance with the terms of reference specified in the contract between Baker Tilly Dalaivan Audit LLC and MCA-Mongolia dated April 1, 2021.

1. Background

The Government of Mongolia ("the Government") acting through the Ministry of Foreign Affairs and the United States of America acting through the Millennium Challenge Corporation ("MCC") have entered into (a) The Grant and Implementation Agreement on May 3, 2017 and duly amended on July 17, 2020 in an amount not to exceed US\$12,025,150 for the development and facilitation of implementation of a Millennium Challenge Compact and (b) the Millennium Challenge Compact ("Compact") on July 27, 2018 in the total amount of US\$350,000,000. The Compact amount includes (i) MCC Grant to the Government an amount not to exceed US\$321,940,000 ("Program Funding") for use by the Government to implement the Water Supply Project and (ii) MCC Grant to the Government, in addition to the Program Funding, an amount not to exceed US\$28,060,000 ("Compact CDF") under Section 609 (g) of the Millennium Challenge Act of 2003 for use by the Government to facilitate implementation of the Compact. Those parties signed the Program Implementation Agreement on March 5, 2019.

In addition, pursuant to the terms of the Compact, the Government committed to make a contribution of US\$111,760,000 over the Compact term toward meeting the Project objectives of the Compact or less as provided in the agreement.

The objective of the Water Supply Project is to meet the projected demand for water in Ulaanbaatar for residential consumers and commercial and industrial users. The Water Supply Project supports series of strategically important investment to achieve the following activities:

- (i) Downstream Wells Activity;
- (ii) Wastewater Recycling Activity; and
- (iii) Water Sector Sustainability Activity

2. Audit Objectives and Scope

The objective of this audit engagement is to conduct a financial audit of the MCC resources managed by MCA-Mongolia in accordance with U.S. Government Auditing Standards issued by the Comptroller General of the United States and the MCC Accountable Entities Guidelines for Contracted Financial Audits. The audit covered the Fund Accountability Statement for CDF for the period May 3, 2017 to March 31, 2021, Fund Accountability Statement for C-CDF for the period July 27, 2018 to March 31, 2021.

3. Summary of Audit Results and Management actions

We reported that the separate Fund Accountability Statements for CDF and C-CDF presented fairly, in all material respects, program revenues and costs incurred for the period audited.

Our audit has identified the following findings on MCA-Mongolia's internal control and its compliance with the agreement terms, applicable laws and regulations. The summary of audit findings is shown in Part 3, and the details are shown in Part 5 of this report.

- Failure of some component principles in MCA-Mongolia's Internal control system (Page 28)
- No determination and disclosure of related parties and related party transactions (Page 31)
- Disaster recovery plan under business continuity plan had no tests done (Page 33)
- Missing work condition of each position on Employment agreement template (Page 34)
- Discriminated approach to pay overtime compensation and add a clause on overtime pay to the employment agreement template (Page 35)
- HR manual states that one month salary to be provided to the redundant employee in lieu of notice period (Page 36)

MCA-Mongolia management comments on audit findings are helpful in providing our perspective on the matters raised and illustrate the successful implementation of the auditor's recommendations. MCA-Mongolia appreciates the constructive feedback and support that the external auditors provided during the base audit period. In the future, MCA-Mongolia will continue to foster mutually productive yet independent relationships between MCA-Mongolia and our external auditors. MCA-Mongolia management is confident that its policies, procedures, and staff will succeed in delivering the results of Compact implementation while ensuring effective control mechanisms.

4. Review of prior audit recommendations

It is the first audit period for MCA-Mongolia and covers the fund receipts and expenditures for the base period of the Compact; thus, there are no prior audit recommendations.

We would take this opportunity to express our appreciation to all personnel of MCA-Mongolia, Fiscal Agent and Procurement Agent for their kind cooperation during the audit.



Audit Partner Ts. Jigden

Baker Tilly Dalaivan Audit LLC

October 15, 2021

1. PROGRAM BACKGROUND

1.1 General description

The Government of Mongolia acting through the Ministry of Foreign Affairs and the United States of America acting through the Millennium Challenge Corporation (MCC) have entered into (a) The Grant and Implementation Agreement on May 3, 2017 and duly amended on July 17, 2020 in an amount not to exceed US\$12,025,150 for the development and facilitation of implementation of a Millennium Challenge Compact and (b) the Millennium Challenge Compact ("Compact") on July 27, 2018 in the total amount of US\$350,000,000.

The US\$12,025,150 for the development and facilitation of implementation of Compact constitutes (i) the MCC managed funds of US\$8,500,000 and (ii) the Government managed funds of US\$3,525,150.

The US\$350,000,000 of Compact includes (i) MCC Grant to the Government an amount not to exceed US\$321,940,000 ("Program Funding") for use by the Government to implement the Water Supply Project and (ii) MCC Grant to the Government, in addition to the Program Funding, an amount not to exceed US\$28,060,000 ("Compact CDF") under Section 609 (g) of the Millennium Challenge Act of 2003 for use by the Government to facilitate implementation of the Compact. Those parties signed the Program Implementation Agreement on March 5, 2019. The Compact has entered into force on March 31, 2021. The Program Funding is available for a five-year period after the Compact's entry into force. In addition, pursuant to the terms of the Compact, the Government committed to make a contribution of US\$111,760,000 over the Compact term toward meeting the Project objectives of the Compact.

MCA-Mongolia, which was established on October 3, 2018 by the Government Resolution #297, is a state owned entity to act as the Government's primary agent to implement the Program and to perform the Government's right and obligation to oversee, manage and implement the Program, including without limitation, managing the implementation of projects and their activities, allocating resources and managing procurements. MCA-Mongolia comprises (a) the Board of Directors who have ultimate authority to direct MCA-Mongolia and (b) Management Unit which have the principal responsibility for the day-to-day management of the Program.

MCA-Mongolia engaged a Procurement and Fiscal Agent to carry out specified procurement and financial management activities in furtherance of the Compact and related agreement.

1.2 Project goal and objectives

The objective of the Water Supply Project is to meet the projected demand for water in Ulaanbaatar for residential consumers and commercial and industrial users. The Water Supply Project supports series of strategically important investment to achieve the following activities:

- (i) Downstream Wells Activity – This activity supports the development of the Biokombinat Wellfield and the Shuvuun Wellfield downstream of Ulaanbaatar. MCC Funding for this activity funds the construction of (a) approximately 52 new wells in the two downstream wellfields, (ii) associated pumps, local collection pipelines, equalization tanks, and a transmission line to convey the water from the wellfields, (iii) an advanced water purification plant located at the western edge of the city to remove contaminants (designed to include multiple barriers to remove pathogens, volatile organic compounds, heavy metals, and other contaminants that may be present in the groundwater), and (iv) storage facilities, pumping station, and conveyance pipeline to transport finished water from the purification plant into the existing municipal water network of Ulaanbaatar.
- (ii) Wastewater Recycling Activity – This activity supports the recycling and reuse of a large quantity of wastewater effluent from the central wastewater treatment plant ("CWWTP"). MCC Funding for this activity funds the construction of (i) a wastewater recycling plant (located on available public land adjacent to the CWWTP) designed to treat a portion of the effluent from the CWWTP, (ii) pumping stations and associated pipelines to convey the recycled water to water storage facilities near combined heating and power plants ("CHP") three and four (known as "CHP-3" and "CHP-4"), and (iii) internal piping, storage facilities, and control systems to facilitate the use of recycled wastewater for certain processes within CHP-3 and CHP-4.

- (iii) **Water Sector Sustainability Activity-** This activity supports five interventions that address policy, legal, regulatory, and institutional issues and improve the long-term sustainability of the water sector in Ulaanbaatar.

(A) The "Cost Recovery Sub-Activity" supports technical assistance to the WSRC for a detailed examination of the structuring of water and wastewater tariffs, based on a detailed assessment of the willingness and ability of USUG customers to pay for improved water service. The sub-activity also supports assistance to USUG for the preparation of rate cases that reflect the goal of full coverage of costs for operations, maintenance and depreciation, as required by law.

(B) The "Ger Area Cost Containment Sub-Activity" supports efforts to curtail the high costs that USUG bears for providing water through the system of water kiosks throughout the ger areas of Ulaanbaatar. The sub-activity supports a variety of small-scale works intended to reduce the direct costs associated with the delivery and sale of water, including the conversion of manually operated kiosks to automatic "smart" kiosks that operate longer hours at lower cost, the extension of supply pipes in order to connect some water kiosks that are currently supplied by tanker truck to a continuous piped water supply, and the construction of additional filling stations to reduce distance and time traveled by USUG's fleet of tanker trucks. The sub-activity also supports improvements in data sharing, planning, and coordination among USUG, municipal agencies, and district offices around expansion and the development of municipal infrastructure.

(C) The "Utility Operations Sub-Activity" supports the strengthening of critical operational capacities within USUG, to be identified through the implementation of Aqua Rating, an international assessment and benchmarking tool for utility operations developed by the International Water Association. The sub-activity includes funding support for a comprehensive partnership between USUG and an experienced water utility from a developed country that operates in similar conditions or deals with similar concerns. The sub-activity also includes targeted support for specific concerns with USUG's ability to operate, maintain, manage and plan its asset base, as well as its ability to capture, analyze and make use of customer data.

(D) The "Industrial Pre-Treatment and Pollution Control Sub-Activity" supports efforts to reduce the incidence of industrial pollution in the municipal wastewater collection system before it is constructed and commissioned. The sub-activity funds technical assistance to identify and model sources of industrial pollution, strengthen pollution standards, ordinances and penalties. The sub-activity also provides technical assistance and advanced laboratory equipment to those Government and municipal government entities responsible for monitoring, detecting and enforcing pollution regulations in Ulaanbaatar.

(E) The "Public Awareness and Behavior Change Sub-Activity" supports improved communication and engagement with stakeholders and the general public in an effort to improve awareness and understanding of the scarcity of water resources available to Ulaanbaatar and the actual costs of exploiting them in ways that protect environmental and social concerns.

1.3 The period covered

Our audit covered the Fund Accountability Statement for CDF for the period May 3, 2017 to March 31, 2021, Fund Accountability Statement for C-CDF for the period July 27, 2018 to March 31, 2021.

1.4 Identification of Entities

There are main parties that are involved:

- Millennium Challenge Corporation
- Fiscal Agent being served by Cardno Emerging Markets USA, Ltd
- Procurement Agent being served by Charles Kendall and Partners Ltd
- Ministry of Foreign Affairs
- Ministry of Environment and Tourism
- Ministry of Energy
- Ministry of Construction and Urban Development

- Ministry of Finance
- Ulaanbaatar Governor's office
- Central Wastewater Treatment Plant
- Combined Heating and Power Plant #3
- Combined Heating and Power Plant #4
- Water Supply and Sewerage Authority (USUG)
- National Statistics Office
- Department of Housing and Public Utilities (OSNAAUG)
- Water Services Regulatory Commission
- Trade and Development Bank

1.5 Indirect cost rates

Any MCC-authorized provisional indirect cost rate has not stipulated by the Compact agreement and other agreements, thus, no procedures were performed on indirect cost.

1.6 Cost sharing schedule (Recipient Country's Government Contribution)

According the Compact Agreement, the Government shall make its contribution over the Compact term period. Thus, the cost sharing schedule was not prepared by MCA-Mongolia for the reporting period.

1.7 Follow-up in Prior Audit Recommendations

It is the first audit period for MCA-Mongolia; thus, there are no prior audit recommendations.

2. AUDIT OBJECTIVES AND SCOPE

2.1 Audit Objectives

The objective of this audit engagement is to conduct financial audit of the MCC resources managed by MCA-Mongolia for the period May 3, 2017 to March 31, 2021 under the Grant and Implementation Agreement and Millennium Challenge Compact in accordance with U.S. Government Auditing Standards issued by the Comptroller General of the United States and the MCC Accountable Entities Guidelines for Contracted Financial Audits.

The specific objectives of the audit the MCC funds are to:

- Express an opinion on whether the Fund Accountability Statement for the MCC-funded programs presents fairly, in all material respects, revenues received, costs incurred, assets and technical assistance directly procured by MCC and the Government (including by MCA-Mongolia and its Covered Providers) for the period audited, in conformity with the terms of the agreements and generally accepted accounting principles or other comprehensive basis of accounting (including the cash receipts and disbursements basis and modifications of the cash basis).
- Evaluate and obtain a sufficient understanding of the MCA-Mongolia's internal controls related to the MCC-funded programs, assess control risk, and identify significant deficiencies or material weaknesses in the design and effectiveness of these internal controls. This evaluation should include the internal control related to required cost-sharing contributions.
- Perform tests to determine whether the MCA-Mongolia complied, in all material respects, with the Compact Development Funding Agreement, Compact (including those MCC rules and regulations regarding Government Contributions), supplemental agreements, and applicable laws and regulations related to MCC-funded grants, contracts, and implementing agreements. All material instances of noncompliance and all illegal acts that have occurred or are likely to have occurred should be identified. Such tests should include the compliance requirements related to the required cost-sharing contributions, if applicable. Specifically, we will perform tests to determine whether the recipient organization complied, in all material respects, with the MCC Program Procurement Guidelines, the MCC Cost Principles for Government Affiliates, the MCA-Mongolia's Fiscal Accountability Plan in effect during the audit period, and the terms and conditions of the MCC-funded grant, contract, or implementing agreement.
- Determine whether the MCA-Mongolia has taken adequate corrective action on prior audit report recommendations.

2.2 Audit Scope

The audit involves expressing an opinion on the Fund Accountability Statement for the CDF funding for the period May 3, 2017 to March 31, 2021 and the Fund Accountability Statement for the C-CDF funding for the period July 27, 2018 to March 31, 2021, and illustrating an audit report on internal control and compliance with terms of agreements and applicable laws and regulations.

Pre-Audit Steps

We obtained and reviewed the following documents:

1. CDF, C-CDF, Compact, and any supplemental agreements by and between MCC, the Government, and the MCA-Mongolia for development and implementation of the Compact
2. Other documents including but not limited to: a) Program Implementation Agreement, b) Bank Agreement, c) Procurement Agent Agreement, d) Fiscal Agent Agreement, e) Fiscal Accountability Plan, f) Procurement Operations Manual, g) Procurement Plan, h) Program Procurement Guidelines, i) Implementing Entity Agreement(s), j) M&E Plan, k) Implementation Plan(s), l) Audit Plan and m) Work Plans for the relevant Project or Project Activity
3. The agreements between the MCA-Mongolia and contractors and grantees, and any other entities implementing MCC or Government-funded activities on the MCA-Mongolia's behalf
4. The sub-agreements or implementing entity agreements between the MCA-Mongolia and other implementing entities
5. Contracts and subcontracts with third parties
6. The budgets, implementation letters, and written procedures approved by MCC and the MCA-

Mongolia

7. All program financial and progress reports; charts of accounts; organizational charts; accounting systems descriptions; procurement policies and procedures; and receipt, warehousing and distribution procedures for materials, as necessary, to successfully complete the required work
8. MCC's *Cost Principles for Government Affiliates* in effect during the audit period
9. Any previous audits, financial reviews, etc., that directly relate to the objectives of the audit

Fund Accountability Statement

The Fund Accountability Statement is a financial statement that presents MCA-Mongolia's revenues received from MCC and the Government for the period covered by the audit, the costs reported by MCA-Mongolia as incurred during that period, cash balances on hand, the commodities, assets and technical assistance procured by MCC or the Government for the use of MCA-Mongolia.

We examined the separate Fund Accountability Statements of MCA-Mongolia for activities funded with MCC resources including CDF and Compact CDF. The Fund Accountability Statements did not include cost-sharing contributions from the Government, as that contribution will commence next reporting period. The management of MCA-Mongolia accepted responsibility for the statement's accuracy before the audit commenced.

Common Payment System

We have reviewed all payment ledgers via Common Payment System (CPS) and payment detail reports to determine those payments were made in accordance with policies and procedures for CPS. Also, selected payment request forms have been reviewed regarding those requests were made and approved by authorized persons stated in the Fiscal Accountability Plan and payment amounts have been reconciled with vendors' invoices and payment detail reports. We have scrutinized amounts in payment detail reports with the accounting records of the MCA-Mongolia and assessed the MCC payment deadline.

Internal Control Structure

We reviewed MCA-Mongolia's internal control structure related to program activities to obtain a sufficient understanding of the design of relevant control policies and procedures and whether those policies and procedures have been placed in operation and in compliance with the Fiscal Accountability Plan. To understand and assess MCA-Mongolia's internal control, we followed guidance contained in AICPA SAS No. 122 (AU-C sec 315) *Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatement* and AICPA SAS No. 122 (AU-C sec 265) *Communicating Internal Control Related Matters Identified in an Audit*.

We outline the tasks that we performed during our review of MCA-Mongolia's internal controls below:

- (a) Obtained a sufficient understanding of internal controls to plan the audit and to determine the nature, timing and extent of tests to be performed.
- (b) Assessed inherent and control risks; and determined the combined risk.
- (c) Summarized the risk assessment for audit assertions in the working paper during the audit planning stage.
- (d) Evaluated the control environment, the adequacy of the accounting systems, and control procedures.

This evaluation included the control systems for:

- (a) ensuring that charges to the program are proper and adequately supported;
- (b) managing cash on hand and in bank accounts;
- (c) procuring goods and services;
- (d) managing inventory and receiving functions;
- (e) managing personnel functions such as timekeeping, salaries and benefits;
- (f) managing and disposing of commodities purchased either by the recipient or directly by MCC or MCA-Mongolia
- (g) ensuring compliance with agreement terms and applicable laws and regulations that collectively have a material impact on the Fund Accountability Statement. Specifically, evaluate compliance with the Procurement Agreement and Procurement Guidelines as well as the Fiscal Accountability Plan.

Compliance with Agreement Terms and Applicable Laws and Regulations

In fulfilling the audit requirement to determine compliance with agreement terms and applicable laws and regulations related to donor activities, we at a minimum, followed guidance contained in AICPA SAS No. 122 (AU-C sec 935) *Compliance Audits*.

In order to achieve the objective set out in the terms of reference, we reviewed the following documents and agreements applicable to MCA-Mongolia to obtain understanding of the program and identify key areas of compliance with MCC audit guidelines and other applicable regulations as required by the Compact:

Governing Agreements:

- Millennium Challenge Compact Agreement
- Program Implementation Agreement
- Grant and Implementation Agreement

Supplementary Agreements:

- Fiscal Agent Agreement between MCA-Mongolia and Cardno Emerging Markets USA, Ltd
- Procurement Agent Agreement between MCA-Mongolia and Charles Kendall and Partners Ltd
- Bank Agreement between MCA-Mongolia and Trade and Development Bank

MCC Guidelines:

- MCC Guidelines for Country Contributions
- MCC Environmental Guidelines
- MCC Program Guidelines
- MCC Program Procurement Guidelines
- MCC Accountable Entities Guidelines for Contracted Financial Audits
- MCC Gender policy
- MCC Gender Integration Guidelines
- MCC Cost principles for Government Affiliates involved in Compact implementation
- MCC Reporting Guidelines
- MCC Program Closure Guidelines
- MCC Guidelines For Accountable Entities and Implementation Structures
- MCC M&E Policy
- MCC Guidelines for Economic and Beneficiary Analysis
- MCC Standards for Global Marking

MCA-Mongolia plans, reports and other documents developed for the Compact implementation:

- Work Plan
- Multi Year Financial Plan
- Audit Plan
- Procurement Plan
- M&E Plan
- Interim Fiscal Accountability Plan
- Fiscal Accountability Plan
- Interim Procurement Operations Manual
- Procurement Operations Manual
- Implementation Plan
- Social and gender integration Plan
- Indicator Tracking Table
- Human Resource Manual
- Action Plan for Preventing, Detecting and Remediating Fraud and Corruption
- Code of Business Ethics and Standards of Conduct
- Internal audit charter
- Internal audit manual
- Bid challenge system
- MCA-Mongolia Charter (State Owned Entity)
- Board resolutions, meeting minutes
- CEO Orders

2.3 Audit procedures performed

The audit team conducted the following audit procedures included in the audit planning document.

- Audit program for Fund Accountability Statement
- Audit program for Internal Control
- Audit program for Compliance
- Audit program for Procurement
- Audit program for Fraud and illegal acts/abuse
- Audit program for assessing IS controls over financial reporting
- Audit program for Covered Providers
- Audit program for Common Payment System
- Audit program for Related Parties

2.4 Scope limitation

There was no limitation of the scope of the audit.

2.5 GAGAS departures

In Mongolia, we do not have a continuing education program that fully satisfies the requirement set forth in Chapter 4, paragraph 4.16 of U.S. Government Auditing Standards. However, our auditors must attend the 20 hours of continuing education and training from MICPA every year. We are taking appropriate steps to implement a continuing education program that fully satisfies the requirement.

We did not have an external quality control review by an unaffiliated audit organization as required in Chapter 5, paragraph 5.60 of U.S. Government Auditing Standards, since no such program is offered by MICPA. We believe that the effect of this departure from Government Auditing Standards is not significant because we participate in the Baker Tilly International worldwide internal quality control review program which requires our office to be subjected, every three years, to an extensive quality control review by partners and managers from other affiliate offices.

3. SUMMARY OF AUDIT RESULTS

3.1 Audit Findings on the Fund Accountability Statement for CDF for the period May 3, 2017 to March 31, 2021 and Fund Accountability Statement for C-CDF for the period July 27, 2018 to March 31, 2021

Our audit has not identified any questioned costs on the Fund Accountability Statement for CDF for the period May 3, 2017 to March 31, 2021 and Fund Accountability Statement for C-CDF for the period July 27, 2018 to March 31, 2021.

3.2 Audit Findings on MCA-Mongolia's Internal control over Financial Reporting

The table shows the audit findings arisen from our review on MCA-Mongolia's Internal Control over Financial Reporting

| Audit findings | Material weakness or significant deficiency | Page |
|---|---|------|
| Internal control related | | |
| Failure of some component principles in MCA-Mongolia's Internal control system | Significant deficiency | 28 |
| No determination and disclosure of related parties and related party transactions | Significant deficiency | 31 |
| Disaster recovery plan under business continuity plan had no tests done by the Fiscal Agent | Significant deficiency | 33 |

3.3 Audit Findings on MCA-Mongolia's Compliance with the agreement terms, applicable laws and regulations

The table shows the audit findings arisen from our review on MCA-Mongolia's Compliance with the agreement terms, applicable laws and regulations.

| Audit findings | Material or immaterial | Page |
|---|--------------------------|------|
| Compliance with agreements and applicable laws and regulations | | |
| Missing work condition of each position on Employment agreement template | Immaterial noncompliance | 34 |
| Discriminated approach to pay overtime compensation and add a clause on overtime pay to the employment agreement template | Immaterial noncompliance | 35 |
| HR manual states that one month salary to be provided to the redundant employee in lieu of notice period | Immaterial noncompliance | 36 |

3.4 Management view on the audit results

During the past five months, MCA-Mongolia management worked with auditor collaborative and efficient manner. We hope that MCA-Mongolia management comments on audit findings are helpful in providing our perspective on the matters raised and illustrate the successful implementation of the auditor's recommendations. MCA-Mongolia appreciates the constructive feedback and support that the external auditors provided during the base audit period. In the future, MCA-Mongolia will continue to foster mutually productive yet independent relationships between MCA-Mongolia and our external auditors. MCA-Mongolia management is confident that its policies, procedures, and staff will succeed in delivering the results of Compact implementation while ensuring effective control mechanisms.



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INDEPENDENT AUDITOR'S REPORT ON THE FUND ACCOUNTABILITY STATEMENTS

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Ulaanbaatar, Mongolia

Report on the Financial Statements

We have audited the accompanying Fund Accountability Statements of MCA-Mongolia and related notes to the Consolidated Fund Accountability Statement for the period May 3, 2017 to March 31, 2021 and have issued our report on it dated October 15, 2021.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of the Fund Accountability Statements in accordance with accounting principles generally accepted in the United States; this includes the design, implementation, and maintenance of internal controls relevant to the preparation and fair presentation of the fund accountability statement that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the Fund Accountability Statement based on our audit. Except as discussed in the following paragraphs, we conducted our audit in accordance with Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the fund accountability statement is free of material misstatement.

In Mongolia, we do not have a continuing education program that fully satisfies the requirement set forth in Chapter 4, paragraph 4.16 of Government Auditing Standards. However, our auditors must attend the 20 hours of continuing education and training from MICPA every year. We are taking appropriate steps to implement a continuing education program that fully satisfies the requirement.

We did not have an external Quality Control Review (QCR) by an unaffiliated audit organization, as required in Chapter 5, paragraph 5.60 of Government Auditing Standards, since no such program is offered by MICPA. We believe that the effect of this departure from Government Auditing Standards is not material because we participate in the Baker Tilly International worldwide internal quality control review program that requires our office to be subjected, every three years, to an extensive quality control review by partners and managers from other affiliate offices.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Fund Accountability Statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the fund accountability statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the Fund Accountability Statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of

significant accounting estimates made by management, as well as evaluating the overall presentation of the fund accountability statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the Fund Accountability Statements referred to above present fairly, in all material respects, program revenues, costs incurred and reimbursed, and assets and technical assistance directly procured by Millennium Challenge Corporation (MCC) for the period May 3, 2017 to March 31, 2021 in accordance with the terms of the agreements and in conformity with the basis of accounting described in Note 1.

Other Reporting Required by Government Auditing Standards

In accordance with Government Auditing Standards, we have also issued our reports dated October 15, 2021 on our consideration of MCA-Mongolia's Internal Control Over Financial Reporting (ICOFR) and our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements, and other matters. The purpose of that report is solely to describe the scope of our testing of ICOFR and compliance and the results of that testing, not to provide an opinion on the effectiveness of MCA-Mongolia's ICOFR or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be read in conjunction with this Independent Auditor's Report in considering the results of our audit.

This report is intended for the information of MCA-Mongolia and MCC. However, upon release by MCC, this report is a matter of public record and its distribution is not limited.

Baker Tilly Dalaivan Audit LLC

Baker Tilly Dalaivan Audit LLC

October 15, 2021

4.1 Consolidated Fund Accountability Statement of MCA-Mongolia for the period May 3, 2017 to March 31, 2021

(All amounts are expressed in US\$)

| | Budget | Prior period | Current period May 3, 2017 to Mar 31, 2021 | Cumulative to Mar 31, 2021 | Questioned cost | | Note # |
|--|----------------------|--------------|--|----------------------------------|-----------------|-------------|--------|
| | | | | | Ineligible | Unsupported | |
| Revenues received: | | | | | | | |
| Receipts from MCC | | - | 25,529,988.56 | 25,529,988.56 | | | 2 |
| Total revenue | | - | 25,529,988.56 | 25,529,988.56 | | | |
| Costs incurred: | | | | | | | |
| Water Sector Infrastructure | 22,035,281.84 | - | 17,641,620.74 | 17,641,620.74 | | | 4 |
| Downstream Wells | 21,073,179.81 | - | 17,350,508.72 | 17,350,508.72 | | | 4.1 |
| Wastewater Recycling | 96,405.00 | - | - | - | | | |
| Water Sector Sustainability | 865,697.03 | - | 291,112.02 | 291,112.02 | | | 4.2 |
| Monitoring and Evaluation | 2,000.00 | - | - | - | | | |
| M&E | 2,000.00 | - | - | - | | | |
| Program Administration | 9,547,868.16 | - | 7,772,772.52 | 7,772,772.52 | | | 5 |
| Accountable entity expenses | 5,903,774.89 | - | 4,471,339.07 | 4,471,339.07 | | | 5.1 |
| Fiscal Management | 2,021,388.27 | - | 1,897,272.45 | 1,897,272.45 | | | 5.2 |
| Procurement Management | 1,532,705.00 | - | 1,404,161.00 | 1,404,161.00 | | | 5.3 |
| Audit | 90,000.00 | - | - | - | | | |
| Total cost | 31,585,150.00 | - | 25,414,393.26 | 25,414,393.26 | | | |
| Surplus (excess of revenue over costs incurred) / (Deficit) | | - | 115,595.30 | 115,595.30 | | | |
| Fund balance at the beginning | | - | - | - | | | |
| Fund balance at the end | | - | 115,595.30 | 115,595.30 | | | 6 |

Attested by: Chief Executive Director E. Sodontogos E.Sodontogos

Director of Finance G. Uranchimeg G.Uranchimeg

4.2 CDF Fund Accountability Statement of MCA-Mongolia for the period May 3, 2017 to March 31, 2021

(All amounts are expressed in US\$)

| | Budget | Prior period | Current Period May 3, 2017 to Mar 31, 2021 | Cumulative to Mar 31, 2021 | Questioned cost | | Note # |
|--|---------------------|--------------|--|----------------------------------|-----------------|-------------|--------|
| | | | | | Ineligible | Unsupported | |
| Revenues received: | | | | | | | |
| Receipts from MCC | | - | 2,741,044.77 | 2,741,044.77 | | | 2 |
| Total revenue | | - | 2,741,044.77 | 2,741,044.77 | | | |
| Costs incurred: | | | | | | | |
| Water Sector Infrastructure | - | - | - | - | | | |
| Downstream Wells | - | - | - | - | | | |
| Wastewater Recycling | - | - | - | - | | | |
| Water Sector Sustainability | - | - | - | - | | | |
| Monitoring and Evaluation | - | - | - | - | | | |
| M&E | - | - | - | - | | | |
| Program Administration | 3,525,150.00* | - | 2,741,044.77 | 2,741,044.77 | | | 5 |
| Accountable entity expenses | 1,232,722.74 | - | 701,277.33 | 701,277.33 | | | 5.1 |
| Fiscal Management | 1,299,986.26 | - | 1,175,870.44 | 1,175,870.44 | | | 5.2 |
| Procurement Management | 992,441.00 | - | 863,897.00 | 863,897.00 | | | 5.3 |
| Audit | - | - | - | - | | | |
| Total cost | 3,525,150.00 | - | 2,741,044.77 | 2,741,044.77 | | | |
| Surplus (excess of revenue over costs incurred) / (Deficit) | | - | - | - | | | |
| Fund balance at the beginning | | - | - | - | | | |
| Fund balance at the end | | - | - | - | | | 6 |

*The CDF budget shows the Government managed funds of US\$3,525,150, which is subject to the financial audit of MCA-Mongolia.

Attested by: Chief Executive Director E. Sodontogos E.Sodontogos

Director of Finance G. Uranchimeg G.Uranchimeg

4.3 C-CDF Fund Accountability Statement of MCA-Mongolia for the period July 27, 2018 to March 31, 2021

(All amounts are expressed in US\$)

| | Budget | Prior period | Current Period Jul 27, 2018 to Mar 31, 2021 | Cumulative to Mar 31, 2021 | Questioned cost | | Note # |
|--|----------------------|--------------|---|----------------------------------|-----------------|-------------|--------|
| | | | | | Ineligible | Unsupported | |
| Revenues received: | | | | | | | |
| Receipts from MCC | | - | 22,788,943.79 | 22,788,943.79 | | | 2 |
| Total revenue | | - | 22,788,943.79 | 22,788,943.79 | | | |
| Costs incurred: | | | | | | | |
| Water Sector Infrastructure | 22,035,281.84 | - | 17,641,620.74 | 17,641,620.74 | | | 4 |
| Downstream Wells | 21,073,179.81 | - | 17,350,508.72 | 17,350,508.72 | | | 4.1 |
| Wastewater Recycling | 96,405.00 | - | - | - | | | |
| Water Sector Sustainability | 865,697.03 | - | 291,112.02 | 291,112.02 | | | 4.2 |
| Monitoring and Evaluation | 2,000.00 | - | - | - | | | |
| M&E | 2,000.00 | - | - | - | | | |
| A Program Administration | 6,022,718.16 | - | 5,031,727.75 | 5,031,727.75 | | | 5 |
| Accountable entity expenses | 4,671,052.15 | - | 3,770,061.74 | 3,770,061.74 | | | 5.1 |
| Fiscal Management | 721,402.01 | - | 721,402.01 | 721,402.01 | | | 5.2 |
| Procurement Management | 540,264.00 | - | 540,264.00 | 540,264.00 | | | 5.3 |
| Audit | 90,000.00 | - | - | - | | | |
| Total cost | 28,060,000.00 | - | 22,673,348.49 | 22,673,348.49 | | | |
| Surplus (excess of revenue over costs incurred) / (Deficit) | | - | 115,595.30 | 115,595.30 | | | |
| Fund balance at the beginning | | - | - | - | | | |
| Fund balance at the end | | - | 115,595.30 | 115,595.30 | | | 6 |

Attested by: Chief Executive Director E. Sodontogos E. Sodontogos
E. Sodontogos (12/15/2021 10:10 AMT+8)

Director of Finance G. Uranchimeg G. Uranchimeg
Uranchimeg G. (12/15/2021 11:43 AMT+8)

Notes to the Consolidated Fund Accountability Statement

1. Significant Accounting Policies

The significant accounting policies adopted by MCA-Mongolia in the preparation of the Fund Accountability Statement are set out below.

1.1. Basis of Preparation

The Fund Accountability Statement for the reporting period has been prepared on a cash basis. Under this basis, revenues are recognized when cash is received and expenses are recognized when cash is paid out.

1.2. Revenue

Revenue consists of MCC Grant contributions that are disbursed by one of the following methods:

- Transferred directly from the U.S. Treasury to the vendors of goods, works and services received by MCA-Mongolia. The Common Payment System is used to process payments in US\$ or local currency; and
- Disbursed by the Common Payment System into Permitted Accounts at a local bank where the funds are subsequently disbursed from the local bank accounts to pay vendors or other payees.

The interest earned on the MCC Funding is held in the Accrued Interest accounts (an account in US\$ and an account in MNT) at the Trade and Development Bank. All accrued interest is transferred to MCC on a quarterly basis.

1.3. Cost

All expenditures are recognized in the accounting records when actual cash is paid out.

1.4. Currency conversion

Receipts from MCC are dominated in US\$ and deposited into the Permitted Account (US\$) at the Trade and Development Bank. For transactions incurred in any currency other than US\$ and which are for funds transferred between the Permitted accounts the amount will be booked using the prevailing exchange rate at which the Trade and Development Bank converts the funds into the local currency.

For transactions incurred in any currency other than US\$ and which are paid through the Permitted Account (MNT), the conversion rate will be the weighted average of the actual exchange rates at which funds were received into the Permitted account (MNT).

For transactions incurred in any currency other than US\$ and which are paid directly through the CPS, the conversion rate will be the actual exchange rate at which funds were disbursed by Interior Business Center (IBC). For non-US\$ payment transactions handled via CPS, the translation rate of the CPS payment must be used by posting the payment entries with the appropriate exchange rate or making the necessary adjustments. Any realized gain and losses by the Bank of Mongolia rate on that date, which differences recognized in the accounting record.

For reporting purpose, at the end of each month, the US\$ equivalent of the balances of all non US\$ cash and bank accounts are to be converted according to the published rates of the Bank of Mongolia on that date, with differences recognized in the accounting record. At the end of the reporting period, the ending balances of cash and cash equivalents denominated in any currency other than US\$ have converted into US\$ balances at the weighted average rate MNT2,849.63.

The weighted average exchange rate is calculated as follows:

$$\text{FX Rate} = \frac{(\text{Opening Balance, MNT}) + (\text{Conversion Amount, MNT})}{(\text{Opening Balance, USD}) + (\text{Conversion Amount, USD})}$$

1.5 Purchase of fixed assets

The fixed assets acquired with MCC Grant funds are expensed immediately without being capitalized. However, fixed assets with a value of at least US\$500 and lifetime of over twelve calendar months are recorded in a Fixed Asset Register for physical control purpose.

2. Receipts from MCC (All amounts are expressed in US\$)

| | CDF (2017.05.03- 2021.03.31) | C-CDF (2018.07.27- 2021.03.31) | Consolidated (2017.05.03- 2021.03.31) |
|-------------------------------|---|---|--|
| IBC/Banks in US | 1,264,124.76 | 18,631,333.07 | 19,895,457.83 |
| IBC/Banks outside US/US\$ | 1,035,158.49 | 1,388,175.34 | 2,423,333.83 |
| IBC/Banks outside US/non-US\$ | 441,761.52 | 750,935.38 | 1,192,696.90 |
| Permitted Account (US\$) | - | 2,018,500.00 | 2,018,500.00 |
| Total | <u>2,741,044.77</u> | <u>22,788,943.79</u> | <u>25,529,988.56</u> |

2.1. Direct payments from MCC to the vendors

There are direct payments from the MCC to the vendors of goods, works, and services received by MCA-Mongolia.

| | CDF (2017.05.03- 2021.03.31) | C-CDF (2018.07.27- 2021.03.31) | Consolidated (2017.05.03- 2021.03.31) |
|-------------------------------|---|---|--|
| IBC/Banks in US | 1,264,124.76 | 18,631,333.07 | 19,895,457.83 |
| IBC/Banks outside US/US\$ | 1,035,158.49 | 1,388,175.34 | 2,423,333.83 |
| IBC/Banks outside US/non-US\$ | 441,761.52 | 750,935.38 | 1,192,696.90 |
| Total | <u>2,741,044.77</u> | <u>20,770,443.79</u> | <u>23,511,488.56</u> |

2.2. Fund transferred from MCC to the Permitted accounts

The total receipts of US\$2,018,500.00 from MCC for C-CDF represents the receipts during July 27, 2018 to March 31, 2021 made by MCC and entered in MCA-Mongolia's Permitted account (US\$) at Trade and Development Bank.

| | CDF (2017.05.03- 2021.03.31) | C-CDF (2018.07.27- 2021.03.31) | Consolidated (2017.05.03- 2021.03.31) |
|--------------------------|---|---|--|
| Permitted account (US\$) | - | 2,018,500.00 | 2,018,500.00 |
| Total | <u>-</u> | <u>2,018,500.00</u> | <u>2,018,500.00</u> |

The detail transfers from MCC to the Permitted account of MCA-Mongolia for the period July 27, 2018 to March 31, 2021 are shown as follows:

| <u>Months</u> | <u>Amount (US\$)</u> |
|----------------|----------------------------|
| January 2020 | 105,000.00 |
| February 2020 | 218,000.00 |
| March 2020 | 68,500.00 |
| April 2020 | 90,000.00 |
| May 2020 | 120,000.00 |
| June 2020 | 165,000.00 |
| July 2020 | 155,000.00 |
| August 2020 | 130,000.00 |
| September 2020 | 188,000.00 |
| October 2020 | 121,000.00 |
| November 2020 | 135,000.00 |
| December 2020 | 118,000.00 |
| January 2021 | 118,000.00 |
| February 2021 | 137,000.00 |
| March 2021 | 150,000.00 |
| Total | <u>2,018,500.00</u> |

3. Interest earned on MCC-provided funds (All amounts are expressed in US\$)

| | <u>CDF</u> <u>(2017.05.03-</u> <u>2021.03.31)</u> | <u>C-CDF</u> <u>(2018.07.27-</u> <u>2021.03.31)</u> | <u>Consolidated</u> <u>(2017.05.03-</u> <u>2021.03.31)</u> |
|--|---|---|--|
| Permitted account (US\$) – Interest earned | - | 1,101.36 | 1,101.36 |
| Permitted account (US\$) – Interest transferred to MCC | - | (1,101.36) | (1,101.36) |
| Total | <u>-</u> | <u>-</u> | <u>-</u> |

| | <u>CDF</u> <u>(2017.05.03-</u> <u>2021.03.31)</u> | <u>C-CDF</u> <u>(2018.07.27-</u> <u>2021.03.31)</u> | <u>Consolidated</u> <u>(2017.05.03-</u> <u>2021.03.31)</u> |
|---|---|---|--|
| Permitted account (MNT) – Interest earned | - | 45.47 | 45.47 |
| Permitted account (MNT) – Interest transferred to MCC | - | (6.62) | (6.62) |
| Bank transfer fees | - | (38.85) | (38.85) |
| Total | <u>-</u> | <u>-</u> | <u>-</u> |

4. Water Sector Infrastructure (All amounts are expressed in US\$)

4.1 Downstream Wells

| | CDF (2017.05.03- 2021.03.31) | C-CDF (2018.07.27- 2021.03.31) | Consolidated (2017.05.03- 2021.03.31) |
|--|---|---|--|
| Detailed Design Firm for Downstream Wellfields | - | 13,763,773.72 | 13,763,773.72 |
| WSP PMC Consulting & Construction Supervisory Services | - | 3,558,864.00 | 3,558,864.00 |
| CP2 TEP Member Expenses | - | 23,231.00 | 23,231.00 |
| CP3 TEP Member Expenses | - | 4,640.00 | 4,640.00 |
| Total | - | 17,350,508.72 | 17,350,508.72 |

4.2. Water Sector Sustainability

| | CDF (2017.05.03- 2021.03.31) | C-CDF (2018.07.27- 2021.03.31) | Consolidated (2017.05.03- 2021.03.31) |
|---|---|---|--|
| Technical Assistance for CRP development & implementation | - | 166,783.25 | 166,783.25 |
| IEA - National Statistics Office of Mongolia /NSO/ | - | 51,792.00 | 51,792.00 |
| IEA MCA Executing - Local Consultants | - | 14,129.26 | 14,129.26 |
| IEA MCA Executing - Implementation Cost | - | 17,734.55 | 17,734.55 |
| TEP Members | - | 12,663.09 | 12,663.09 |
| CRP development - Individual Consultants sub-activity | - | 19,849.68 | 19,849.68 |
| CRP development - Stakeholder Workshops | - | 1,344.93 | 1,344.93 |
| CRP development - Training sub-activity | - | 6,815.26 | 6,815.26 |
| Total | - | 291,112.02 | 291,112.02 |

5. Program Administration (All amounts are expressed in US\$)

5.1. Accountable entity expenses

| | CDF (2017.05.03- 2021.03.31) | C-CDF (2018.07.27- 2021.03.31) | Consolidated (2017.05.03- 2021.03.31) |
|------------------------------|---|---|--|
| Detailed Design TEP | 69,693.71 | - | 69,693.71 |
| Office lease and Preparation | 330,091.33 | - | 330,091.33 |
| Office Architect | 48,974.39 | - | 48,974.39 |
| Iron Vine | 53,000.00 | - | 53,000.00 |
| National Secretariat Payroll | 80,050.92 | - | 80,050.92 |
| MCA-Mongolia set up expenses | 18,354.10 | - | 18,354.10 |

| | CDF (2017.05.03- 2021.03.31) | C-CDF (2018.07.27- 2021.03.31) | Consolidated (2017.05.03- 2021.03.31) |
|-----------------------------------|---|---|--|
| MCA-Mongolia vehicles | 99,612.88 | - | 99,612.88 |
| CEO Admin support/IT Support | 1,500.00 | - | 1,500.00 |
| Salaries | | 1,473,496.60 | 1,473,496.60 |
| Social Security Contributions | | 188,944.09 | 188,944.09 |
| W/H Individual Income Tax | | 146,337.23 | 146,337.23 |
| Recruitment Costs | | 91.93 | 91.93 |
| Training & Education | | 6,240.91 | 6,240.91 |
| Other HR-related Costs | | 126,393.29 | 126,393.29 |
| Office Space Lease | | 361,442.01 | 361,442.01 |
| Parking rental | | 1,641.67 | 1,641.67 |
| Utilities Office-related | | 1,636.29 | 1,636.29 |
| MCA-Mongolia Office Build-Out | | 164,150.90 | 164,150.90 |
| MCA-Mongolia - ICT, ME&P | | 162,100.53 | 162,100.53 |
| Janitorial Services | | 7,634.07 | 7,634.07 |
| Office Maintenance | | 334.97 | 334.97 |
| Office Supplies & Materials | | 9,589.38 | 9,589.38 |
| MCA-Mongolia Office Pantry | | | |
| Supplies | - | 1,897.91 | 1,897.91 |
| Small-value Office Running Item | - | 6,196.65 | 6,196.65 |
| Office Set-up Expenses | - | 60.07 | 60.07 |
| Advertising | - | 28,080.58 | 28,080.58 |
| Public Relations | - | 752.09 | 752.09 |
| Other Public Outreach Expenses | - | 11,807.02 | 11,807.02 |
| Communication - Telephone Service | - | 3,190.81 | 3,190.81 |
| Communication – Equipment | - | 28,602.91 | 28,602.91 |
| Communication - Internet Service | - | 23,508.31 | 23,508.31 |
| Web-hosting Related Services | - | 9,314.62 | 9,314.62 |
| International Travel Expenses | - | 71,255.96 | 71,255.96 |
| Conferences | - | 236.46 | 236.46 |
| Meetings | - | 651.58 | 651.58 |
| Workshops | - | 1,230.20 | 1,230.20 |
| Fuel | - | 1,189.64 | 1,189.64 |
| Car Maintenance | - | 1,182.63 | 1,182.63 |
| Banking Service Fees & Charges | - | 68.84 | 68.84 |
| TEP -Technical Evaluation Panel | - | 67,467.85 | 67,467.85 |
| MCA-Mongolia Logo & Brand book | | | |
| Development | - | 12,250.35 | 12,250.35 |
| MCA-Mongolia Office Security | | | |
| Systems | - | 39,224.39 | 39,224.39 |
| Server Room Equipment | - | 50,002.95 | 50,002.95 |
| Printing & copying devices | - | 43,228.22 | 43,228.22 |
| Office Furniture & Fixtures | - | 135,143.77 | 135,143.77 |
| Computer Equipment | - | 90,456.39 | 90,456.39 |
| Insurance (Asset-related) | - | 2,556.32 | 2,556.32 |
| MIS Hardware (Iron Vine) | - | 229,300.61 | 229,300.61 |
| MIS Software | - | 8,932.89 | 8,932.89 |
| MIS Infrastructure & Services | - | 252,186.79 | 252,186.79 |
| FX Gain/Loss (Unrealized) | - | 51.06 | 51.06 |
| Total | <u>701,277.33</u> | <u>3,770,061.74</u> | <u>4,471,339.07</u> |

5.2. Fiscal management

| | CDF (2017.05.03- 2021.03.31) | C-CDF (2018.07.27- 2021.03.31) | Consolidated (2017.05.03- 2021.03.31) |
|----------------------------------|---|---|--|
| Fiscal Agent fees | 1,117,042.46 | 721,402.01 | 1,838,444.47 |
| Fiscal Agent related advertising | 15,015.16 | - | 15,015.16 |
| Fiscal Agent TEP | 43,812.82 | - | 43,812.82 |
| Total | <u>1,175,870.44</u> | <u>721,402.01</u> | <u>1,897,272.45</u> |

5.3. Procurement management

| | CDF (2017.05.03- 2021.03.31) | C-CDF (2018.07.27- 2021.03.31) | Consolidated (2017.05.03- 2021.03.31) |
|------------------------|---|---|--|
| Procurement Agent fees | 863,897.00 | 540,264.00 | 1,404,161.00 |
| Total | <u>863,897.00</u> | <u>540,264.00</u> | <u>1,404,161.00</u> |

6. Fund balance (All amounts are expressed in US\$)

| | CDF (2017.05.03- 2021.03.31) | C-CDF (2018.07.27- 2021.03.31) | Consolidated (2017.05.03- 2021.03.31) |
|-----------------------------|---|---|--|
| Permitted account (US\$) | - | 114,283.21 | 114,283.21 |
| Permitted account (MNT) | - | 113.78 | 113.78 |
| Fuel Debit Card (MNT) | - | 351.49 | 351.49 |
| Petty Cash Debit Card (MNT) | - | 730.86 | 730.86 |
| USD Debit Card (US\$) | - | 3.51 | 3.51 |
| Cash-in-Transit (MNT)* | - | 112.45 | 112.45 |
| Total | <u>-</u> | <u>115,595.30</u> | <u>115,595.30</u> |

* The MNT 319,913.92 (equals to US\$112.45) was transferred from Petty Cash Debit Card (MNT) to the Permitted Account (MNT) on March 31, 2021 and reported as Cash-in-Transit.



BAKER TILLY DALAIVAN AUDIT

Audit assurance, property and business
valuation advisory services

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Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters

Board of Directors of MCA-Mongolia
Millennium Challenge Account-Mongolia
Floor 5, MPM Complex,
UNESCO Street, Sukhbaatar District,
Ulaanbaatar, Mongolia

Except as discussed in the following paragraphs, we have audited in accordance with the auditing standards generally accepted in the United States and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Fund Accountability Statement of MCA-Mongolia for the period May 3, 2017 to March 31, 2021, and have issued our report on it dated October 15, 2021.

In Mongolia, we do not have a continuing education program that fully satisfies the requirement set forth in Chapter 4, paragraph 4.16 of *Government Auditing Standards*. However, our auditors must attend the 20 hours of continuing education and training from MICPA every year. We are taking appropriate steps to implement a continuing education program that fully satisfies the requirement.

We did not have an external Quality Control Review (QCR) by an unaffiliated audit organization, as required in Chapter 5, paragraph 5.60 of *Government Auditing Standards*, since no such program is offered by MICPA. We believe that the effect of this departure from *Government Auditing Standards* is not material because we participate in the Baker Tilly International worldwide internal quality control review program that requires our office to be subjected, every three years, to an extensive quality control review by partners and managers from other affiliate offices.

Internal Control over Financial Reporting (ICOFR)

In planning and performing our audit of the financial statements, we considered MCA-Mongolia's ICOFR (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of MCA-Mongolia's internal control. Accordingly, we do not express an opinion on the effectiveness of MCA-Mongolia's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis. A *significant deficiency* is a deficiency or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that have not been identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. We did identify certain deficiencies in internal control, described in the accompanying schedule of audit findings and questioned costs as items that we consider to be significant deficiencies.

We noted certain matters involving internal control and its operation that we have reported to the management of MCA-Mongolia in a separate letter dated October 15, 2021.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether MCA-Mongolia's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreement, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such as opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in the accompanying schedule of audit findings and questioned costs as items.

We noted certain immaterial instances of noncompliance that we have reported to the management of MCA-Mongolia in a separate letter dated October 15, 2021.

MCA-Mongolia's Response to Findings

MCA-Mongolia's response to the findings identified in our audit is described in the accompanying schedule of audit findings and questioned costs. MCA-Mongolia's response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Baker Tilly Dalaivan Audit LLC

Baker Tilly Dalaivan Audit LLC

October 15, 2021

5. SCHEDULE OF AUDIT FINDINGS AND QUESTIONED COSTS

5.1 Summary of Auditor's results

| <i>Fund Accountability Statement and Questioned costs</i> | |
|--|------------------------------|
| We issued the Unmodified opinion on the Consolidated Fund Accountability Statement of MCA-Mongolia for the period May 3, 2017 to March 31, 2021. Our audit has not identified any questioned costs on the Fund Accountability Statement for CDF for the period May 3, 2017 to March 31, 2021 and Fund Accountability Statement for C-CDF for the period July 27, 2018 to March 31, 2021. | |
| <i>Internal control over Financial Reporting</i> | |
| Material weaknesses identified | No |
| Significant deficiencies identified | Yes – 3 audit findings noted |
| <i>Compliance and Other Matters</i> | |
| Noncompliance material to Fund Accountability Statement | No |
| Immaterial noncompliance | Yes – 3 audit findings noted |

5.2 Audit findings on Internal control

5.2.1. Failure of some component principles in MCA-Mongolia's Internal control system

Type: Significant deficiency

Condition

As specified in the MCC Audit Guidelines, we evaluated MCA Mongolia's internal control system according to five components and seventeen (17) principles (including control environment, risk assessment, control activities, information & communication and monitoring) as set forth in *GAO Standards for Internal Control in the Federal Government* and identified the weaknesses observed in some components that needs further attention.

A. Control environment

Participation of Government Voting Members in the Board Meeting

MCA- Mongolia Charter states that "In the event that a Voting Member is unable to participate in a meeting of the Board, such Voting Member may appoint in writing an alternate to participation for such Voting Member", but it does not include any provisions or clauses further indicating required information on the alternate participant (name position, duration and so on) and the time that the alternate member must show up at the MCA- Mongolia prior to the Board Meeting. In the case that the alternate Member is designated with short time too close to the Board Meeting, the alternate Members may participate in the meeting without review of the documents or adequate knowledge on the subject matter, followed by ineffective decision-making.

Changes in Management Unit of MCA- Mongolia

Consisting of 14 senior managers, MCA-Mongolia Management Unit is responsible for managing the program's day-to-day activities and ensuring the implementation of obligations outlined in the Program Implementation Agreement. As of March 31, 2021, the employment contracts of five senior executives have been terminated at the request of employees before contract expiry dates. As we observed, the majority of these senior executives left their jobs at similar dates, which might have resulted in the transfer of some duties to other officers until a replacement is hired, increased workload for officers, and slow-down in management decision making.

B. Risk assessment

MCA-Mongolia institutional level risk assessment and risk assessment for financial reporting and financial information system

MCA-Mongolia carried out the Fraud and Corruption Risk Assessment and endorsed the "Action Plan for Preventing, Detecting, and Remediating Fraud and Corruption" in May 2020, then posted it on its website. During the audit, the auditors were not provided the fraud and corruption risk assessment issued by MCA-Mongolia. Thus, the auditors could not evaluate if MCA-Mongolia identified and assessed the risks

associated with the financial reporting and financing information system if response measures have been planned or not. As the Financial Agent takes responsibility for accounting and financial reporting, MCA-Mongolia must assess Fiscal Agent's risks, including accounting and financial reporting and information system risks, and plan the appropriate actions/responses accordingly.

C. Monitoring

Monitoring controls over processes stated in MCA-Mongolia Fiscal Accountability Plan, Procurement Operations Manual, Contract Administration and Management Manual, and Human Resources Manual

In addition to complying with MCC policies and procedures, MCA-Mongolia issues and follows the Fiscal Accountability Plan, Procurement Operations Manual, Contract Administration and Management Manual, and Human Resources Manual. During the audit, we selected samples and performed control and compliance testing on them to ensure proper implementations of those documents and illustrated the audit findings in Management Letter. The relevant controls over financial and procurement processes mentioned in the mentioned manuals need to be monitored regularly by MCA-Mongolia, Fiscal Agent and Procurement Agent, and monitoring controls must be documented.

Proper implementation of Internal audit recommendations

During the audit, we reviewed the Internal Audit Charter, Internal Audit Plan, and Internal Audit Reports produced by the MCA-Mongolia's Internal Audit Unit and met those responsible staff about the implementation status of the internal audit recommendations. In 2019 and 2020, the Internal Audit Unit performed the internal audits on PPG-procurements, contract management, financial performance, and non-PPG procurements and presented the audit findings to the Board and management. These audits issued a total of fifty-two (52) audit recommendations, of which twelve (12) were verified by the Internal Audit Unit as fully implemented, and thirty-five (35) were determined as under progress, and five (5) were not implemented adequately.

Criteria

GAO Standards for Internal Control in the Federal Government, a document issued by the US Government, defined the internal control system as "an internal control system is a continuous built-in component of operations, effected by people, that an entity's objectives will be achieved." This document describes the five components of internal control, including 17 principles as follows:

- Control environment – The foundation for an internal control system that provides the discipline and structure to help an entity achieve its objectives.
- Risk assessment- It assesses the risks facing the entity as it seeks to achieve its objectives. It provides the basis for developing appropriate risk responses.
- Control activities- The actions management established through policies and procedures to achieve objectives and respond to risks in the internal control system, including the entity's information system.
- Information and communication- The quality information management and personnel communicate and use to support the internal control system.
- Monitoring- Activities management establishes and operates to assess the quality of performance over time and promptly resolve the findings of audits and other reviews.

Cause

MCA-Mongolia's explanation: As to the part A, Control environment – Participation of the Government Voting Members in the Board Meetings, the MCA-Mongolia usually delivers adequate notices (at least 7 days prior to the date of regular meetings and at least 48 hours prior to the time of special meetings) to all voting members of the Board as set forth in the Section 3.12 (b) (i) of the Charter of State Owned Entity "Millennium Challenge Account-Mongolia (MCA-Mongolia)".

There were several cases occurred when the voting members agreed to attend the regular/special meeting after receipt of the delivered notices but the member had to appoint an alternate in very last minute just before the meeting started due to the serious sudden reasons (sudden illness, sudden summon by the Prime Minister, etc.)

In relation to part C. Risk Assessment- MCA-Mongolia has a Risk register to identify risks ranging from project implementation, procurement and finance based on MCC's support and relevant workshops organized by MCC. Regarding Anti-fraud and corruption risk assessment, the auditor can approach

directly to Christopher P. Williams via williamscp@mcc.gov, who is MCC's Senior Director for Anti-Fraud and Corruption (AFC).

Effect

If one or more of the five components are not effectively designed, implemented, or operating effectively or are not operating together in an integrated manner, then an internal control system is ineffective. As a result, circumstances exist, such as the absence of controls, ineffective controls, or the ability of management to override controls that provide an opportunity to commit fraud.

Audit recommendation

Maintaining a sound and robust internal control system serve as measurement criteria for institutional "good governance". Therefore, to establish an optimal and systematic internal control system, MCA-Mongolia's management should evaluate if the component principles stated in *GAO Standards for Internal Control in the Federal Government* are pursued. It is recommended that MCA-Mongolia's management will devote attention to issues related to control environment, risk assessment, and control monitoring observed by auditors and plan remedial actions accordingly.

Management response

MCA-Mongolia agrees with the auditor's recommendation. MCA-Mongolia will take all the necessary/appropriate measures to avoid or prevent such failure within the MCA-Mongolia's internal control in the future.

5.2.2. No determination and disclosure of related parties and related party transactions

Type: Significant deficiency

Condition

We requested any documentation to determine and disclose the related parties and related party transactions during the audit. However, MCA-Mongolia informed us that any regulatory policies and procedures, and documentation were not produced and used.

To prevent any conflicts and aim to achieve MCA-Mongolia employees free from conflict of interest, MCA-Mongolia follows a Conflict of Interest Policy. This policy states that each employee signs the Conflict of Interest Acknowledgement and Disclosure Form after filling out a relevant checklist before starting employment. Moreover, each member of the Tender Evaluation Panel signs a Confidentiality Agreement to avoid any conflict of interest that may have occurred in the tender process.

Criteria

According to GAAP Accounting Standards Codification (ASC) 850, the financial statements are required to disclose material related party transactions other than compensation arrangements, expenses allowances, or other similar items that occur in the ordinary course of business. Related parties include affiliates and investors accounted for by the equity method, trusts for the benefit of employees, principal owners, management, and immediate family members of owners or management. Transactions with related parties must be disclosed even if there is no accounting recognition made for such transactions. If the financial position or results of operations of the reporting entity could change significantly because of common control or common management, disclosure of the nature of the ownership or management control is required, even if there were no transactions between the entities.

Cause

MCA-Mongolia's explanation: There are several policies and procedures MCA-Mongolia comply with to ensure prevention of Conflict of Interest and related party transactions.

- 1) Action plan for preventing, detecting and remediating fraud and corruption in MCA-Mongolia Compact Implementation;
- 2) Code of Business Ethics and Standards of Conduct;
- 3) MCA Conflicts of Interest Policy.

All employees of MCA-Mongolia are required to declare Conflict of Interest initially prior signing employment agreement and then on annual basis. In addition to the above-mentioned policies, regular AFC training takes place to raise awareness about potential risks for employees and 24-hour OIG hotline is available for reporting any instances of fraud and Conflict of Interest. Furthermore, in accordance with MCC Procurement Handbook, every TEP member is required to declare Conflict of Interest and sign Confidentiality Agreement. In case of potential conflict of interest, TEP members are replaced and prohibited from participation of the tender evaluation process.

Moreover, MCA-Mongolia is a State-Owned Entity solely responsible for Compact implementation with no subsidiary or affiliates accounted for by the equity method.

Therefore, MCA-Mongolia does not have any related party transactions to disclose in the Fund Accountability Statement for the reporting period as of March 31, 2021.

Effect

The auditor could not perform audit procedures to identify, assess and respond to risks of material misstatement arising from MCA-Mongolia's failure to appropriately account for or disclose related party relationships, transactions, or balances; and obtain sufficient audit evidence for it.

Recommendation

MCA-Mongolia should develop appropriate policies and procedures to determine and disclose related parties and related party transactions and include the relevant requirements in the Fiscal Accountability Plan. Under these procedures, MCA-Mongolia will disclose related party relationships, the amount of such transactions, and the outstanding balances on the Fund Accountability Statement by the year-end.

Management response

MCA-Mongolia does not have related party transactions to disclose for the reporting period and the current procedures are adequate to detect any instances of Conflict of Interest. According to Fiscal Agent, who is in charge of MCA-Mongolia's accounting and bookkeeping, there are no related party reporting requirements and relevant practices in other MCA's worldwide funded by MCC. However, if MCC agrees with the audit recommendation, MCA-Mongolia will work further to define related party policy and disclose it in the Fund Accountability Statement.

Auditor's response

The management cannot disclose that MCA-Mongolia does not have related party transactions for the reporting period unless it has existing policies and procedures for determining related party and recording and reporting related party transactions; and it has relevant documentations.

5.2.3. Disaster recovery plan under business continuity plan had no tests done

Type: Significant deficiency

Condition

There were no actual tests done during the period on the disaster recovery plan under the business continuity plan written by Fiscal Agent.

Criteria

Disaster recovery plan under business continuity plan must be tested at least once annually to confirm whether the entity's business continuity scheme is working properly or not.

Cause

MCA-Mongolia's explanation: Fiscal Agent server was moved to MCA server room on March 1, 2021. The recovery test was planned to be held from the server permanent location. However, due to delay on the delivery of some installation parts such as PDUs (compatible with MCA server power voltage) and due to frequent work interruptions caused by Government mandated Covid-19 lockdowns, the disaster recovery plan test could not be undertaken.

Effect

No testing could lead to the restriction of the entity's business continuity possibilities and cannot detect the holes and faults of the system.

Audit recommendation

Fiscal Agent should perform at least one test done annually for the disaster recovery plan under business continuity plan and document the test result.

Management Response

The Fiscal Agent agrees with the auditor's recommendation. The Fiscal Agent Disaster Recovery Plan already contemplates a full test to be carried out at least once a year. Sample data restore will be run for data verification and results will be documented in a log file saved on the server for record keeping.

5.3 Audit findings on Compliance with agreements and applicable laws and regulations

5.3.1 Missing work condition of each position on Employment agreement template

Type: Immaterial noncompliance

Condition

One of the mandatory basic conditions, "working conditions" which requires to be stated on employment agreement is missing.

Criteria

In accordance with article 21.3 of Labor law Mongolia (dated 1999) stated that during the establishment of an employment agreement, if one of the basic conditions specified in paragraph 21.1 of Labor law have not been agreed upon, the employment agreement shall not be considered as established.

Cause

MCA-Mongolia's explanation: The employment agreement template was approved by MCC and Board of Directors.

Effect

Due to the missing clause of work condition in the employment agreement, the MCA-Mongolia can be considered as not having concluded the employment agreement. This action is infringement under paragraph 4.3 of Article 10.16 of the Law of Mongolia on Infringement (dated 2017) as the Employer has not concluded the employment agreement with the employee in writing and the employee has performed duties without execution of written employment agreement, the employer or MCA-Mongolia shall indemnify loss and reimburse the compensation and shall be punishable by 1,500,000 MNT (app 526.5US\$).

Audit recommendation

As defined in article 3.1.10 of Labor law and article 3.1.4 of Law on Labor safety and hygiene, working condition means a workplace or manufacturing surroundings factor which affects the working skill and health of the employee during employment solely or in a combined manner.

Under the standard MNS 5080:2001 – "Occupational safety. Industrial hygiene. Working conditions, their classification and factors. Assessment of working conditions", the working condition is classified as normal and abnormal. The working condition shall be assessed and its type shall be identified in accordance with the standard. After the working conditions of each position of MCA-Mongolia has been assessed and identified, the article of working condition shall be added to the employment agreement template.

Management Response

MCA-Mongolia agrees with the auditor's recommendation. Amendment to the employment agreement is a subject to the MCC and Board's approval. Therefore, the MCA-Mongolia needs to discuss this issue with the MCC to get No objection and present the issue to the Board of Directors after receipt of the MCC's written approval.

5.3.2 Discriminated approach to pay overtime compensation and add a clause on overtime pay to the employment agreement template

Type: Immaterial noncompliance

Condition

Only band A support staff may be compensated for overtime work, not exceeding 40 hours per month, subject to the requirements of the Labor Law of Mongolia. Overtime means time worked in excess of the scheduled workday or the scheduled workweek or time worked on official holidays as stated in paragraph 7.3 of HR Manual.

Criteria

Under section purpose of IFC PS2, MCA-Mongolia is to promote the fair treatment, non-discrimination and equal opportunity of workers, and compliance with national labor and employment laws

In accordance with articles 52 and 53 of Labor Law of Mongolia, if an employee works overtime or on weekly rest days, and has not been given another rest day for each such day, he or she shall receive compensation for such work in an amount equal to at least one and one-half times his or her average compensation. If an employee works on a public holiday, and is not given another day off from work for each such day, he or she shall receive compensation for such work at double rate of his or her average compensation. The overtime pay shall be regulated under the collective and employment agreement.

Cause

MCA-Mongolia's explanation: MCC's guidance were used as a basis for the development of the MCA-M's HR manual.

Effect

The discrimination or the conclusion of limitations or advantage based on nationality, race, sex, social origin or status, wealth, religion, position, education or ideology is prohibited under the Labor law. It is a breach of Labor law because overtime pay is paid to only A bank support staff or discriminated against by the position and education of the employee.

Audit recommendation

As stated in the HR Manual, overtime payments should be structured based upon the provisions of the Labor Law of Mongolia. It is strongly preferred to compensate overtime by compensation leave instead of pay.

It is highly recommended to insert a clause in the employment agreement on overtime pay in accordance with Labor law as well as the HR Manual such as a clause that states "if the employee has worked overtime, he/she is entitled to get a leave which equals to the worked overtime hours".

Management Response

MCA-Mongolia agrees with the auditor's recommendation. Amendment to the HR manual is a subject to the MCC and Board approval. MCA-Mongolia needs to discuss this with the MCC to get No objection and present the issue to the Board of Directors after receipt of the MCC's written approval.

5.3.3 HR manual states that one month salary to be provided to the redundant employee in lieu of notice period

Type: Immaterial noncompliance

Condition

Extract of paragraph 11.2 of HR Manual - If no notice is provided, MCA-Mongolia will provide one (1) month salary in lieu of notice period. The following instances shall be considered grounds for termination with one (1) month notice, except where MCA-Mongolia may choose to provide one (1) month salary in lieu of notice period: Staff member's position is made redundant at MCA-Mongolia.

Criteria

In accordance with Article 17 of Decree 33 Elaboration of some paragraphs and articles of the Labor law of the Supreme Court dated July 3, 2006, the Employer or MCA-Mongolia shall give a written notice to the employee prior to 30 days of termination date and the Employee shall sign on a copy of writing termination notice as confirming that receipt of the termination notice in case of redundancy of the position.

The same requirement applies to employment termination with the grounds that the employee cannot meet the requirements of the job or position due to lack of professional qualifications or skill, or health reasons.

Cause

As explained by MCA-Mongolia, Article 11.3 of the HR manual specifically states the procedures to be followed in the event of a redundancy. However, it was duplicated in Article 11.2.

Effect

The termination of the employment without giving writing notice to the employee, it is considered as a procedural error during redundancy termination. In practice, even if the Employee agrees to get a 1-month salary in lieu of the notice period, the Employee still has the right to file a claim against the Employer to the court.

Based upon a practical labor litigation case, the Employee had filed a claim against the Employer in a similar scenario and the Judge accepted the claim, he/she dictates that the Employer to rehire the Employee and pay all salary during the litigation period.

Audit recommendation

We highly recommend deleting all paragraphs that state " provide one (1) month salary in lieu of notice period". It is noncompliant with Article 17 of Decree 33 Elaboration of some paragraphs and articles of the Labor law by the Supreme Court dated July 3, 2006 and shall be considered a procedural omission during the redundancy termination.

Management Response

Agree with the auditor's recommendation. Amendment to the HR manual is a subject to the MCC and Board approval. MCA-Mongolia needs to discuss this with the MCC to get No objection and present the issue to the Board of Directors after receipt of the MCC's written approval.