



ACTION PLAN FOR PREVENTING, DETECTING AND REMEDIATING FRAUD AND CORRUPTION IN MCA- MONGOLIA COMPACT IMPLEMENTATION

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MILLENNIUM CHALLENGE ACCOUNT–MONGOLIA

ACTION PLAN FOR PREVENTION, DETECTION, AND REMEDIATION OF FRAUD AND CORRUPTION

1. INTRODUCTION

MCA-Mongolia is mandated to implement the Millennium Challenge Compact signed between the Government of Mongolia and the Government of United States of America, through the Millennium Challenge Corporation (**MCC**), in July 2018. The objective of establishing MCA-Mongolia is to implement the Compact in order to reduce poverty through economic growth in Mongolia. The Compact will assist the Government in meeting the projected demand for water in the capital city of Ulaanbaatar for residential consumers and commercial and industrial users through a Water Supply Project, consisting of three closely related investment activities:

- **A Downstream Wells Activity**, to construct new groundwater wells with attendant transmission lines, reservoirs, and an advanced water purification plant;
- **A Wastewater Recycling Activity**, to construct a new wastewater recycling plant and pipelines to provide high-quality treated wastewater that can be used instead of fresh water by water-intensive industries, thereby increasing the amount of fresh water available for household consumption; and
- **A Water Sector Sustainability Activity**, to support policy reforms, capacity building, and technical assistance to improve the long-term sustainability of Ulaanbaatar’s water supply.

2. PURPOSE

The purpose of the Anti-Fraud & Corruption Action Plan (**AFC AP**) is to establish an appropriate framework that defines how the staff and management of MCA-Mongolia will join with its Implementing Entities (**IEs**) and Partners towards effective prevention, detection and remediation of fraud and corruption of any description within MCA-Mongolia.

3. SCOPE

The MCA-Mongolia’s AFC AP is meant to address all stakeholders involved in the implementation of the Compact and includes MCA-Mongolia Board and staff, Implementing Entities, Partners as well as MCA-Mongolia contractors for works, goods and services.

4. MCC POLICIES TARGETED AT FRAUD AND CORRUPTION

In an effort to prevent fraud and corruption during implementation of Compact activities, MCC developed various Policies and Procedures targeted at addressing such instances. Some of these policies are described below:

- Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC's Operations (MCC AFC Policy).
- Guidelines for Accountable Entities and Implementing Structures.

4.1 Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC's Operations (MCC AFC Policy)

In March 2009, MCC developed a policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC's operation that requires all MCAs to complete a Compact specific Anti-Fraud and Corruption Risk Assessment and to develop and implement a related Action Plan. Research made by MCC revealed that corruption retards economic growth by:

- Increasing costs;
- Lowering productivity;
- Discouraging investment;
- Reducing confidence in public institutions;
- Limiting the development of small and medium sized enterprises;
- Weakening systems of public financial management; and
- Undermining investments in health and education.

Corruption also increases poverty by:

- Slowing economic growth;
- Skewing government expenditure in favour of the rich and well-connected;
- Concentrating public investment in unproductive projects; and
- Promoting a more regressive tax system.

MCC's AFC Policy recognizes six types of fraud and corruption:

4.1.1. Coercion: Impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to influence improperly the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including such actions taken in connection with a procurement process or the execution of a contract.

4.1.2 Collusion: A tacit or explicit agreement between two or more parties to engage in a coercive, corrupt, fraudulent, obstructive or prohibited practice, including any such agreement designed to fix, stabilize, or manipulate prices or to otherwise deprive the Accountable Entity of the benefits of free and open competition.

4.1.3 Corruption: The offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, Accountable Entity staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC funding, including such work involving taking or reviewing selection decisions, otherwise advancing the

selection process or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract.

- 4.1.5 Fraud: Any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including any act or omission designed to influence (or attempt to influence) a selection process or the execution of a contract, or to avoid (or attempt to avoid) an obligation.
- 4.1.4 Obstruction of investigation into allegations of fraudulent or corrupt practice: Any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC funding: (a) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of a coercive, collusive, corrupt, fraudulent, or prohibited practice; or (b) that threatens, harasses, or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; or (c) that is intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or the Office of the Inspector General (OIG) responsible for MCC provided under a compact, threshold program agreement, or related agreements.
- 4.1.6 Prohibited practice: Any action that violates Section E (Compliance with Anti-Corruption, Anti-Money Laundering, Terrorist Financing, and Trafficking in Persons Statutes and Other Restrictions) of the Annex of General Provisions that will be made a part of MCC-funded contracts and may be found as part of the Standard Bidding Document templates (there referred to as “Annex A: Additional Provisions”) on the MCC website at <http://www.mcc.gov>.

4.2 Conflicts of interest should be openly and duly managed, as they can open the door to fraud and corruption.

5. ANTI-FRAUD & CORRUPTION ACTION PLAN TO COMBAT FRAUD AND CORRUPTION

- 5.1 In compliance with MCC policy directives, MCA-Mongolia developed this Anti-Fraud & Corruption Plan (AFC AP) to address the highest priority risks listed in the Anti-Fraud and Corruption Risk Assessment Matrix.
- 5.2 The AFC AP will describe both the process and results of the AFC Risk Assessment and provide a detailed pathway for implementing additional measures to mitigate risks identified in the assessment.
- 5.3 The AFC AP complements an array of internal policies adopted by MCA-Mongolia, in conjunction with MCC, to assure the orderly operation of the Management Unit. The policies discussed below aim to promote good governance, strengthen internal controls and to deter fraudulent and corrupt schemes in MCA-Mongolia operations.

6. MCA-MONGOLIA POLICIES TARGETING FRAUD AND CORRUPTION

The MCA-Mongolia Management Unit was established as a new organisation and apart from the Compact and Implementation Agreement governing the Management Unit; more detailed subject related policies were developed to govern the organisation. Some of these policies are described below:

- Fiscal Accountability Plan;
- Program Procurement Guidelines and Standard Bidding Documents;
- Bid Challenge System;
- Conflict of Interest Policy;
- Compact, Program Implementation Agreement and MCA-Mongolia's Charter;
- HR Manual and Standard Employment Contract;
- Regular audits; and
- Performance Management System.

6.1 Fiscal Accountability Plan

MCA-Mongolia adopted its Fiscal Accountability Plan (FAP) in April 2020 to serve as a set of treasury rules for all financial and procurement actions undertaken by the Management Unit. To remain relevant to the operational requirements of MCA-Mongolia, the FAP has been reviewed. MCA-Mongolia regards the FAP as an important management tool and has promoted widespread understanding and knowledge of the FAP amongst all staff. Brief presentations on specific sections of the FAP were given occasionally in monthly staff meetings. This familiarization of all staff was well received and increased awareness of strong internal controls. This may have acted as a deterrent for corruption. MCA-Mongolia also hired an international firm, Cardno Emerging Markets USA, Ltd, to serve as its Fiscal Agent (FA), responsible for approving and making all Compact-related payments on behalf of MCA-Mongolia. MCA-Mongolia will also hire an external auditing firm to conduct semi-annual audits which will be reviewed by MCC.

6.2 Procurement Policies and Standards

MCA-Mongolia conducts its procurements in compliance with MCC's Program Procurement Guidelines ("PPG"), other Guidance Papers issued by MCC, and the Program Implementation Agreement. As specified in the Compact, MCA-Mongolia has hired an international firm, Charles Kendall and Partners Limited (in association with GFA Consulting Group GmbH), to serve as its Procurement Agent (PA). Under the terms of the Procurement Agent Agreement, the PA developed Procurement Operations Manual which was approved by MCC and enforced by the CEO within MCA-Mongolia. The document is made available to all staff members of MCA-Mongolia and trainings were provided to all staff members. In accordance with the PPG, MCA-Mongolia also adopted the Contract Administration and Management Manual template prepared by MCC for the use by MCA Entities with the necessary changes to ensure that the manual responds to the operational reality of MCA-Mongolia. Moreover, the PPG requires MCA-Mongolia to use Standard Bidding Documents that are developed by MCC for the use of all MCA Entities in

procuring the goods, works, and services (consulting and non-consulting) needed to implement their Compacts. Aforementioned governing documents provide:

- Detailed procurement processes and guidelines;
- The standards to be adhered;
- Segregation of duties and clear delegation of staff roles involved in procurement;
- Guidance on treatment of actual and potential conflicts of interest;
- Demarcation of the joint approval system between MCC and the MCA-Mongolia Board in procurement activities; and
- Promotion of transparency through publication of procurements and contract awards on the MCA-Mongolia Website and international websites.

6.3 MCA-Mongolia Bid Challenge System

The Compact requires the Government (including any designee) to ensure that it procures all goods, works and services to implement the compact program in accordance with the MCC PPG. The PPG further requires MCA-Mongolia to establish and publish a bid challenge system that provides Bidders on MCA-Mongolia procurements with the ability to challenge and seek review of MCA-Mongolia procurement actions and decisions. To comply with these requirements, MCA-Mongolia has established the rules and procedures set forth in this document, referred to as its Bid Challenge System or BCS, to govern the review of all challenged MCA-Mongolia procurement actions and decisions, and which will be incorporated in all solicitation documents distributed to Potential Bidder. <https://cms.mca-mongolia.gov.mn/uploads/mca-mongolia/originals/08fe8720-4210-4f4e-8753-1c34d8442bb1.pdf>

6.4 MCA-Mongolia Conflict of Interest Policy

In January 2019 MCA-Mongolia adopted a policy to provide for the treatment of conflicts of interest involving its staff and members of the Board of Directors. The policy has provided valuable guidance in treatment of *ad hoc* situations of conflicting interests emerging during implementation of the Compact. Once a staff member declares a conflicting interest, the MCA-Mongolia's CEO and MCC Resident Country Director make a ruling in terms of the policy whether the conflict can be duly mitigated or is too grave to be mitigated and the situation must be avoided. Declarations and rulings are fully documented in a record kept under the control of the General Counsel and declared regarding the activities of the MCA-Mongolia Board are also covered by the policy and the Chairman of the Board effects the policy requirements at each MCA-Mongolia' Board Meeting.

6.5 MCA-MONGOLIA HR Manual and Standard Employment Contract

MCA-Mongolia developed and adopted Human Resources Manual and Standard Employment Agreement to ensure consistency and equity in human resource specific issues, while maintaining a conducive and enabling working environment.

Typical ways in which these management tools target or aim to combat fraud and corruption is by providing clear rules regarding:

- Recruitment to ensure accountability, transparency and fairness in the hiring and selection process;
- Basic conditions of employment and performance management system to prevent favouritism and nepotism;
- Disciplinary procedures and redress mechanisms;
- Rules on Leave and Compensation Administration;
- Housekeeping rules regarding accountability for MCA-Mongolia Assets;
- Ethical conduct including guidance on dealing with hawkers, vendors and family members; and
- Acceptance of gifts and favours in the employment situation.

6.6 MCA-Mongolia Performance Management System

In 2020 MCA-Mongolia adopted a detailed Performance Management System to manage and incentivize staff performance. The premise of the system is based on the linkage of performance measures to the underlying job evaluation measures. The performance appraisal system is designed to support a multi-rater approach which starts with a self-assessment and also includes supervisors, peers and potentially outside clients with which they engage most closely in functional and technical interactions. Peer ratings are averaged together to provide a composite rating and their comments will not be visible to the individual they are rating. The assessment process is cleanly managed through an online system application from the initiation of the self-assessment through the final compilation of ratings. A four-rating standard has also been developed with definitions aligned to each level and factor.

7 MCA-MONGOLIA METHODOLOGY FOR AFC AP

The methodology used in developing the AFC Action Plan towards effective prevention, detection and remediation of fraud and corruption of any description within MCA-Mongolia involved the following:

- AFC training provided in November, 2019 to MCA-Mongolia staff and stakeholder representatives;
- Establishment of MCA-Mongolia/MCC Joint Working Group on Fraud and Corruption;
- AFC Workshops with MCA-Mongolia and MCC staff (telephonic) to discuss the draft AFC Risk Assessment Matrix;
- Development of MCA-Mongolia AFC AP.

The process is described in more detail in Annex A.

8. MCA-MONGOLIA AFC ACTION PLAN

After careful deliberation of the AFC risk assessment matrix (Annex B), the MCC/MCA-Mongolia Joint Working Group was in agreement that the fraud and corruption risk in most areas of the MCA-Mongolia Compact Implementation is duly mitigated. However, totally 47 fraud and corruption related risks have been identified in the AFC risk assessment matrix. The table below demonstrates the overall classification of identified risks based on its probability and impact assessment which is mutually agreed with MCA AFC working group and MCC. It is agreed that the MCA-Mongolia AFC Action Plan would focus on the risks rated with a high likelihood and/or high impact risk. Such risks are concentrated in Procurement and Infrastructure Works Construction and are detailed in the Table below.

Risk Matrix to Prioritize

Likelihood	H		2	
	M	3	7	5
	L	7	6	16
		L	M	H
		Severity		

According to the above table, 7 risks have been classified as high risk area (painted in red) which requires attention to manage. There were other risks categorized as medium level risk (painted in yellow) are considered in action plan due to the similarity in nature with other high level risks.

Risk Rating	Risk ID	Risk and risk category	Action Plan	Timing	Additional cost	Responsible
Medium	1.3.	Information security related risks	<ul style="list-style-type: none"> Developing information security procedure which classifies information based on its confidentiality level and identify stakeholders who has access to particular information. Training shall be provided to MCA-Mongolia staff and contractors. 	Q2 2020	No additional cost	Contract managers, Procurement team and General counsel
High	2.2.					
High	8.6.					
Medium	1.1.	Accepting poor quality deliverables (reports, goods, works, materials etc.) within all MCA activity	<ul style="list-style-type: none"> MCC AFC policy to be communicated effectively to contractor and beneficiary and routine check/monitoring by MCA-Mongolia team; Posting of anti-corruption notices on construction sites to inform workers and the public of relevant contact details to report suspicious activity on construction sites; Spot checks by MCC through Technical Advisory Service; Early-on audits of payment certification and processes, as well as scheduled and unscheduled oversight visits by the MCC and its Independent Engineers; 	Entire project	Depends on the nature of the work	Contract managers and General counsel
High	2.4.					
High	10.1.					
Medium	10.1.					
Medium	10.3.					

			<ul style="list-style-type: none"> Regular and diligent oversight and reporting, including unscheduled spot-checks, by the MCA-Mongolia on progress and quality of works; 			
High	1.4.	The government officials may abuse of their power to issue permits and licenses.	<ul style="list-style-type: none"> The government stakeholders shall be informed of the AFC policy; Collaboration between government and MCA-Mongolia will be developed through raising public awareness and including AFC compliance issue in any communication activities provided to government officials; 	As and when needed	Negligible	Contract Managers
High	10.4	Unnecessary changes in materials or equipment	<ul style="list-style-type: none"> MCA-Mongolia shall follow the management process for any change of materials or equipment; MCA-Mongolia shall create a process that includes a review by MCC independent engineer. 	Entire project	Depends on the nature of the work	Contract Managers
High	3.5.3.	Misuse of funds by organizations implementing activities designed by Program Partnership Solicitation (PPS) partner	<ul style="list-style-type: none"> Review and oversight procedures by MCA-Mongolia (to be developed); Potential roles for non-MCA-Mongolia staff in review and oversight; Revisit once potential Social and Behavioural Change activities have been designed by PPS partner(s). 	Entire project	Negligible	Contract Manager and Finance Team

9. ROLE OF MCA-MONGOLIA BOARD AND MCC

- The AFC AP shall be submitted to the MCA-Mongolia's Board for information and to MCC for approval.
- The Risks recorded in the AFC Action Plan shall be reported on a semi-annual basis to the Board in information session to provide feedback on implementation of mitigation measures.

10. REVISION AND MONITORING

- MCA-Mongolia Management shall at semi-annual intervals (or upon significant changes to the AFC context) update the AFC AP, before Board meetings.
- An AFC Action Plan progress report shall be posted semi-annually on MCA-Mongolia's website after approval by MCC.

MCC will conduct an AFC Field Study to Mongolia, meeting with MCA-Mongolia staff, key contractors, Board members, and other stakeholders, to validate and update if and as needed the AFC Action Plan, once such travel becomes feasible. Effective risk management requires flexible, responsive, continuous learning of best practices and skills. Lessons learned will contribute to refined oversight strategy in relation to the AFC Action Plan. With this commitment in mind, MCA-Mongolia AFC risk assessment matrix and this Action Plan will be revised and improved regularly during their implementation.

The revisions will include different actions, depending the scope and purpose:

- eliminating some risks, mitigants and amending/adding new ones;
- adopting new actions, which will facilitate prevention, detection, or remediation of fraud and corruptions;
- improving the system for responding to fraud and corruption;
- improving the system for prompt and proportional remediation;
- other actions.

Revisions to the AFC Action Plan may also be initiated by MCA management, MCA Project Directors, MCA Board, MCC technical staff, and/or MCC Resident Country Director as needed. MCA-Mongolia will prepare the final draft for the Board's information and MCC's final approval. The final versions of revised AFC Action Plan will be made available on the MCA-Mongolia website.

Annex A: MCA-Mongolia Methodology for Developing the AFC Action Plan

Organization-wide Anti-Fraud and Corruption Training

A four-day training intervention on fraud and corruption took place in November 2019 with objective to create awareness amongst all staff members regardless of status and designation in MCA-Mongolia. The training covered fraud and corruption risks related to Compact Start-up (Project design/Beneficiary selection), Compact Implementation (Procurement, Contract Management, Financial/Administrative Management) and Compact Closeout. The participants were presented with case studies to expose them to real life occurrences of fraud and corruption related to their specific daily tasks. They also discussed measures which might be taken to reduce the risk and occurrence of fraud and corruption, and the standard mitigants that have been developed by MCC.

Joint MCC/MCA-Mongolia Working Group on Anti-Fraud and Corruption

In January 2020, a joint MCC and MCA-Mongolia working group was formed to develop and review the Anti-Fraud and Corruption risk assessment matrix. The working group consisted of a core team that worked with MCC and MCA technical directors and staff as necessary.

The Core Team

- MCA-Mongolia staff
- Rick Messick (Senior AFC Advisor, MCC)
- Chris Williams (Senior Director on AFC, MCC)

Development of Anti-Fraud and Corruption Risk Assessment Matrix

It was agreed that MCA-Mongolia would draft sector-based AFC risk matrices with close involvement of the MCA-Mongolia technical staff. The sector matrices were developed by MCA-Mongolia Directors after an internal discussion on methodology and development of a template for the AFC risk assessment matrix. The draft matrix identified possible activities of fraud and corruption that may occur in the MCA-Mongolia Compact per sector, showing the impact and likelihood of the risks on the Compact. It also proposed the appropriate mitigation measures to prevent or limit the impact and likelihood of these risks.

MCC Directors and staff independently developed their own version of the AFC risk assessment matrix to encourage creative and wide-ranging consideration of the context relevant to the specific Compact program as well as their professional experience.

In February and March 2020, the consolidated draft AFC risk assessment matrices were shared between MCA-Mongolia and MCC, and then reviewed by the Joint Working Group with the relevant MCA and MCC staff in subsequent AFC workshop sessions via teleconference. The matrix was then updated to reflect the discussions and input from representatives of MCC's AFC Team.