

**Millennium Challenge Account
Vanuatu**

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Compte de Défi de Millénaire Vanuatu

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MCA-Vanuatu Steering Committee Meeting Minutes

Type of Meeting: Special Steering Committee Meeting
9th November 2007
8:00am

Chantilly's on the Bay Conference Room

Board Members:

Present:

Jean Sese	Chairman	Director-General Prime Ministers Office
Simeon Athy	Vice-Chairman	Director General of Ministry of Finance
Gregoire Nimbtk	Member	Director of Department of Strategic Management
Wilson Tari Vuti	Member	Director General, Ministry of Infrastructure Public
Michael Busai	Member	Representative, DESP
Benjamin Shing	Director	Department of Finance
Lai Sakita	Representative	Vanuatu Non Government Organizations

MCA Vanuatu Program Management:

Lennox Vuti	Director Program Management
Catherine Malosu	Environment & Social Impact Officer
Tony Sewen	Economics Analyst
Allen Faerua	Infrastructure Analyst
Dolsie Amos Kalo	Admin Support Staff

GRM Procurement Agent

Philip Cooper	Team Leader
Cyrille Mainguy	Procurement Officer

MCC Representative:

Chris Cookson	MCC Deputy Country Resident Director
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Absences

Victor Rory	Head of Development Cooperation, Foreign Affairs
Georges Maniuri	Director General Ministry of Foreign Affairs & Trade
John Aruhuri	Representative from Chamber of Commerce
Simil Johnson	Acting Principal Statistician
Willie Watson	Acting Director Department of Public Works
Russell Nari	Director General, Lands and Environment

Quorum present? Yes

The meeting was quorate.

Person Acting as Chairman: Director General, Office of the Prime Minister

Person Acting as Secretary: Director MCA Program Management

Proceedings:

The meeting called to order at 8:00am by the Chairman.

Welcome and Introduction by Chairman

Before the meeting preceded, the MCC Deputy Resident Director, Chris Cookson intervened and presented a letter executed by Ms Frances Reid, Deputy Vice-President addressed to Hon Minister Willie J Tapangararua.

The Chairman said the Letter will affect the agenda of the SC Meeting. All members agreed to discuss the agenda according to the Chairman's directions.

A: Combined Evaluation Report (Design & Build)

The Report has been submitted to the members of the Steering Committee and approved through flying minutes of 16th October 2007. It is a thick document with 30 MB. The SC is requested to endorse the report. The Director of Strategic Management moved for the report to be endorsed and seconded by Director General of the Ministry of Infrastructure & Public Utilities. All members voted in agreement to the motion.

However, it is noted the MCC's view (contained in Ms Reid's Letter) was not to negotiate with one bidder and they threatened to not issue a 'no objection' to the combined evaluation Report (D&B).

The Chair requested Philip Cooper (Team Leader of PA) to provide his professional opinion on the MCC's letters as regards their view not to negotiate with the best ranked bidder. Mr Cooper said it is necessary that we follow the MCC Procurement Guidelines. The best ranked bidder knows their bid and they should be given the opportunity to come up with designs and re-scoping that will see a reduction in price. He said a collaborative approach to the solution is required. He agreed that there are other options but suggested that MCA Vanuatu hold preliminary discussions with McConnell Dowell.

Chris Cookson (MCC Deputy Resident Country Director) emphasized the need for MCC/MCA collaboration on the strategies. The Chairman stated that Vanuatu must play a leading role.

The Program Director stated that elements of the Options are being prepared. He intends to cover some elements, and present them to the SC, in this meeting. He would suggest to the SC that Vanuatu takes the leading role and define the way forward, but not MCC. Off course this option will be shared with MCC once it's finalized.

The Director of Finance suggested that instead of a high level MCC delegation to Vanuatu being proposed in December, rather a technical team (including Kumar and Ranjani) to visit Vanuatu and discuss with MCA Vanuatu the practical ways forward. Included in this discussion can be the issue of additional funding to be sourced from Vanuatu's bilateral partners. Additionally, in the spirit of moving matters forward, MCC will need to adopt a more flexible and relaxed condition especially in regards to 'no objection' policies. He cited the delays in procuring some of the services (example ESA) as a result of the 'no objection' procedure. On many occasions MCC takes more than the required 5 days in which to respond. This has an adverse impact on delaying moving matters forward.

MCC Deputy Resident Director responded by saying the documents sent to MCC by MCA Vanuatu are not of quality and are non-compliant. She said the MCC RCD's Office will need to ensure that the documents they send to MCC Washington are compliant.

The Program Director responded that most documents forwarded to MCC were procurement related and that they were prepared by the Procurement Agent and MCA is satisfied with those documents as of high standard. One such report is the Technical Evaluation Report (Design & Build) which was notably appreciated by MCC (in writing) of setting new standards. He has also not received any mention, orally or in writing, about MCA Vanuatu's quality of work being poor from any members of the MCC team, except from Chris Cookson. Additionally, if the documents are of poor

quality, it is only proper that in a working partnership approach MCC informs MCA Vanuatu accordingly. However, this has not been the case.

The SC Chairman questioned the MCC RCD (Deputy) that she would need to make known to the SC what is not compliant. What she said has implications on the performance of the SC which approved those documents. It implied that the SC has been approving documents that were of poor quality and non-compliant. This would also mean the MCC has been endorsing documents that were of poor quality and non-compliant as well. The chairman voiced his concern in regards to this intervention by the MCC Deputy Resident Country Director, and requested that the delays be sorted out. He stated that the current relationship between MCC Vanuatu & MCA Vanuatu is evident and is not acceptable, and must improve.

Mr Cooper (PA's Team Leader) assured the Steering Committee that the work they submitted to MCA Vanuatu is of high quality and noted their recent report being appreciated by MCC. If there are quality concerns they must relate to technicality (e.g TORs, etc) but not procurement related.

The Program Director stated that what we decide for the Design & Build has implications on the TA to PWD and ESA. He suggested that further work (Evaluation of TA to PWD) be suspended until a decision is made on how to proceed with Design & Build activity. The SC noted this suggestion and endorsed this.

Frances Reid's Letter

- a) The Meeting went at length discussing the content of the letter and its impact on delaying progress. Many members felt that MCC and Vanuatu are back to square one, and that another negotiation in the format experienced in November 2005 Negotiations in Sydney. It was suggested by the Director of Finance that MCC visit Vanuatu to hold talks in regards to the furtherance of compact implementation. Delays after delays are experienced as a result of delays of approvals by MCC. The Meeting agreed that MCC field a technical team to Vanuatu within two weeks from the date of this meeting. This visit should come first before the visit in December mentioned in Ms Reid's letter to the Minister.
- b) The Meeting agreed that the Minister responds to Ms Reid's letter. Because the letter was addressed to the Minister, it was appropriate that he responds. The SC through the Chairman will send the Minister a letter clarifying the SC's position and decision on the letter. All agreed that the Chairman, Vice-Chairman and Program Director meet the Minister on Saturday November 10 and briefed him before he leaves for an overseas assignment on Sunday, the following day.
- c) The SC instructed that MCA Vanuatu prepares the Options Paper and table it before the next SC Meeting for discussion and approval prior to the visit of the MCC technical team.

B: Financial Review of Bids (Design & Build) – this agenda item was not discussed.

C: Negotiations with the Winning Bidder – this was not discussed.

D: Additional Funding to Finance Design & Build Contractor – this was not discussed.

E: Defects Liability Period – this was not discussed.

F: Oct – Dec Quarter Disbursement Request (revised), Financial Plan revised and Quarterly Financial Reports

This revision was approved by the majority of SC members through Flying Minutes on November 2, 2007. The Meeting took note on delays of approvals, thus impacting on delays in progressing the procurement process of many components.

G: Other Matters

1) VBTC

The ESI Officer presented a draft contract with the Vanuatu Broadcasting & Television Corporation to enable MCA Vanuatu publicizes and assist raise awareness about the program on TV and national radio.

The Meeting unanimously agreed that these means be used to inform the population of Vanuatu about the MCA program. MCA Vanuatu should work closely with its Legal Counsel to finalize the contract for signature.

2) Evaluation Panel (TA to PWD)

It is recommended that the technical Evaluation Panel comprised of Allen Faerua, Johnson Binaru, Willie Watson and Catherine Malosu (after MCC's recommendation). The SC meeting approved the membership of the panel and noted the delays in this procurement.

3) Legal Counsel

The Evaluation Panel, comprising of Gregoire Nimbtik (Director DSM); Viran Molisa Trief (Senior State Law Officer); and the Program Director (Lennox Vuti). Their evaluation shows Silas Hakwa as having scored the highest. It is therefore the Panel's recommendation that Silas Hakwa be appointed the Legal Counsel.

The Steering Committee unanimously agreed that Silas Hakwa be appointed to the position of MCA-Vanuatu's Legal Counsel.

4) Bid Challenge Panel Members

This matter was discussed through the last SC meeting, and that subject to the selection of the Legal Counsel, a final Bid Challenge Panel members will be established. This final list is as shown below:

Proposed Names	Area of Expertise
Mr. Nathaniel Bue	Engineering
Mr. Fred Looijschelder	Engineering
Mr. Dudley Aru	Law
Mr. Bill Bani	Law
Mr. Peter McFarlane	Law
Mr. Edward Nalial	Law
Ms Betty Toa	Law
Mr. Roger Jenkins	Finance/Accounting
Mr. Nikunj Soni	Finance/Accounting

The SC Meeting approved this Panel.

5) Program Officer

This position was advertised and attracted six candidates. The deadline for receipt of applications has now closed. It is recommended that the SC approves the following members to be the Evaluation Panel: Tony Sewen, Alexine Charley and an official from the Corporate Services of the Custom & Inland Revenue.

The SC Meeting approved the Evaluation Panel.

In closing remarks the Chairman reminded all SC Members that information discussed at the Board level are confidential, and in particular discussions on the way forward with Design & Build have yet to be concluded and therefore it is critically important that such information is not allowed to leak to people outside the SC during these initial times.

