

**MILLENNIUM CHALLENGE ACCOUNT –  
MALAWI II**



**BID CHALLENGE SYSTEM**

**COMPACT– MALAWI**

**BID CHALLENGE SYSTEM**

Effective Date: 1/12/2023

## DEFINITIONS

Term	Definition
<b>Appeal</b>	A request to MCC for review of the Protest decision by the MCA Entity.
<b>Appeal Fee</b>	An amount deposited with the MCA-Entity at the time an Appeal is filed and as a condition to the Filing of the Appeal.
<b>Appellant</b>	Any Protestor that submits an Appeal is referred to herein as the “Appellant.”
<b>Bid Challenge System (BCS)</b>	This bid challenge system and the rules and procedures set forth herein.
<b>Business Day</b>	Any day in Republic of Malawi that is not a (i) public holiday, (ii) weekend, or (iii) day when work is suspended by public authorities due to natural calamities. A close of the Business Day is 5:00 p.m. (local time at the MCA Entity Malawi, Lilongwe ).
<b>Debriefing</b>	A mechanism by which Offerors have an opportunity to obtain feedback from the MCA Entity to ascertain the grounds on which its Offer was not selected.
<b>Protestor</b>	An Offeror who files a Protest.
<b>Compact</b>	The Millennium Challenge Compact between the Republic of Malawi and the United States of America, acting through MCC, signed on 28th day of September 2022 , as the same may be amended from time to time.
<b>Level 1 Authority</b>	MCA Entity’s Chief Executive Officer (in this capacity, the “ <i>Level 1 Authority</i> ”), and will be decided in consultation with the MCA Entity Procurement Director, Director Legal Services and the Procurement Agent and such other technical experts as the Chief Executive Officer deems appropriate.
<b>Level 2 Authority</b>	Natural persons or an arbitration center appointed by the MCA Entity who will serve as independent reviewers of Appeals.
<b>MCA</b>	Millennium Challenge Account.
<b>MCA Entity</b>	The accountable entity designated by the Republic of Malawi to develop the Compact or implement the Compact.
<b>MCC</b>	Millennium Challenge Corporation, a United States federal government agency that provides funds for the procurements undertaken by the MCA Entity.
<b>Offer</b>	A quotation, application, bid or proposal submitted by the Offeror.
<b>Offeror</b>	Any firm or individual that participates in an MCA Entity’s procurement process to provide goods.
<b>PPG</b>	The MCC Program Procurement Guidelines, as the same may be amended from time to time.

<b>Procurement Agent or Interim Procurement Agent</b>	The natural or legal person procurement agent on behalf of the MCA Entity to conduct the procurements.
<b>Procurement Rules</b>	The PPG and/or the solicitation documents applicable to the challenged procurement action.
<b>Protest</b>	A request that a procurement action be reviewed in accordance with this BCS.
<b>Protest Fee</b>	A fee that needs to be submitted by the Offeror to file a protest.
<b>Secretariat</b>	The MCA Entity personnel designated by the MCA Entity to act as the secretariat for proceedings under this BCS.

## BACKGROUND

The United States of America, acting through the Millennium Challenge Corporation (“MCC”), and the Republic of Malawi has signed an agreement, called a Compact, pursuant to which MCC has provided a US Dollars grant to the Republic of Malawi for a program to reduce poverty through economic growth in Malawi.

To implement this grant, called a Compact, the Republic of Malawi has established a government entity, called the Millennium Challenge Account or MCA Entity.

The Compact requires the Republic of Malawi (including any designee) to ensure that the MCA Entity procures all goods, works and services to implement the Compact funds, in accordance with the MCC Procurement Policy and Guidelines (“PPG”).

The PPG further requires that the MCA Entity establish and publish a Bid Challenge System (“BCS”) that provides Offerors the ability to challenge and seek review of the MCA Entity’s procurement actions and decisions.

This BCS must be included in all solicitation documents issued by the MCA Entity.

⇒ **For a Compact**, this BCS remains applicable in procurements launched after the MCA Entity’s adoption of this BCS, which usually takes place after (1) the signing of the Compact, (2) establishment of a MCA Entity, and (3) the hiring of a Procurement Agent.

⇒ **For a Threshold program**, which is another form of MCC’s funding to a partner country, this BCS is not applicable. Such programs are managed under an Interim Bid Challenge System (IBCS).

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

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

## PART I - PROCEEDINGS

### Rule 1. Protests

**Rule 1.1.** The MCA Entity shall consider a Protest from any Offeror that claims to have suffered or may suffer loss or injury due to a breach of Procurement Rules by the MCA Entity in the conduct of any procurement.

**Rule 1.2.** For a Protest to prevail, a Protestor must prove by clear and convincing evidence that: (a) the procurement action (i) violates the Procurement Rules or (ii) is arbitrary or capricious or characterized by an abuse of discretion; and (b) the Protestor has suffered or will suffer loss or injury because of the procurement action taken by the MCA Entity on its Offer.

**Rule 1.3.** Any Offeror may file a Protest, with the following exceptions:

- (a) Sub-contractors, sub-consultants and members of the general public are not permitted to file a Protest.
- (b) A Protest cannot be used to cure a deficiency in the Offeror’s Offer.

- (c) A Protest cannot be used to allege fraud, corruption, or intent of wrongdoing in the procurement process. Such allegations must be filed in accordance with MCC's Policy on *Preventing, Detecting, and Remediating Fraud and Corruption in MCC Operations*, a copy of which is available on MCC's website:  
<https://www.mcc.gov/resources/doc/policy-fraud-and-corruption>.

**Rule 1.4.** The following procurement actions may not be used as the subject of a Protest:

- (a) The selection of a procurement methodology (e.g., Shopping, QCBS, QPBS, QBS, etc.).
- (b) The selection of the type of procurement (e.g., goods, works, non-consultant services, or consultant services).
- (c) Technical scores assigned by the bid review or technical evaluation panel, unless the Protestor can demonstrate to the satisfaction of the MCA Entity that determination of such scores is arbitrary or capricious or characterized by an abuse of discretion.
- (d) The decision by the MCA Entity to reject all Offers and/or cancel the procurement.

**Rule 1.5.** A Protest cannot be filed for/against a procurement action taken by the MCA Entity on the Offer of any other Offeror.

**Rule 1.6.** A Protestor must file their Protest with the Secretariat by the close of the Business Day, on or before the date set forth in the rules below, to be considered filed on time.

**Rule 1.7.** Any Offeror may file a Protest in any of the two Protest windows below; however, a Protestor must request a Debriefing prior to filing a Protest under **Rule 1.7.2**.

**1.7.1.** For Protests before Offer submission, any Offeror may Protest the solicitation documents if they believe the documents violate MCC's open, fair, and transparent procurement principles. A Protestor must file their Protest with the Secretariat within seven (7) Business Days after the MCA Entity issues the solicitation documents.

**1.7.2.** For Protests after the Offer submission, any Offeror can Protest the notification of evaluation results, notification of intent of award, or the notification of pre-qualification/shortlisting results or notification of the technical rankings or declaration of unreasonable prices.

**Rule 1.8.** The Debriefing request to the MCA Entity must be submitted via e-mail to the Procurement Agent of the MCA Entity at [PAMalawi@charleskendall.com](mailto:PAMalawi@charleskendall.com) with a copy to the MCA-Malawi Procurement Director at [andy.koloko@mca-malawi2.gov.mw](mailto:andy.koloko@mca-malawi2.gov.mw) within five (5) Business Days after receipt of any of the notifications identified in 1.7.2 from the MCA Entity that gave rise to the reasons for the Protest.

**Rule 1.9.** The MCA Entity shall provide a written explanation via email within three (3) Business Days of receiving the request for Debriefing.

**Rule 1.10.** The request for Debriefing is not considered a Protest. Following the Debriefing, if the Protestor intends to file a Protest, the Protestor must submit an "Intent to Protest" referencing the MCA Entity's written explanation via email to the Secretariat at [dye.mawindo@mmd.gov.mw](mailto:dye.mawindo@mmd.gov.mw) with a copy to [andy.koloko@mca-malawi2.gov.mw](mailto:andy.koloko@mca-malawi2.gov.mw) and

apoche.itimu@mca-malawi.gov.mw within one (1) Business Day of receiving the written explanation. Failure to submit an “Intent to Protest” will result in rejection of the Protest.

**Rule 1.11.** Following submission of the “Intent to Protest,” the Protestor must file their Protest with the Secretariat within five (5) Business Days after the MCA Entity provided the written Debriefing explanation.

**Rule 1.12.** A Protest must be in the form set forth in Annex A and must provide the information required in said form. In form Annex A, the Protestor must include the requested remedy or relief, which may be one of the following:

- (a) Compensation for any reasonable and verifiable cost of bid preparation and Appeal, subject to a price reasonableness analysis in accordance with the PPG and excluding attorney fees or lost profits;
- (b) Revision of the procurement proceedings to conform to the applicable guidelines;
- (c) Cancellation of the procurement; or
- (d) Request a new procurement.

No other remedy is allowed.

**Rule 1.13.** A Protestor must pay a Protest Fee in the amount of to be indicated in the solicitation document which could be zero or an amount not greater than half of one percent (0.5%) of the estimated budget for the solicitation or its equivalent in a local currency before or at the time it files the Protest by depositing the same in a special bank account that will be given at the time of debriefing to the potential protestor. The date of the exchange rate for conversion purposes will be the date when the MCA Entity provided the written explanation and at the exchange rate of Standard Bank of Malawi Limited.

**Rule 1.14.** Nonpayment of the Protest Fee will result in rejection of the Protest without any consideration. The MCA Entity will return the Protest Fee if the Protest is upheld in part or in full.

**Rule 1.15.** Form Annex A, proof of payment (such as confirmation of wire transfer or any other internet based money transfer services such as National Bank of Malawi’s Banknet or Standard Bank Malawi’s Business On-Line (BOL)), of the required Protest Fee, and all the attachments must be sent to the Secretariat via email on or before the Protest deadline.

**Rule 1.16.** All Protests filed in violation of above rules will be declared frivolous and rejected with a notice of rejection and the Protest Fee will be confiscated.

**Rule 1.17.** The Secretariat shall within one (1) Business Day after the date when a Protest is filed:

- (a) Send an acknowledgement of the receipt of the Protest to the Protestor; and
- (b) Send a copy of the Protest to the Procurement Director of the MCA Entity and the Procurement Agent.

**Rule 1.18.** The MCA Entity may decide to immediately suspend the procurement at its sole discretion if the Protest clearly shows that the Protestor and/or other Offerors and/or general

public in the Republic of Malawi will suffer irreparable harm if the challenged procurement is not suspended. No award will be made while the Protest is pending.

## **Rule 2. Review and Decision of the Protest**

**Rule 2.1.** The Level 1 Authority shall, within ten (10) Business Days after submission of the Protest, issue a written decision to the Protestor, and:

**2.1.1.** If the Protest is upheld in whole or in part, indicate the corrective measures that shall be taken by the Secretariat and the evidence that the Protest Fee is being returned to the Protestor.

**2.1.2.** If the Protest is rejected, indicate the reasons for the rejection and state if the Protest Fee will be confiscated.

**Rule 2.2.** The Level 1 Authority may extend this period for an additional five Business Days with sufficient cause.

## **PART II – APPEAL PROCEEDINGS**

### **Rule 3. Appeal**

**Rule 3.1.** Protestor who is dissatisfied with the decision of the Level 1 Authority may seek review of that decision by filing an Appeal to the Level 2 Authority; provided that:

(a) an Appeal may only allege that the decision of the Level 1 Authority was inconsistent with the Procurement Rules or was in some way clearly erroneous or the Appellant claims that (a) the MCA Entity failed to consider its Protest or (b) the MCA Entity failed to issue a written decision (via email) on the Protest within the time specified in this BCS; and

(b) the Level 2 Authority review is limited to a review of the record before the Level 1 Authority, except that a Protestor, called an Appellant at this stage, may introduce new evidence on appeal (i) if the Appellant establishes that such evidence could not have been obtained by all reasonable diligence before commencement of the Level 1 Authority's review, or (ii) on the basis of some other exceptional circumstances, in each case as determined by the Level 2 Authority.

**Rule 3.2.** Appeals must be filed in accordance with the procedures of this **Rule 3.2**. Any Appeal that is not filed in accordance with such procedures will be rejected, with a notice of rejection citing the violation via email.

**3.2.1.** The Appellant must file the Appeal with the Secretariat within 5 (five) Business Days after receiving or when it should have received the notice of the Level 1 Authority decision to be considered as timely filed.

**3.2.2.** An Appeal (a) must be substantially in the form set forth in Annex B, (b) must state the information required in said form, (c) must include all the documents submitted by the Appellant to the Level 1 Authority, (d) must not allege any theory or argument that was not alleged in the Protest, (e) must not assert any new information or include any new documents that were not provided to the Level 1 Authority, except as provided in **Rule 3.1(b)**, and (f) must be accompanied by proof that the Appellant (as applicable) has paid the appropriate Appeal Fee.

**3.2.3.** The Appellant must pay an Appeal Fee established by the MCA Entity before or at the time it files the Appeal by depositing the same in accordance with the instructions provided by the Secretariat in its Notice to such party of the Level 1 Authority decision. The Appeal Fee will be \$1,000 or one (1) percent of the estimated budget whichever is higher in US dollars or in equivalent local currency.

**3.2.4.** If the Appellant prevails in the Appeal in full or in part, the Appeal Fee will be refunded to such party. If the Appellant does not prevail in the Appeal, the Appeal Fee will be confiscated. The review of the Appeal will be limited to the Appellant claims that (a) the MCA Entity failed to consider its Protest, (b) the MCA Entity failed to issue a written decision (via email) on the Protest within the time specified in this BCS, or (c) the MCA Entity violated the procedures set out in the PPG or the solicitation documents in making its determination on the Protest.

**Rule 3.3.** No later than one (1) Business Day after the Appeal is filed, the Secretariat will:

- (a) Post a notice of the filing of the Appeal on the MCA Entity website; and
- (b) Send a copy of the Appeal to MCA Entity's Procurement Director.

**Rule 3.4.** No later than one Business Day after the Appeal is filed, (a) the Level 1 Authority will submit the record of the Protest proceedings to the Level 2 Authority as identified in accordance with **Rule 4**.

**Rule 3.5.** The procurement process may continue at the discretion of the MCA Entity, but no award will be made while the Appeal is being reviewed.

#### **Rule 4. Level 2 Authority Master List and Selection**

**Rule 4.1.** The MCA Entity will maintain a list of competent and qualified persons, which may include natural persons or an arbitration center, who will serve as independent reviewers of Appeals (the "*Master List*"). The Master List will contain a minimum of 5 independent reviewers, and each person serving as a reviewer must meet certain qualifications set by the MCA Entity, including but not limited to, that each person:

- (a) Is impartial and independent;
- (b) Is well-versed in procurement rules, principles and processes under one or more of the following: (i) law of Republic of Malawi, or (ii) multilateral development banks' process; and
- (c) Is trained in MCC procurement principles, practices and procedures.

**Rule 4.2.** The MCA Entity may develop the Master List by procuring the services of individuals or an organization on a competitive basis and entering into service agreements with each reviewer, relying upon a pre-established list of individuals identified by a local arbitration center, or in such other manner as may be agreed with MCC. The MCA Entity will post the Master List on its website, along with a copy of each person's curriculum vitae or a brief description of the organization and its website address if such is used.

**Rule 4.3.** The Level 2 Authority may be composed of either two or three members, as determined by the MCA Entity chosen from this Master List. No later than one (1) Business Day after an Appeal is filed, the Secretariat and the Appellant will each select one panel member from the Master List to review and decide the Appeal. The two selected panel members may select a third panel member if the MCA Entity requires such third member.



**4.3.1.** The Secretariat will provide the names of the parties to the Appeal and the underlying documents for the procurement action to the individuals selected to serve as the Level 2 Authority within one Business Day of the selection, and request that the individuals identify any conflicts of interest or other reasons why they would not be able to serve as Level 2 Authority. In particular, each individual must confirm that he/she has no interest (through financial, family, business, beneficial ownership, or otherwise) in the outcome of any MCA procurement and is not involved in or related to any MCA procurement.

**4.3.2.** If the individuals selected can serve, each will execute a declaration substantially in the form of **Annex C**, and the Secretariat will then notify the parties to the Appeal of the names of the individuals and assign each individual with service as the Level 2 Authority through a letter of assignment.

**4.3.3.** A party to the Appeal may object to any individual selected by the Secretariat by filing an objection notice with the Secretariat no later than one Business Day after the selection notice is sent in accordance with **Rule 4.2.2**, which objection notice must be substantially in the form of **Annex D** and cite the reason that the individual does not meet the qualifications for service set forth in **Rule 4.1**. The Secretariat will rule on the objection and suggest a replacement no later than one Business Day after the objection notice is filed.

**4.3.4.** If any individual selected either by the Appellant or the Secretariat to serve as Level 2 Authority declines or is otherwise unable to serve, or if the Secretariat grants an objection filed by a party to the Appeal, the Secretariat or Appellant, as applicable, will select another individual from the Master List. The Secretariat will repeat this process until two or three individuals, as applicable based on decision by the MCA Entity under **Rule 4.2**, from the Master List can serve consistent with these rules.

## **Rule 5. Level 2 Authority Review**

**Rule 5.1.** Each Appeal will be decided by the Level 2 Authority selected in accordance with **Rule 4**. The Level 2 Authority will have the authority to decide procedural and organizational matters in consultation with the MCA Entity Procurement Director and such other technical experts as the Level 2 Authority deems appropriate.

**5.1.1.** The Level 2 Authority decision will be based on review and consideration of the applicable principles and provisions of the Procurement Rules, the bid challenge record from the Protest proceedings and the written decision of the Level 1 Authority.

**5.1.2.** After reviewing the Appeal, the Level 2 Authority will issue a decision:

- (a) To uphold the Level 1 Authority decision; or
- (b) To overturn the Level 1 Authority decision (in whole or in part) if it determines that the decision has no reasonable basis or is a clear error of judgment in the application of the Procurement Rules and grant one or more of the remedies set forth in **Rule 1.12**.

**5.1.3.** The Level 2 Authority decision will be:

- (a) Final and binding on all parties to the Appeal with no further recourse available in any other forum or jurisdiction; and

(b) Implemented by the MCA Procurement Director no later than five Business Days from the date that the Level 2 Authority decision is sent in accordance with **Rule 5.3**.

**5.1.4.** In accordance with **Rule 1.18**, any suspension of the challenged procurement action will be automatically lifted immediately after the Level 2 Authority decision has been sent by the Secretariat pursuant to **Rule 5.3**.

**Rule 5.2.** The Level 2 Authority will issue its decision no later than seven (7) Business Days after the Level 2 Authority panel has been constituted, provided that the Level 2 Authority may extend this period for an additional five (5) Business Days with sufficient cause. The decision must be in writing, delivered to the Secretariat electronically and must state: (a) the date of the decision; (b) the reasons upon which the decision is based; and (c) the remedy awarded to the successful party.

**Rule 5.3.** No later than the close of the 5 Business Day after the date of the Level 2 Authority decision:

- (a) the Secretariat will (i) post a Notice of the decision on the MCA Entity website, and (ii) send a copy of such Notice to all parties who participated in the Appeal; and
- (b) the responsibilities of the Level 2 Authority will be considered complete.

### **Rule 6. MCC as Observer**

**Rule 6.1.** Offerors will have no right to appeal to MCC regarding decisions resulting from this BCS and its procedures. The MCA Entity must submit a report of the handling and disposition of any bid challenge to MCC. The report must be submitted to MCC (a) if there is no Appeal, within three (3) Business Days after the deadline for filing an Appeal or (b) if there is an Appeal, within three (3) Business Days after receipt of the decision of the Level 2 Authority.

**Rule 6.2.** MCC, in its sole discretion, has the right to be an observer to all Protest and Appeal proceedings, but does not have the obligation to participate in any proceeding in any capacity. MCC's exercise of its right to be an observer to any proceeding will not constitute consent to the jurisdiction of the courts or any other body of the Republic of Malawi or any other jurisdiction. Consistent with the PPG, MCC may determine to withhold funding for a contract if MCC determines that a challenged procurement action was not resolved appropriately.

## **PART III – GENERAL PROVISIONS**

### **Rule 7. Basis and Application**

**Rule 7.1.** This BCS is issued by the MCA Entity on the basis of Section 3.6 of the Compact and Section 2.1(d) of the Program Implementation Agreement (PIA). The provisions of the Compact, the PIA, and the PPG will prevail, in the order stated, if any provision of this BCS conflicts with the provisions of any of said documents.

**Rule 7.2.** The rules and procedures of this BCS will apply to the acceptance, review and disposition of all Protests and Appeals.

**Rule 7.3.** The provisions of this BCS will be construed in accordance with the laws of Republic of Malawi.

**Rule 7.4.** This BCS will be interpreted in a manner that will: (a) achieve the purpose of this BCS and (b) preserve the MCA Entity’s rights under the Procurement Rules, including its right to provide additional information, make clarifications, corrections or modifications to the solicitation documents, reject all bids in the challenged procurement action, and cancel the challenged procurement action.

**Rule 7.5.** The MCA Entity may modify this BCS at any time with the prior written approval of MCC. The version of this BCS that is in force at the time of the issuance of the solicitation documents for a particular MCA Entity procurement will govern any Protest or Appeal with respect to said procurement, unless the solicitation documents are modified, formally amended and bidders have been notified, in which case, such modified version will apply.

## **Rule 8. Documents**

**Rule 8.1.** The *English* language will be used for all documents filed or provided in accordance with this BCS.

**Rule 8.2.** All notices, documents filed and other communications hereunder will be in writing, and may be sent by hand delivery, mail (if mailed by registered or certified mail, return receipt requested, postage prepaid) commercial carrier, facsimile transmission or electronic mail.

**8.2.1.** A notice or document is “filed” on a particular day when it is received by the Secretariat by 5:00 p.m., local time at the MCA Entity location, on that day. All other notices, documents and communications hereunder will be deemed sent or delivered (a) on the scheduled date of delivery if sent by courier; (b) on the fifth Business Day following the mailing date if sent by mail; or (c) on the date sent by facsimile or electronic mail if sent during normal business hours of the recipient during a Business Day, and otherwise on the next Business Day if sent after normal business hours of the recipient.

**8.2.2.** All notices, documents filed and other communications hereunder must be addressed to the physical, facsimile or electronic address provided by the addressee under this BCS or the relevant solicitation documents.

The following address will be used for the Secretariat (unless such other address is indicated by the Secretariat through the MCA Entity website with specific reference to this BCS):

Millennium Challenge Account – Malawi  
Attention: The Secretariat  
Email: The Chief Executive Officer  
[dye.mawindo@mmd.gov.mw](mailto:dye.mawindo@mmd.gov.mw)

Copy to: Director Legal Services  
[Apoche.itimu@mca-malawi.gov.mw](mailto:Apoche.itimu@mca-malawi.gov.mw)

Copy to: The Procurement Director  
[andy.koloko@mca-malawi2.gov.mw](mailto:andy.koloko@mca-malawi2.gov.mw)

Subject: Bid Challenge

## Annex A - Form of Protest

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

<b>Challenged Procurement</b>
Name:
Number:

<b>Protest</b>	
Date when Protestor became aware of procurement action:	Date of Filing of Protest:
Description of procurement action:	
Procurement Rules provisions violated by procurement action:	
Explanation of reason why procurement action constitutes a violation of the Procurement Rules as given in MCC PPG and/or in the solicitation document:	
Explanation of reason why the Protestor has been or will be harmed by procurement action:	
If Protestor requests suspension of the challenged procurement, explanation of reason why Protestor will suffer irreparable harm if it is not suspended:	

<b>Relief Sought</b>
<b>Description of relief sought:</b>
<b>Explanation of reason why Protestor is entitled to relief sought:</b>

**Instructions:**

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

## Annex B - Form of Appeal

<b>Appellant</b>		
<b>Name:</b>		
<b>Postal address for Appeal purposes (if different from postal address for Protest purposes):</b>		
<b>Email address for Appeal purposes:</b>	<b>Telephone number for Appeal purposes:</b>	<b>Fax number for Appeal purposes:</b>
<b>Name of authorized representative</b>		
<b>Signature of authorized representative:</b>		

<b>Challenged Procurement</b>
<b>Name:</b>
<b>Number:</b>

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

<b>Relief Sought</b>
<b>Description of relief sought:</b>
<b>Explanation of reason why the Appellant is entitled to relief sought:</b>

**Instructions:**

1. Please attach a copy of each of the following documents, if available to the Protestor or Interested Party: (a) the Protest and its attachments, and any Comment and their attachments, if any, (b) the Level 1 Authority decision, and (c) proof of timely payment of the appropriate Appeal Fee.
2. Please use additional sheets for the required information if necessary.



**Annex C - Level 2 Authority Declaration**

1. Except for the reasons stated in the attachment, I am not aware of any reason why I should not serve as the Level 2 Authority constituted under the Bid Challenge System (the “**BCS**”) of Millennium Challenge Account - Malawi (“MCA-Malawi”), with respect to the Appeal filed by \_\_\_\_\_. Capitalized terms used herein and not defined herein have the respective meanings given to such terms in the BCS.
2. I will keep confidential all information coming to my knowledge as a result of my participation in this proceeding, as well as the contents of any decision made by the Level 2 Authority.
3. I will be fair to the parties, and will exercise impartiality and independence in deciding the Appeal. I will not accept any instruction with regard to this proceeding, or receive any compensation with regard to this proceeding from any source except as provided in the BCS and my services agreement with **MCA-Malawi**.
4. Attached is a statement of (a) my past and present professional, business and other relationships (if any) with the parties and (b) any other circumstance that might cause doubt as to my ability to exercise impartiality and independence in deciding the Appeal. By signing this declaration, I pledge to promptly notify MCA-Malawi of any such relationship or circumstance that subsequently arises during this proceeding.

Signature:

Name:

Date:

[With attachment]



## Annex D - Form of Objection to the Appointment of a Level 2 Authority

Party Filing the Objection
Name (Indicate whether Protestor, MCA-Malawi or other Party):
Name of authorized representative for the Party Filing the Objection (if any):
Signature of Party Filing the Objection or authorized representative:

Challenged Procurement
Name:
Number:

Objection	
Date when Party Filing the Objection became aware of the ground for Objection:	Date of Filing of Objection:
Ground for Objection:	
Factual basis to support the ground for Objection:	

**Instructions:**

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