

Respondent's testimony regarding his various violations is especially disturbing. With respect to his conduct in distributing controlled substances to the Nagras' clinic, Respondent testified that he didn't "have any regrets" and that he "would do that again because I wasn't hurting anyone." Tr. at 390. As for his conduct at the 82nd Avenue clinic, Respondent explained that "you don't close down operations. You don't stop businesses and put 12 people on the unemployment line because of a registration that is being withheld at that time unreasonably." <sup>13</sup> *Id.* at 379.

Respondent's statements reflect a stunning disregard for the requirements of Federal law. The CSA's implementing regulations expressly provide that "[n]o person required to be registered shall engage in any activity for which registration is required until the application for registration is granted and a Certificate of Registration is issued \* \* \* to such person." 21 CFR 1301.13(a). Contrary to Respondent's understanding, he was required to comply with the Act and its regulations even if it interfered with his business plan or violated his sense of fairness.

In sum, Respondent's repeated violations of the CSA provide ample grounds to deny his application. Moreover, Respondent's attitude leaves me with the firm impression that, if given the opportunity, he will violate the Act again. Moreover, Respondent's rehabilitation from drug abuse does not mitigate the violations of the Act he committed by distributing controlled substances to the Nagras' clinic, an unregistered location, and commencing operations at the 82nd Avenue clinic without obtaining a registration. I thus conclude that this factor is dispositive and compels a finding that granting Respondent a new registration would be inconsistent with the public interest.<sup>14</sup>

<sup>13</sup> As I have previously found, the evidence in the record establishes that Respondent did not apply for a registration for this location until December 2001, shortly before opening the clinic. Furthermore, Respondent indicated on his application that his state license had previously been suspended thus triggering a more detailed investigation. DEA personnel subsequently determined that Respondent had previously been investigated for distributing controlled substances to the Nagras' clinic, that he was storing controlled substances at the 82nd Ave. clinic, and became aware of the events surrounding Respondent's abuse of Telazol and the State of California's suspension of his license. As this proceeding has established, it was not unreasonable to withhold Respondent's registration. What was unreasonable was Respondent's commencement of operations without obtaining a registration in violation of Federal law.

<sup>14</sup> In light of Respondent's numerous violations of the CSA discussed above, it is unnecessary to decide whether Respondent's practice of employing relief veterinarians to run his clinic in Oregon while

## Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823(f), and 28 CFR 0.100(b) and 0.104, I hereby order that the pending application of Respondent, Daniel Koller, D.V.M., for a DEA Certificate of Registration as a practitioner, be, and it hereby is, denied. This order is effective December 18, 2006.

Dated: November 3, 2006.

**Michele M. Leonhart,**

*Deputy Administrator.*

[FR Doc. E6-19400 Filed 11-16-06; 8:45 am]

**BILLING CODE 4410-09-P**

## LEGAL SERVICES CORPORATION

### Sunshine Act Meeting Notice

**TIME AND DATE:** The Board of Directors of the Legal Services Corporation will meet on November 22, 2006 via conference call. The meeting will begin at 2 p.m. (EST), and continue until conclusion of the Board's agenda.

**LOCATION:** 3333 K Street, NW., Washington, DC 20007, 3rd Floor Conference Center.

**STATUS OF MEETING:** Open. Directors will participate by telephone conference in

living in San Diego (more than 1,000 miles away) complied with the CSA. I note, however, that at the hearing, the Government asserted that if a relief veterinarian is an independent contractor, the relief vet. cannot act as an agent of the clinic owner/registrant under 21 CFR 1301.22. According to the Government, the relief vet. must be an employee of the clinic owner in order to comply with the regulation.

This position is incorrect. Neither the CSA nor the regulation precludes a relief veterinarian who is an independent contractor from acting as the agent of the registrant. In the CSA, Congress defined the term "agent" to mean "an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser." 21 U.S.C. 802(3). Moreover, the CSA further exempts from registration "[a]n agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance \* \* \* if such agent or employee is acting in the usual course of his business or employment." *Id.* § 822(c). The plain language of the statute thus demonstrates that Congress did not limit the exemption to the employees of a practitioner. Furthermore, in appropriate circumstances, an independent contractor may act as an agent. *See, e.g.,* I Restatement of the Law (Second) Agency § 14 N, at 80 (1958) ("One who contracts to act on behalf of another and subject to the other's control except with respect to his physical conduct is an agent and also an independent contractor."). The status of the person acting under the registration as an employee or independent contractor is thus not determinative of compliance with the CSA.

What is relevant for purposes of compliance is that the registrant must exercise effective control of the agent. Doing so requires that a registrant properly supervise and monitor its agents to protect against the diversion of controlled substances; reliance solely on the CSA's existing recordkeeping requirements does not necessarily establish that a registrant is exercising effective control of its agents.

such a manner as to enable interested members of the public to hear and identify all persons participating in the meeting. Members of the public wishing to observe the meeting may do so by joining participating staff at the location indicated above. Members of the public wishing to listen to the meeting by telephone may obtain call-in information by calling LSC's FOIA Information line at (202) 295-1629.

### MATTERS TO BE CONSIDERED:

1. Approval of the agenda.
2. Consider and act on Board of Directors' response to the Inspector General's Semiannual Report to Congress for the period of April 1, 2006 through September 30, 2006.
3. Consider and act on other business.
4. Public comment.

### CONTACT PERSON FOR INFORMATION:

Patricia Batie, Manager of Board Operations, at (202) 295-1500.

**SPECIAL NEEDS:** Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 295-1500.

Dated: November 15, 2006.

**Victor M. Fortunato,**

*Vice President for Legal Affairs, General Counsel & Corporate Secretary.*

[FR Doc. 06-9283 Filed 11-15-06; 3:31 pm]

**BILLING CODE 7050-01-P**

## MILLENNIUM CHALLENGE CORPORATION

[MCC FR 06-19]

### Report on the Selection of Eligible Countries for Fiscal Year 2007

**AGENCY:** Millennium Challenge Corporation.

**ACTION:** Notice.

**SUMMARY:** This report is provided in accordance with Section 608(d)(2) of the Millennium Challenge Act of 2003, Pub. L. 108-199, Division D, (the "Act"), Report on the Selection of Eligible Countries for Fiscal Year 2007.

### Summary

This report is provided in accordance with Section 608(d)(2) of the Millennium Challenge Act of 2003, Pub. L. 108-199, Division D, (the "Act").

The Act authorizes the provision of Millennium Challenge Account (MCA) assistance under Section 605 of the Act to countries that enter into Compacts with the United States to support

policies and programs that advance the progress of such countries in achieving lasting economic growth and poverty reduction and are in furtherance of the Act. The Act requires the Millennium Challenge Corporation (MCC) to take a number of steps to determine the countries that, based to the maximum extent possible upon objective and quantifiable indicators of a country's demonstrated commitment to just and democratic governance, economic freedom and investing in their people, will be eligible to receive MCA assistance for a fiscal year. These steps include the submission of reports to appropriate Congressional committees and the publication of notices in the **Federal Register** that identify, among other things:

1. The "candidate countries" for MCA assistance for a fiscal year and all countries that would be candidate countries if they met the requirement of Section 606(a)(1)(B) (Section 608(a) of the Act);

2. the eligibility criteria and methodology that the MCC Board of Directors (the "Board") will use to select "eligible countries" from among the "candidate countries" (Section 608(b) of the Act); and

3. the countries determined by the Board to be "eligible countries" for a fiscal year, the countries on the list of eligible countries with which the Board will seek to enter into a Compact and a justification for the decisions regarding eligibility and selection for negotiation (Section 608(d)(1) of the Act).

This is the third of the above-described reports by MCC for fiscal year 2007 (FY07). It identifies countries determined by the Board to be eligible under Section 607 of the Act for FY07 and those that the Board will seek to enter into Compacts under Section 609 of the Act, and the justification for such decisions.

#### Eligible Countries

The Board met on November 8, 2006, to select countries that will be eligible for MCA Compact assistance under Section 607 of the Act for FY07. The Board determined the following countries eligible for such assistance for FY07 and with which MCC may seek to enter into a Compact: Armenia; Benin; Bolivia; Burkina Faso; Cape Verde; East Timor; El Salvador; Georgia; Ghana; Honduras; Jordan; Lesotho; Madagascar; Mali; Moldova; Mongolia; Mozambique; Namibia; Nicaragua; Senegal; Sri Lanka; Tanzania; Ukraine; and Vanuatu.

In accordance with the Act and with the "Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for

Millennium Challenge Account Assistance in Fiscal Year 2007" submitted to the Congress on, September 8, 2006, selection was based primarily on a country's overall performance in relation to three broad policy categories: (1) "Ruling Justly"; (2) "Encouraging Economic Freedom"; and (3) "Investing in People." The Board relied upon 16 publicly available and independent indicators to assess policy performance and demonstrated commitment in these three areas, to the maximum extent possible, for determining which countries would be eligible for MCA Compact assistance. In determining eligibility, the Board considered if a country performed above the median in relation to its peers on at least half of the indicators in each of the three policy categories and above the median on "Control of Corruption" and, if the country performed substantially below the median on any indicator, whether it is taking appropriate action to address the shortcomings. Scorecards reflecting each country's performance on the indicators are available on MCC's Web site at <http://www.mcc.gov>.

The Board also considered whether any adjustments should be made for data gaps, lags, trends, or recent events since the indicators were published and strengths or weaknesses in particular indicators. Where appropriate, the Board took into account additional quantitative and qualitative information such as evidence of a country's commitment to fighting corruption and promoting democratic governance, its economic policies to promote the sustainable management of natural resources, human rights, and the rights of people with disabilities. In addition, the Board considered the opportunity to reduce poverty, promote economic growth and have a transformational impact in a country in light of the overall context of the information available to it as well as the availability of appropriated funds.

Eighteen of the countries selected eligible for MCA assistance for FY07 were in the "low income" category and were previously selected as eligible in at least one previous fiscal year—Armenia, Benin, Bolivia, Burkina Faso, East Timor, Ghana, Georgia, Honduras, Lesotho, Madagascar, Mali, Mongolia, Mozambique, Nicaragua, Senegal, Sri Lanka, Tanzania, and Vanuatu. Three of the countries selected as eligible for MCA assistance for FY07 were in the "lower middle income" category and were previously selected as eligible in at least one previous fiscal year—Cape Verde, El Salvador, and Namibia. On November 8, 2006, the Board re-selected these countries based on their continued

performance since their prior selection. The Board also determined that no material change has occurred in the performance of these countries on the selection criteria since the FY06 selection that would justify not including them in the FY07 eligible country list. Six of these countries—Benin, Cape Verde, Ghana, Madagascar, Senegal, and Sri Lanka—either did not perform above the median on Control of Corruption or did not perform above the median in relation to their peers on at least half of the indicators in each of the three policy categories. However, at this time, MCC does not believe that a serious erosion of policy performance has occurred in any of these countries. MCC will ask each of these countries to commit to specific actions by their respective governments to address indicator performance weaknesses and to strive to maintain or improve upon their performance overall.

Three additional countries were selected for the first time in FY07: (1) Two in the "low income" category under Section 606(a) of the Act—Moldova and Ukraine; and (2) one in the "lower middle income" category under Section 606(b) of the Act—Jordan. Each of these countries: (1) Performed above the median in relation to their peers on at least half of the indicators in each of the three policy categories; (2) performed above the median on corruption; and (3) in cases where they performed substantially below the median on an indicator, there was either evidence that the data did not adequately reflect their policy performance or that the government is taking corrective action to address the problem.

All three of these countries are currently participating in the Threshold Program. Each country now meets the MCA eligibility criteria for Compact assistance but successful implementation of their respective Threshold Program—and of the corresponding reform commitments—remains critical. The governments will be required to demonstrate successful implementation of the Threshold Program during the Compact development process in order to reach a Compact and then to continue to receive MCA funding under a Compact.

- **Moldova:** Moldova presents an excellent opportunity for MCC to use its Compact funding in a transformational way. Moldova is the poorest country in Europe with half of its population living on less than \$2 per day. It now passes 15 of the 16 indicators, as well as both of the two new Natural Resource Management indices. The Government of Moldova has adopted a series of

significant policy and institutional reforms over the last several years. After being selected as a Threshold Program Country in FY06, the Government of Moldova proposed an ambitious anti-corruption Threshold Program and improved its performance on the "Control of Corruption" indicator from the 46th percentile to the 55th percentile.

- **Ukraine:** For the first time, Ukraine also passes the MCA selection eligibility criteria and has made significant improvements on all of the indicators in the "Ruling Justly" category. In addition, Ukraine passes one of the new supplementary Natural Resources Management indices. Ukraine was selected as a Threshold country in FY06, and in June 2006, the Board approved its Threshold program which is focused on accelerating anti-corruption efforts. MCC expects that implementation of Ukraine's Threshold Program will begin soon and will bolster the Government of Ukraine's reform efforts.

- **Jordan:** Jordan passes the MCA selection eligibility criteria, including "Control of Corruption," and has demonstrated its commitment to MCC principles through home-grown democratic reform initiatives, which MCC is currently supporting through the implementation of the Threshold Program agreement signed in October, 2006. Jordan has made significant reform commitments in its Threshold Program and MCC will require successful implementation of the Threshold Program as the Government of Jordan works to develop and implement a Compact. A Compact in Jordan could have a transformation impact as structural reforms over the last decade have liberalized the private investment regime, opened the trade environment, and established modern regulation and institutions for private sector development.

Finally, a number of countries that performed well on the quantitative elements of the selection criteria (i.e., on the policy indicators) were not chosen as eligible countries for FY07. As discussed above, the Board considered a variety of factors in addition to the country's performance on the policy indicators in determining whether they were appropriate candidates for assistance (e.g., the country's commitment to fighting corruption and promoting democratic governance; the availability of appropriated funds; and in which countries MCC would likely have the best opportunity to reduce poverty, generate economic growth and have a transformational impact).

### Selection for Compact Negotiation

The Board also authorized MCC to seek to negotiate a Compact, as described in Section 609 of the Act, with each of the eligible countries identified above that develops a proposal that justifies beginning such negotiations. MCC will initiate the process by inviting newly eligible countries to submit program proposals to MCC (previously eligible countries will not be asked to submit another proposal for FY07 assistance). MCC has posted guidance on the MCC Web site (<http://www.mcc.gov>) regarding the development and submission of MCA program proposals. Submission of a proposal is not a guarantee that MCC will finalize a Compact with an eligible country. Any MCA assistance provided under Section 605 of the Act will be contingent on the successful negotiation of a mutually agreeable Compact between the eligible country and MCC, approval of the Compact by the Board, and availability of funds.

Dated: November 14, 2006.

**William G. Anderson, Jr.,**

*Vice President and General Counsel (Acting), Millennium Challenge Corporation.*

[FR Doc. E6-19488 Filed 11-16-06; 8:45 am]

**BILLING CODE 9210-01-P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that six meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506 as follows (ending times are approximate):

**Dance (application review):** December 4-6, 2006 in Room 730. This meeting, from 9 a.m. to 6 p.m. on December 4th and 5th, and from 9 a.m. to 4:30 p.m. on December 6th, will be closed.

**Folk & Traditional Arts (application review):** December 6-8, 2006 in Room 716. This meeting, from 9 a.m. to 6:30 p.m. on December 6th, from 9 a.m. to 6 p.m. on December 7th, and from 9 a.m. to 5:30 p.m. on December 8th, will be closed.

**Music (application review):** December 6-8, 2006 in Room 714. A portion of this meeting, from 2 p.m. to 3 p.m. on December 8th, will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to

5:30 p.m. on December 6th, from 9 a.m. to 6 p.m. on December 7th, and from 9 a.m. to 2 p.m. and from 3 p.m. to 3:30 p.m. on December 8th, will be closed.

**Museums (application review):**

December 12-15, 2006 in Room 716. This meeting, from 9 a.m. to 5:30 p.m. on December 12th-14th and from 9 a.m. to 1 p.m. on December 15th, will be closed.

**Literature (application review):**

December 13-15, 2006 in Room 714. A portion of this meeting, from 2 p.m. to 3 p.m. on December 15th, will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to 6 p.m. on December 13th and 14th and from 9 a.m. to 2 p.m. and from 3 p.m. to 4:30 p.m. on December 15th, will be closed.

**Summer Schools in the Arts**

**(application review):** December 14-15, 2006 in Room 730. A portion of this meeting, from 3:15 p.m. to 3:45 p.m. on December 15th, will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to 6 p.m. on December 14th and from 9 a.m. to 3:15 p.m. and from 3:45 p.m. to 4:15 p.m. on December 15th, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 8, 2005, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682-5532, TDY-TDD 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682-5691.