

KENYA COORDINATING MECHANISM

PRINCIPAL RECIPIENTS SELECTION GUIDELINES AND PROCEDURES FOR MANAGING AN APPEAL PROCESS.

KCM PR Selection Guidelines

Table of Contents

| | |
|--|----|
| Content: | 3 |
| Annexes: | 3 |
| Abbreviations: | 3 |
| KCM PR Selection Guidelines | 4 |
| Principles of PR Selection | 4 |
| Background | 4 |
| Global Fund Principal Recipients Selection Requirements | 5 |
| KCM PR Selection Principles | 5 |
| The critical success factors for PR-ship | 6 |
| Figure 1 – The Five Stage PR Selection Process | 6 |
| Figure 2 – KCM Decision Tree – Inquiry and resulting options. | 7 |
| Stage 2 – The Tender Opening and Evaluation | 8 |
| Stage 3 - Evaluation of new PR applicants | 9 |
| Stage 4 – Verification | 10 |
| Stage 5 - Final scoring, ranking and reporting of results and recommendations. | 10 |
| Responding to an Appeal | 12 |
| Annex 1 – PR Selection Options – pros and cons - (to help KCM make appropriate choices) | 13 |
| Annex 2 – Continuation Process | 15 |
| Annex 3 - PR Selection Criteria (for each sub-criteria the IEC will agree the scores) | 16 |
| Annex 4 – Terms of Reference for the Tender Opening Committee | 19 |
| Independent Evaluation Committee (IEC) | 20 |
| Annex 5 - PR Selection Committee Competence Matrix | 22 |
| Annex 6 – PR Selection Procedure for open or close tender | 23 |
| Administrative pre-qualification Form (Phase 1, to be completed by KCM Secretariat in the presence of the TOC) | 28 |
| Technical evaluation scoring form (Phase 2, to be completed by individual IEC members) | 29 |
| Onsite Verification Visit Form (Phase 3 – to be completed by individual IEC members) | 30 |
| Phase 4 – Final ranking and recommendations | 32 |
| Annex 8 – ‘Go-no-go’ decision matrix following an Appeal Application | 33 |
| Annex 9 - Terms of Reference for the Independent Appeals Committee | 35 |

KCM PR Selection Guidelines

| | |
|--|----|
| The Appeal Committee's TOR will include: | 35 |
| The Appeal Committee Process | 36 |
| Annex 10 - Appeal Committee Process Map | 40 |

KCM PR Selection Guidelines

Content:

1. Background to the Global Fund Requirements
2. KCM Requirements
3. KCM Selection Principles
4. Proposed KCM Selection Process

Annexes:

1. PR Selection Options
2. PR Continuation Process
3. PR Selection Criteria
4. PR Selection Committee TORs
5. PR Committee Competence Matrix
6. PR Selection Procedure & Tools
7. Appeals History in KCM
8. “Go-no-go” Appeal Decision Frame
9. TOR for an Independent Appeals Committee
10. Appeal Committee Process Map

Abbreviations:

| | |
|-----|---|
| CCM | Country Coordinating Mechanism |
| Eoi | Expression of interest |
| GC7 | Grant Cycle 7 |
| KCM | Kenya Coordinating Mechanism of the Global Fund |
| LFA | Local Funding Agent |
| PR | Principal Recipients |
| IEC | Independent Evaluation Committee |
| SR | Sub Recipient |
| TGF | The Global Fund to Fight HIV, TB and Malaria |
| TOR | Terms of Reference |
| RFP | Request for Proposal |
| TOC | Tender Opening Committee |

KCM PR Selection Guidelines

Introduction

This manual aims to provide a comprehensive guide to the Non-State Principal Recipients' Selection Process for Global Fund Grants in Kenya. It needs to be implemented with an appreciation of the relevant timelines and sensitivity of this process, the need for consistency, strong leadership, and fair and transparent performance-based comparisons. The guide appreciates the Global Fund's requirements for openness, transparency and a dependable process for managing conflict of interest and the Ethical Code of Conduct.

Principles of PR Selection

Background

1. Implementing partners who manage and implement grants, known as Principal Recipients (PR) are fundamental to the Global Fund partnership, as they are the organizations that implement the programs funded through Global Fund grants including coordination of other, smaller organizations involved in implementation, referred to as sub-recipients (SR). Principal Recipients take on the financial as well as the programmatic responsibilities of the grant.
2. **Principal Recipients are selected by the country's Country Coordinating Mechanism (CCM)** as part of the Funding Request Application Process and are assessed by the Local Fund Agent in that country for their financial, managerial and programmatic capacities. Once selected, Principal Recipients sign a grant agreement with the Global Fund.
3. In most cases, following grant signing, non-state Principal Recipients then disburse funds to other organizations who serve as **sub-recipients (SR) or even sub-sub-recipients (SSR)**. This is done so that financing effectively cascades to smaller organizations and the beneficiary populations.
4. Accountability, transparency and effectiveness are key in the entire PR selection and grant implementation process. Principal Recipients are selected by the country's **Country Coordinating Mechanism** and assessed by the **Local Fund Agent** in the country for their financial, managerial and programmatic capacities. Once selected, Principal Recipients sign a grant agreement with the Global Fund.
5. At every step of the process, Principal Recipients are expected to **demonstrate full realisation of the planned results** and show that grant money has been optimally used.

KCM PR Selection Guidelines

6. **Principal Recipients are required to select sub-recipients** in Consultation with the Kenya Coordinating Mechanism through a national, open and transparent process, and are expected to assess the capacity of these organizations to carry out the work effectively and efficiently and meet the required standards of accountability and transparency.

Global Fund Principal Recipients Selection Requirements

1. **Compliance with the Global Fund Eligibility Requirements** - The KCM process of PR selection is framed within the “*Guidance on KCM Eligibility Requirements 1 & 2 Version July 2022*” of the Global Fund. The KCM will ensure compliance with this process before submitting funding applications to the Global Fund. This guideline requires the KCM to have a transparent and inclusive funding request development process and a transparent and documented Principal Recipient (PR) selection process.
2. **Eligibility requirement 2** – requires the KCM to: (i) nominate one or more Principal Recipients (PRs) at the time of submission of the funding request(s)¹. (ii) Document a transparent process for the nomination of all new and/or continuing PRs based on a clearly defined and objective criteria. (iii) Document the management of any conflicts of interest that may affect the PR nomination process.
3. **Readiness²** - Implementation readiness means PR human resources, sub-recipients, and suppliers are identified early and contracted and an implementation workplan for year one of the Implementation Period of the grant has been agreed upon, so that the Principal Recipient can begin implementing grant activities immediately on the Implementation Period start date.
4. **Continuation** - Applicants, and particularly those using the Program Continuation A application Option or those with continuing PRs, are strongly encouraged to confirm the selection of the Principal Recipient early in the country dialogue process and invite the Principal Recipient(s) to engage in the development of core documents. In the absence of a concluded PR Selection process, the current grant implementing PRs would engage with the Funding Application process to provide lessons learnt.

KCM PR Selection Principles

The following constitute the KCM Principles for PR Selection:

¹ Except in instances where a portfolio is managed under the Additional Safeguards Policy and the selection of the Principal Recipient by the Global Fund is a safeguard invoked for the portfolio.

² The Global Fund Applicant Handbook 2023-2025 Allocation Period – October 2022.

KCM PR Selection Guidelines

1. **Independence** of the oversight process of PR selection is paramount. As part of this, the PR Selection Committee must be made up of independent, non-conflicted members.
2. **Transparency** – the process must be visible to key stakeholders.
3. **Documented and consistent** – all stages of the process will be recorded and signed-off by the KCM or delegated Independent Evaluation Committee (IEC). The process will be applied in a fair and consistent way.
4. **Conflict of interest** – during the decision-making, any conflict of interest will be declared, recorded and managed.

This entire process will be informed by the Global Fund Guidelines, legal guidelines in Kenya³, KCM Constitution, KCM Values and Code of Ethical Conduct.

The critical success factors for PR-ship

The KCM recognises five (5) crucial factors that must be satisfied in selecting a PR – whether from the existing portfolio of PRs or considering a new PR.

1. **Big Grant Management** (grants equal to or larger than \$100 million) Capacity and Experience, and the ability to manage big financial and programmatic risks.
2. Capacity and Experience in Selecting and managing a portfolio of **competent Sub Recipients**⁴
3. Capacity and Experience in Managing **Large commodity procurement** and supply chain management .
4. Strong understanding of and experience in **Kenyan health systems**.
5. National and County disease **management** experience, an understanding of the Kenya dynamic and devolved health sector and the ability to deliver across a wide **national coverage** or reach.

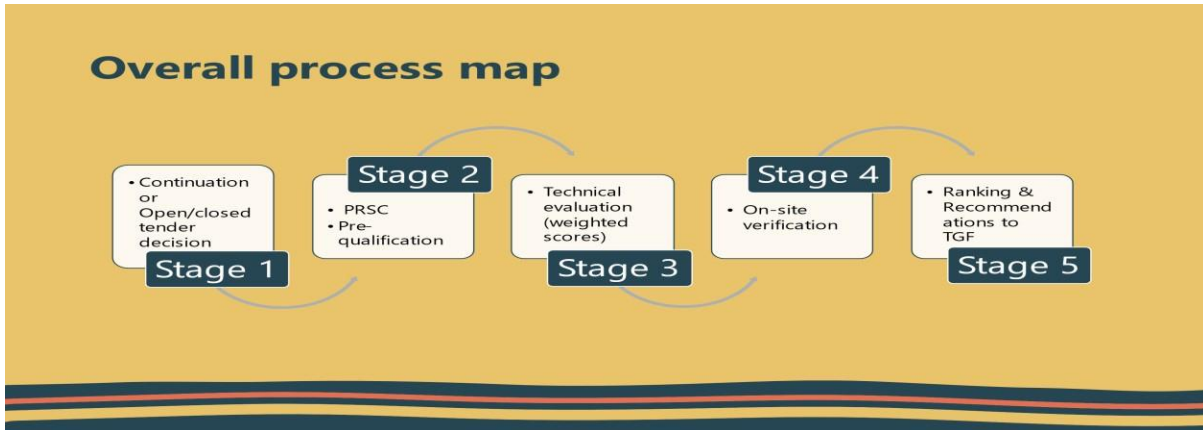
A managed process across five stages

The KCM will manage the PR selection process in a documented, consistent, transparent and fair manner. Figure 1 below describes the five stages, from the strategic decision of the best option for Kenya, to pre-qualification, evaluation, verification and recommendation.

³ The Public Procurement and Asset Disposal Act of 2015 of Kenya. This act specifies in detail how procurement should be done including initiation of procurement process, invitation to tender, submission and receipt of tenders, opening of tenders, evaluation of tenders, and recommendation for contract awards.

⁴ The ability of PRs to find good SRs who can plug the gaps identified in the previous grant and cover for their own weaknesses.

Figure 1 – The Five Stage PR Selection Process



Stage 1 – Choosing the best option.

The KCM, with the support of Global Fund colleagues, will determine the following in Stage 1:

1. **The best implementation architecture** for Kenya – the best structure, split and PR options for Kenya.
2. **One of three options:** (i) Continue with current PRs; (ii) Continue with selected PRs and/or a new PR on a specific ToRs; (iii) Open or closed tender on a generic or separate specific ToR.

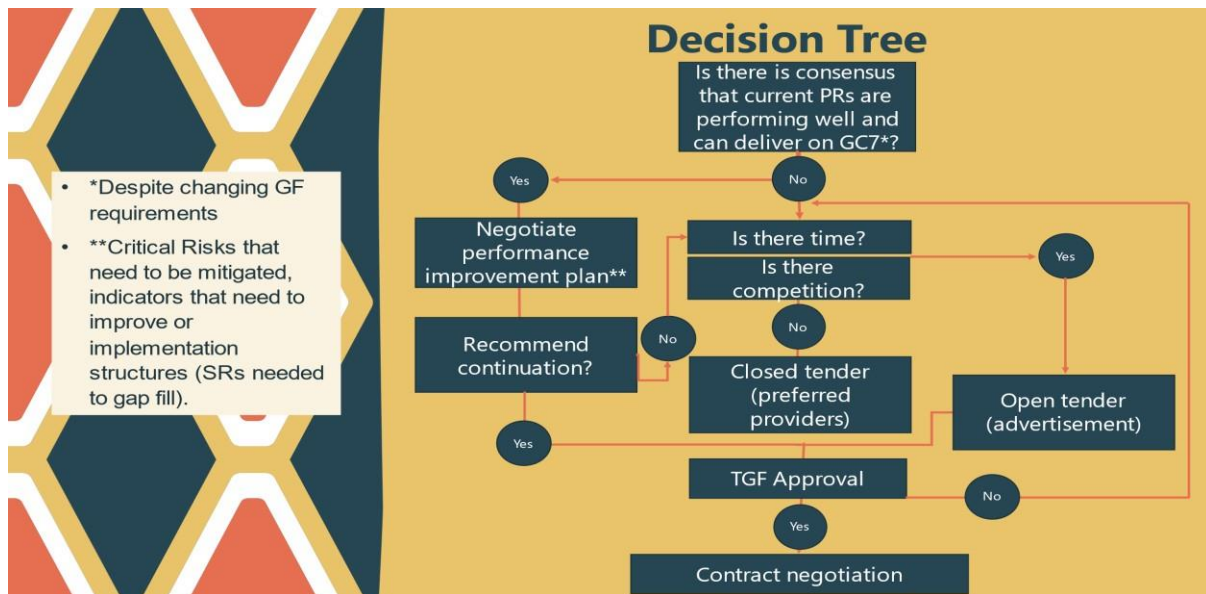
Annex 1, on pros and cons of various options, helps the KCM make this strategic decision.

While continuation brings valuable experience to the country portfolio, the selection process will be an **open, transparent, documented** process, adhering to the KCM Code of Conduct, complying with the Global Fund and country’s legal guidelines and ensuring value for money. **If the KCM chooses the Continuation option**, then the KCM will work with the existing PR(s) to identify a performance improvement Plan to ensure past performance gaps are closed and future funding requirements can be met. Thereafter, a decision will be taken as to whether the PR(s) is/are still suitable for reappointment. *Annex 2* guides this continuation process.

If the KCM chooses the Tender Option for one or more PRs, then it will openly advertise an Expression of Interest (Eoi) providing interested applicants at least 14 days to respond. Interested applicants will be requested to submit identical copies of bids in soft and hard form through the physical and email address to be provided in the advertisement .

The KCM decision is guided by the questions and options simplified in *Figure 2* below.

Figure 2 – KCM Decision Tree – Inquiry and resulting options.



Whichever option is chosen, the KCM will be guided by key criteria. A guide to these criteria is provided in *Annex 3*. The option chosen will ensure that the following risks are adequately addressed:

1. Potential disruptions to continuity of implementation are considered.
2. Assets⁵ built in current PRs over the years are protected.
3. Duration of the learning period for a new candidate is factored in.
4. Consistency and duration of the selection process is acceptable.
5. Any conflict of interest or systemic risks are identified and managed.
6. The stakeholder perceptions of a free, fair, transparent, apolitical, and equitable process are addressed.

Stage 2 – Tender Opening, Administrative Check of Bids and Appointment of Independent Evaluation Committee

Stage 2 of the process involves the following:

1. Call for proposals - In the event the KCM decides to call for open or closed tenders, then a call for expressions of interest or a request for proposals will be launched. The KCM will recommend the Call for applications/EOI, the KCM Chair approves and the KCM Secretariat will launch the call.

⁵ EPR, internal audit & dealing with the OIG, AMA, Grant Making, National Disease Management, adapting to changing GF requirements.

KCM PR Selection Guidelines

2. The **Tender Opening Committee (TOC)** will be recommended by the KCM and appointed by the KCM Chair, Principal Secretary State Department for Medical Services. It will include three (3) KCM representatives drawn from Government, Non-State Actors, Development Partners .The KCM Secretariat will provide administrative support. All persons involved must declare conflict of interest. The TOC will coordinate the bid opening and recording in the presence of the Bidders/witnesses. Upon completion of the tender opening the TOC shall handover all the bid documents, Minutes of Tender Opening and a report on Bid Opening to the Independent Evaluation Committee (IEC). The IEC, through the Chair, will formally acknowledge receipt of all the documents.
3. **The KCM will constitute a Nine (9) member Independent Evaluation Committee (IEC).** The IEC will comprise of technical experts as evaluators. 100 % of the evaluators shall be independent (noncurrent KCM members and persons not interested in KCM membership and with no/expected involvement in Global Fund grants implementation). The IEC members must declare conflict of interest and adhere to KCM Ethical Code of Conduct.
4. **The IEC Chair** will be appointed by the IEC members in their first meeting.
5. The KCM will decide and endorse the IEC **terms of reference** to guide the IEC in conducting the evaluation process.
6. Immediately after the bid submission deadline, bids will be opened and recorded by the Tender Opening Committee duly appointed by the KCM Chair, State Department for Medical Services. The KCM Secretariat shall provide administrative assistance to the Tender Opening Committee. Bidders / witnesses will be invited to attend the opening of the bid documents as indicated in the request for proposal guidelines.
7. The Tender Opening Committee will open the bids, conduct administrative checks of mandatory requirements in the presence of bidders or their representatives and record the outcome and thereafter hand over the bid documents, minutes of the tender opening meeting and a report on administrative checks to the Independent Evaluation Committee (IEC). The report on administrative check will clearly indicate the bids that meet the mandatory requirements and those that do not with clear explanation and will be signed by all members of TOC.
8. The **evaluation process** will be conducted in four (4) phases: (i) Administrative check for Mandatory Requirements at the Bid Opening phase (Conducted by Tender Opening Committee, assisted administratively by KCM Secretariat); (ii) Technical evaluation (Conducted by IEC); (iii) Onsite verification (Conducted by IEC); (iv) Final scoring, ranking and reporting of results and recommendations (Conducted by IEC). In the event that the KCM chooses the continuation option, then phases two (ii) and three (iii) may be replaced by a performance improvement planning process prior to final recommendation.

KCM PR Selection Guidelines

Stage 3 - Bid Evaluation by IEC

9. If the KCM chooses the open or closed tender option, then the process of tender opening, recording, administrative check and handover of bids documents and bid opening minutes and report by the TOC to the IEC will be conducted as per Stage 2 above. Thereafter the IEC will embark on evaluating the bids. This will be conducted in a consistent, fair and documented process. All bids meeting the administrative check/mandatory requirements as per the report of the TOC will proceed to The Technical Evaluation. The **evaluation process** will be conducted in three (3) phases:
- (i) Technical evaluation - by the IEC. The minimum technical score to proceed to the next evaluation stage (Phase (ii) - on-site verification and Phase (iii) - final evaluation) is 80%. There will be recorded disclosure of how scores will be allocated based on the criteria specified in the Request for Proposal document.
 - (ii) Onsite verification - by the IEC. This will be conducted for bidders meeting the minimum Technical Evaluation Score of 80% in Phase (i) above.
 - (iii) Final scoring, ranking and reporting of results and recommendations - by the IEC.
- Technical evaluation will be conducted based on the criteria as highlighted below and the scoring scheme included in the Request for Proposal (RFP).
10. In the event that the KCM chooses the continuation option, then Phases (i) and (ii) above may be replaced by a Performance Improvement Planning process prior to final recommendation.

Technical Evaluation criteria – Three domains will be considered to determine a winning bid. These include:

1. *Management* (planning, human resources, information & data management, procurement, risk management capacities)
2. *Finance* (financial resources, internal control systems, and management systems and value for money)
3. *Programming* (recent relevant experience, disease management, resilient and sustainable systems for health, Community Systems Strengthening, Pandemic preparedness oversight, M&E, human resource management, project management, SR performance management, government and community relations and capacity building)

*Value for Money*⁶ - The financial evaluation is not necessarily intended to determine the applicant with the lowest grant management costs but rather **to demonstrate knowledge and understanding of Global Fund budgeting guidelines and operations and the ability to**

⁶ The Global Fund defines Value for Money (VfM) as a concept that describes how to maximize and sustain quality and equitable health outputs, outcomes and impact for a given level of resources. It is critical in creating fiscal space, reducing wastage, and maximizing impact.

KCM PR Selection Guidelines

deliver impact at locally sustainable costs. Therefore, the evaluation criteria is clearly identified in the EOI/RFP and the maximum mark under each area disclosed.

Each IEC member shall **independently evaluate** and award scores for each bid that meets the mandatory requirements (those bids that pass Stage 2 above as per the report of the TOC). Scores from each of the reviewers will be aggregated and an average obtained. The individual evaluator scores for each bid will be checked for significant deviations/ inconsistencies to determine the reason for major deviation and moderation through consensus by the IEC led by the Chair.

Stage 4 – Verification for new bidders/new applicants for PR

For those new bidders/new applicants for PR that meet the mandatory requirement (in Stage 2 above) and have attained a minimum score of 80 % in technical evaluation, the IEC will conduct on site visits to ensure that data shared in the formal application is accurate and the bidder has the capacity and the intent to comply with the selection criteria and requirements.

Onsite visit - All new PR applicants who have undergone a technical evaluation and have achieved the minimum score of 80 % will be subject to a verification visit. The purpose of the visit is to satisfy the IEC panel that the information in the bid documents is plausible.

Stage 5 - Final scoring, ranking and reporting of results and recommendations.

The IEC will meet to deliberate on each qualified applicant (who attained a minimum technical evaluation of 80%) along with their on-site verification score to rank the applicants. Ranks, rationale and key risks to be mitigated if chosen as the PR will be assessed and recorded. The consensus reached will be documented.

Consistency & Transparency

The procurement process described above must be followed to its logical conclusion and comply with the Kenya and Global Fund guidelines on procurement. Should conflict of interest be flagged by any KCM members, the matter will be referred to the KCM Ethics Committee for determination. The process must comply with the Global Fund funding request CCM eligibility criteria of ensuring an open and transparent PR selection process, based on clearly defined and objective criteria. The procurement process is confidential and should be treated as such by Bidders, TOC, IEC and KCM members. Upon approval of the evaluation report by

KCM PR Selection Guidelines

the KCM, the KCM will formally communicate the outcome to all bidders. The process and the results will be accurately documented, stored and made available to the KCM Appeals Committee or KCM approved auditors for verification (if required).

Annex 1 proposes a guide for a continuation process. *Annex 2* a process for the continuation option. *Annex 3* proposes a set of PR selection criteria, *Annex 4* the terms of reference for the IEC, *Annex 5* the desired skills profile of the committee, *Annex 6* the PR Selection Process as a standard operating procedure with tools.

KCM PR Selection Guidelines

Responding to an Appeal

This section deals with the unlikely and undesirable event of an appeal after the results of the selection have been announced.

KCM has had recent experiences with PR Selection leading to an appeal. The history of this event is highlighted in *Annex 5* to ensure the learning from that experience is available.

Principles

1. When the KCM receives a formal written application for an appeal against a KCM selection decision, the KCM will request the KCM Appeals Committee to review the appeal to determine whether it warrants further investigation. The Appeals Committee will score the criteria guided by the **“Go-no-go” matrix** tabled in *Annex 6*.
2. The terms of reference, membership and tenure for the Appeals Committee are tabled in *Annex 7*.
3. KCM Appeals Committee Members must be non-conflicted, available, and appropriately skilled,
4. The KCM Appeals Committee will be inducted into their role by the Secretariat.
5. The KCM Appeals Committee will convene a closed session to assess the appeal as per the terms of reference.
6. The Appeals Committee will report back to the KCM either to: (a) Reject the appeal due to insufficient grounds - The reasons will be communicated to the applicant by the KCM; or (b) Make a recommendation for formal investigation to the KCM to consider - this will happen where the case is complex, contains contradictory evidence, and an easy settlement is unlikely.
7. In the event of a decision to reject the appeal is made, the KCM will **consider the matter closed**.
8. However, if the Appeals Committee considers that there are **grounds for Investigation**, and the KCM agrees to proceed, they will refer the matter back to the KCM Appeals Committee to manage the process of investigation.
9. If the matter is referred to the Appeals Committee for Investigation, the Secretariat will **notify the appealing party/parties** with dates, times, process and requirements based on guidance provided by the committee.
10. The KCM Appeal Committee will then conduct investigations, make **final recommendations and submit a report** to the KCM.
11. The KCM will review the report of the Appeals Committee and make **final recommendations** to the Global Fund, inform the appellant(s) in writing of the decision and further make a public announcement on the matter.

Annex 7 provides a summary of the appeals history in Kenya. *Annex 8* a matrix to guide the ‘go-no-go’ decision to have an appeal or not. *Annex 9* provides terms of reference for the Independent Appeals Committee. The appeal process is mapped in detail on *Annex 10*.

KCM PR Selection Guidelines

Annex 1 – PR Selection Options – pros and cons - (to help KCM make appropriate choices)

| Options | Continue with current PRs | Continue with select PRs and contract a new PR (on specific TORs) | Open tender for existing and new PRs |
|----------------------|---|---|---|
| Pros and cons | <p>+Retain assets, less disruption, faster selection process.</p> <p>-Negative public reaction, (seen as ‘fixed’), missed opportunity to bring in better players. Sufficient performance evidence to support the continuation argument.</p> | <p>+Faster (pre-qualification already done), Replace weak PR with new player, but keep good PRs & their assets.</p> <p>-IQC/EoI, Tender will slow selection process down. Preferred vendor short list will create some negative sentiment (‘we were left out; the vendor list was fixed’)</p> | <p>+Objective fair evaluation open to all qualified bidders and previous PRs, spreading the benefits. Normal procurement process with large contracts. Chance to find better players.</p> <p>-Could risk losing assets already built/investments already made.</p> <p>Could disrupt continuity. Time consuming, intense, risky, and costly process with no guarantees of quality.</p> |
| Process | <p>Performance/gap analysis, performance improvement plan, strategic decision at top level, plan approved, KCM endorsed, final GF approval.</p> | <p>Existing PRs follow process as described in the previous column.</p> <p>KCM defines criteria for vendor list of preferred providers. Issue calls for Indefinite Quantity Contract (IQC), issue Expression of Interest call for specific TORs.</p> | <p>Agree open tender process, advert and make call.</p> <p>Prequalification, technical evaluation, site visit, final scoring and ranking, recommendation, KCM & TGF endorsements.</p> <p>Public announcement.</p> |

KCM PR Selection Guidelines

| | | | |
|---------------------------------------|--|---|--|
| <p>Assumptions & risks</p> | <p>Stakeholders agree with the restricted process (no push back from CS). Current PRs will perform as well in the future under different conditions.</p> <p>TGF endorses recommendations. Current PRs want to continue.</p> <p>Current SRs happy to continue with current PRs.</p> | <p>Competent potential preferred providers exist. Current PRs and their SRs want to continue. Continuation and closed tender timing aligned.</p> <p>Stakeholders support this hybrid approach.</p> <p>TGF endorses recommendations.</p> | <p>Public interest in auditing the entire process. Competent potential PRs exist. SRs happy to work under new PR.</p> <p>There is enough time to do an open tender.</p> <p>Public accept the outcome of the process.</p> <p>The process is consistent. TGF endorses recommendations.</p> |
| <p>Critical decision point</p> | <p>TGF/KCM strategic level recommendation</p> | <p>Combination of TGF/KCM recommendation and IEC recommendation</p> | <p>IEC recommendation and applicants' acceptance</p> |

KCM PR Selection Guidelines

Annex 2 – Continuation Process

Process for continuation (rather than tender)

| # | Process | Procedures | Driver |
|----|----------------------------------|--|---------------------------|
| 1 | Program review | Performance review of last 3 years | Oversight Committee (OSC) |
| 2 | Gap analysis | Assessment of past performance to identify potential performance improvement opportunities at PR and SR level. | OSC |
| 3 | Gap filling strategies/solutions | Identify options: 1. Change SRs, build SR capacity, introduce PR reform. 2. Change PR | KCM |
| 4 | Strategic Level Decision | Strategic Level Committee (SLC) of senior KCM leadership (management committee), TGF CT and TGF CCM Hub agrees on continuation or hybrid options | SLC |
| 5 | Performance improvement plan | A plan is developed for the continuing PRs and SRs to ensure continuous improvement, gap closure and adjustment to new requirements in GC7 | PRs |
| 6 | PIP review and endorsement | KCM review proposed PIP and endorses. Shares with TGF and recommends appointment of existing PRs with conditionalities. | KCM |
| 7 | Global Fund endorsement | The Global Fund reviews the proposed nominations, plans against new requirements and endorses with conditionalities. | TGF |
| 8 | Contract negotiation | PRs select SRs begin TGF negotiate contracts | PRs |
| 9 | Funding request GC7 | PRs participate in funding request finalisation | PRs/KCM |
| 10 | Final contracts signed | Final contracts for both the grants and the PR concluded. | TGF/KCM/PRs |

Performance Improvement Plan

| Identified gaps ⁷ | Proposed gap closure strategies ⁸ | Listed activities ⁹ per strategy | Timing, accountability & resources ¹⁰ required |
|------------------------------|--|---|---|
| | | | |

⁷ Identified after an assessment of performance letters, performance ratings, OIG findings & program reviews.

⁸ Themes of improvement essential to address past performance and position for future Grant Cycle challenges.

⁹ Trackable action to ensure the intent in each strategy is addressed.

¹⁰ Short, medium, and long-term results, managed by a specific person, the resources needed to ensure this can be achieved and any co-financing opportunities that might arise.

KCM PR Selection Guidelines

Annex 3 - PR Selection Criteria (scores for each Criteria and sub-criteria to be included in the RFP)

| # | Category | Indicator | Evidence source | Verifiable Target |
|----------|---|---|--|--|
| 1 | Management | | | |
| 1.1 | The applicant has the capacity to prioritize, plan, budget resource requirements and implement against a plan | Planning Capacity | Strategic Plan Business Plan with budget | Submitted Completeness Evidence of implementation |
| 1.1 | The applicant has enough skilled and experienced staff to manage the programme. | Human resource capacity ¹¹ | Capacity Building Plan Staff turnover Organogram & skills audit Contracts of employment | Document submitted. Equal to or greater than market average Skills match |
| 1.3 | Data collection tools are in place and a functional routine reporting system with reasonable coverage and can report on programme performance in a timely and accurate way. | Data collection capacity Monitoring and E valuation capacity Analysis and reporting capacity Automation of data analysis and reporting | M&E Plan M&E Framework M&E Reports Audit reports | Documents provided. Unqualified |
| 1.4 | Information management systems are strong enough to provide timely and accurate feedback to key stakeholders. | Automated Data capture and Reporting Capacity | Reports on deadline. Appropriate hardware and software | 90% Independent appraisal |
| 1.5 | Adequate capacity for ordering, receipt, storage, and distribution of commodities | Procurement capacity | PSM plan in place LMIS in place Audit reports Capacity (m3) and utilization | PSM plan adhered to. Unqualified audit Capacity match |
| 1.6 | Identification and mitigation of risk satisfies global compliance requirements including protection from sexual | Risk mitigation capacity | Policies, mechanisms and procedures are in place | Independent appraisal Loss reports |

¹¹ Human resources management, finance, PSM, M&E, project management

KCM PR Selection Guidelines

| # | Category | Indicator | Evidence source | Verifiable Target |
|----------|---|---|---|---|
| | exploitation, abuse, and harassment (PSEAH) and child protection. | | Facilities are secured against loss | |
| 2 | Finance | | | |
| 2.1 | The financial resources of the applicant are adequate to support programme demands. | Ability to pre-finance | Cash flow statement Management accounts | Rx reserves Ry cash surplus |
| 2.2 | The internal control systems of the applicant are effective in preventing and detecting resource misuse or fraud. The financial management system is effective and accurate. | Strong accounting systems | Audits Financial procedures manual | Unqualified audit Response to audit management letters |
| 2.3 | The financial management system has the capacity to support programme requirements. | Capacity to disburse and link resources to programmatic results | Burn rates | >90% |
| 3 | Programme Focus¹² | | | |
| 3.1 | The applicant has the capacity and systems for effective management and oversight of sub-recipients, has experience with Resilient and Sustainable Systems for Health (RSSH), Community Systems Strengthening (CSS), Epidemic Preparedness, Protection from sexual exploitation, abuse, and harassment (PSEAH) and child protection. Ability to | Participatory Programme Implementation Planning and Review | Participatory Programme Implementation plan Independent Evaluation reports ¹³ Community/Client Feedback/reporting mechanisms including PSEAH and child protection Evidence that applicant has | Adherence to plan Unqualified Grant contract over (\$5-20m) Sub-recipient contracts (3 over \$500,000) Satisfaction survey of SRs .75% satisfaction. |

¹² Both for impact niche [programme service focus areas included: condom promotion, community service strengthening, adherence support for ART, HIV and TB screening, gender-based violence and geospatial mapping], and impact target {Programme focus groups included: MSM, transgender, sex workers, injection drug users, young women and girls, young men, peri-urban populations and correctional facility inmates}.

¹³ If the applicant has no recent programme evaluation report, the Appeal Committee may appoint an independent evaluation/audit at the applicants cost. KCM Oversight Committee reports on existing applicant PRs can be used in the evaluation process.

KCM PR Selection Guidelines

| # | Category | Indicator | Evidence source | Verifiable Target |
|----------|--|-----------------------|--|--|
| | manage relations with national and county government and with the community . | | managed grants of a similar size. Contract for Performance Based Funding and Accountability, involving multiple sub-recipients spread out across the country. | |
| 3. 2 | The applicant has adequate experience and current capacity to address the specific programme focus areas it has applied for. Demonstrate their understanding of the health landscape in Kenya with a focus on HIV, TB, Malaria. Experience Working within Kenya’s Devolved System of Governance and working with multiple counties and sub-counties across the country | Programme evaluation | Independent Evaluation reports Evidence that applicant has managed grants in similar technical areas, References from previous funders on management of large grants (equal to or larger than \$100 million) well. | Focus areas/targets match |
| 4 | Administration | | | |
| 4. 1 | The applicant is a legally registered organization in Kenya | NPO Registration | Registration certificate | Provided and valid |
| 4. 2 | The applicant can demonstrate its entity status | Entity status | Legal entity | Proof provided and valid |
| 4. 3 | The applicant can demonstrate the adequacy of its governance system | Governance structures | List of Board Members Governance Manual (with policies and procedures) Minutes and attendance of meetings. | Provided and valid Unqualified audit reports Non-repetitive audit issues |

KCM PR Selection Guidelines

| # | Category | Indicator | Evidence source | Verifiable Target |
|-----|---|----------------------|---|---------------------------------|
| | | | Audit Report for previous three (3) years Audit management letters | |
| 4.4 | The applicant can demonstrate that it is in good standing with the Kenya Tax Authorities. | Tax compliant | VAT Clearance from | Provided, unqualified and valid |
| 4.5 | The applicant can formally demonstrate the contracted human resource asset it has at its disposal. | Human capacity | Organogram of Contracts of employment | Submitted |
| 4.6 | The applicant completes the EoI application form and the conflict of interest declaration and code of Ethical Conduct completely and truthfully and submits it by the required deadline with the required supporting documents. | Complete Application | On deadline Signed All documents attached | 100% compliant |

Annex 4 – Terms of Reference for the Tender Opening Committee

The Tender Opening Committee is composed of at least three members, who shall not be members of the IEC. This committee’s main functions are:

1. To open all tenders received at the appointed time, soon after the deadline for submitting bids, in the presence of bidders or their representative who choose to attend the bid opening session..
2. To sign each tender on appropriate pages including all the mandatory documents as determined by the committee and initial in each tender against quotations of the price and any modifications or discounts.
3. To prepare tender opening minutes, which shall be signed by each member, which shall set out the record of the procedure followed in opening of the tenders and particulars of all bids received within the application timelines, and bidders or their representatives who attend the opening of tenders; and have the minutes signed by each member.

KCM PR Selection Guidelines

4. Conduct and Document Administrative Checks on Mandatory requirements in the presence of bidders/witnesses and announce the outcome; and further make a detailed report on status of each bid in meeting each of the mandatory requirements - clearly indicating the bids that fulfill all the mandatory requirements.
5. Announce quotation of price for each bidder in the presence of bidders/witnesses.
6. Compile report on administrative checks on mandatory requirements signed by all members.
7. Handover all the bids, minutes of opening and report on administrative checks on mandatory requirements to the IEC.

Receiving Tenders

1. The Tender Opening Committee (TOC) should ensure that the tender box where tenders must be submitted is fully accessible through out the period for bid submission and that the tender box has two (2) locks, with each key to the lock kept by a different officer and that the tender box remains locked until the time for tender opening.
2. Each tender that is delivered shall be placed unopened in the tender box by the person delivering the tender or by the staff of the Secretariat immediately upon receipt of the tender if it is delivered by post.
3. If a tender is too large to be placed in the tender box, it shall be received in the manner determined and fully documented by the TOC if no other manner is set out in the tender document. The bid must be secured and remain unopened until the time for tender opening.

Opening of Tenders

1. This is done by the Tender Opening Committee immediately after the deadline for submission of tenders.
2. Each tender opened will have the name of the person submitting the tender, the total price of the tender and what has been given as a tender security (if applicable), read out loud and recorded in the Tender Opening Register.
3. Those submitting their tenders (Bidders) or their representative may attend the opening of tenders.
4. An Administrative Check on Mandatory requirements will be conducted for each bid in the presence of bidders or their representatives and an announcement on the outcome made.
5. For each bid document each member of the TOC will sign/initial the appropriate pages including all the mandatory documents as determined by the committee and also initial against each tender quotation of the price and any modifications or discounts.
6. Tender opening minutes signed by each TOC member shall be prepared, setting out the record of the procedure followed in opening of the tenders and particulars of all

KCM PR Selection Guidelines

bids received within the application timelines, and bidders or their representatives who attended the opening of tenders.

7. A report on administrative checks on mandatory requirements signed by all members will be prepared.

Handover to the Independent Evaluation Committee

1. The TOC will hand over all bid documents , minutes of tender opening and the report on administrative checks to the IEC.
2. The IEC will formally acknowledge receipt of all the documents in writing.

KCM PR Selection Guidelines

Independent Evaluation Committee (IEC)

The IEC is set up by the KCM, to review applications for Non-State Principal Recipients (PR). The committee will be recommended by the KCM and appointed by the KCM Chair, PS State Department for Medical Services, taking into account the appropriate skill set among the members of the committee, independence, and ensuring that there is no material conflict of interest among the members. The purpose of the Committee is to evaluate applications for the Non-State PR including conducting on-site capacity assessment of applicants based on the criteria set in the RFP and ranking applications and making recommendations to the KCM. The KCM will provide oversight in ensuring that all the relevant guidelines are strictly followed.

Membership & Tenure

There will be nine (9) members appointed to the IEC. Their skills will provide coverage of: Global Fund Knowledge; Oversight, Monitoring and Evaluation (M&E) and Information Management; Grant Management; Governance and Legal Compliance; and financial value and financial control systems. Annex 3 provides details of the skills requirement.

The IEC members will be independent with no current involvement with the KCM and no relationship to current or aspiring PRs and SRs. **All members will sign a declaration of conflict of interest/code of ethical conduct clearly indicating any potential conflict of interest.**

The IEC will be appointed for the period in which the PR Selection will take place. The KCM will clearly specify the timelines for this exercise. The KCM Chair will appoint the IEC members in writing clearly outlining their terms of reference and tenure.

The IEC TOR will include:

1. Appointing a Chair of the Committee in their first meeting
2. Agreeing dates and venues for the Committee to conduct its work and the delegation of Committee work to individual Committee members.
3. A review of the documentation used to solicit expressions of interest/RFP, Receiving Bids, Minutes of Tender Opening and Report on Administrative Checks from the Tender Opening Committee.
4. Conducting technical Evaluation on all Bids that meet the Mandatory Requirement in line with the criteria specified in the RFP and in these guidelines in a well-documented process.
5. Conducting on-site visits to those applicants that attain Minimum Technical Evaluation Score of 80%.

KCM PR Selection Guidelines

6. Meet as a Committee to Come up with final scoring and ranking of individual bidders and recommendation of the bidders to be awarded the role of PR .
7. Present the Evaluation Report and recommendations to the KCM for approval

The above report and the decision of KCM will be formally submitted to the Global Fund by the KCM as part of the funding request or concept note. These said documents have to be submitted to the GF to demonstrate that the KCM has met the GF Eligibility Requirement 2 (ER2) i.e., open and transparent PR selection process. The ER2 is evaluated as part of the minimum eligibility requirements before a funding request/concept note is accepted for review by the Global Fund Technical Review Committee.

The IEC Committee Deliverables

The IEC will produce the following deliverables for the KCM in support of the recommendation:

1. Minutes of the IEC meetings and consultations.
2. Report on all bids received from TOC.
3. Detailed Report of evaluation for submission to the KCM Chair that includes:
 - a. Process followed in the evaluation.
 - b. Signed score sheets for each bidder and each evaluator.
 - c. Analysis of average scores and ranking for bidders signed by all evaluators.
 - d. Recommendation for PR appointment based on ranking signed by all evaluators.
4. A presentation to the KCM Members on process followed, outcome of the evaluation and recommendation for PR appointment.

Communication of the IEC's Recommendations

The IEC will Present the Evaluation report and recommendations to the KCM for approval The IEC will not share its report or verbal findings with any other party. The KCM will share the recommendations with the Global Fund before any public announcement is made. The KCM will make the final public announcement and will inform all applicants of the outcome.

KCM PR Selection Guidelines

Annex 5 - PR Selection Committee Competence Matrix

| # | Category | Skills, abilities, knowledge, experience, representation ¹⁴ |
|---|---|--|
| 1 | Procurement Expert | Experience with large public procurement that meet the quantity and quality expectations of the Kenya Procurement Act, TGF requirements and the KCM guidelines. Evaluate and negotiate contracts with vendors, including national tendering processes. |
| 2 | Global Fund Experts | Knowledge of the Global Fund and their requirements. Knowledge of the three (3) diseases, the health system and knowledge of health sector data and/or affected communities/impact groups, ability to make complex judgements around health approaches and epidemiology. |
| 3 | Oversight, M&E & Information Management | Strategic oversight (monitoring and evaluation of principal recipients and sub-recipients of grants), financial management, program management, strategic information management, procurement & supply chains. Must include key populations and Persons living with diseases (PLWD) or their representatives . |
| 4 | Grant Management | Management ability at a senior level, decision making, judgement, planning, financial management, program management, Global Fund Knowledge, Human Resource Management, Legal knowledge. Ability to manage funding/grants. |
| 5 | Sector knowledge and stakeholder engagement (Coverage of 9 sectors) | Senior level experience and knowledge across multiple sectors and partnership development involving Public Sector Ministries , Civil Society, private sector, academia, people living with the diseases, key affected populations, multilaterals, bilaterals, regional grants. |
| 6 | Governance and Legal Compliance | Ability to recognise and discuss moral conflicts and conflicts of interest within Kenya. Ability to understand the moral perspective of the code of conduct, health rights and gender. Ability to explain the ethical dimension of a case to those involved and to others. Ability to formulate and justify morally acceptable behaviour. Legal counsel, compliance, fairness. |
| 7 | Financial value and control systems | Financial resource projections, internal control systems to effectively prevent and detect resource misuse or fraud. Financial management information systems. Investment analysis and value for money analysis. Tax requirements and status assessment. |

¹⁴ Individual representatives should have some of these skills, the entire body all these skills.

KCM PR Selection Guidelines

Annex 6 – PR Selection Procedure for open or close tender

Summarised

| # | Stage | Procedure | Driver |
|---|--------------------------------------|---|--|
| 1 | Preparation & Endorsement of process | <ol style="list-style-type: none"> 1. KCM endorsed & approved governance documents that outline the process for nominating PR(s). 2. Design and endorse the expression of interest advert/RFP including evaluation criteria (complete with detailed explanatory guidelines, deadlines and submission email instructions) and post with agreed media channels and KCM stakeholder distribution email lists. 3. Issue public calls for expressions of interest for potential Principal Recipients. | <p>KCM</p> <p>KCM/Management & Ethics Committee</p> <p>KCM Evolution Taskforce</p> <p>KCM Secretariat</p> |
| 2 | Committee & Secretariat positioning | <ol style="list-style-type: none"> 1. Establish two committees – Tender Opening Committee and a multi-stakeholder Independent Evaluation Committee (IEC) from the different sectors¹⁵ 2. Training IEC in their role 3. Register receipt of EoI and create unique folders with supporting documentation. 4. Administrative check for mandatory requirement and writing report 5. Hand over bid documents to the Independent Evaluation Committee. | <p>KCM Chair</p> <p>KCM</p> <p>KCM Secretariat/Consultant</p> <p>Tender Opening Committee (TOC)</p> <p>IEC</p> |
| 3 | Evaluation & Scoring | <ol style="list-style-type: none"> 1. Evaluate all bids that fulfil mandatory requirements for technical competency focusing on the ability to fulfil the requirements of an PR¹⁶. Applicants need to achieve a score of at least 80% of the technical competency requirements to progress further. 2. On-site verification visits to clarify details about the applicant. 3. Final scoring for applicants that satisfy the pre-qualification criteria and the | <p>IEC</p> <p>IEC</p> <p>IEC</p> <p>IEC</p> <p>IEC</p> |

¹⁵ Represented on the KCM who have experience, knowledge, skills and time appropriate for review a number of potential PR candidates.

¹⁶ Experience and expertise of implementing similar interventions and presence in the selected district.

KCM PR Selection Guidelines

| # | Stage | Procedure | Driver |
|---|------------------------------------|--|--|
| | | administrative requirements, (the weighting of the overall score is as follows: 80% technical capability, 20% financial capability). | |
| 4 | Decision, announcement & follow-up | <ol style="list-style-type: none"> 1. The IEC will present its evaluation outcome to the Ethics Committee for consideration and recommendations to the KCM for a decision on the final list of PRs. 2. KCM endorsement of results 3. Results shared with the Global Fund for comments and LFA review. 4. Final announcement of successful candidates. All documentation filed in the Secretariat archives. 5. Aggrieved applicants lodge an appeal with the Appeals Committee within seven working days of receiving official communication of the selection decision, clearly stating the grounds for appeal and providing the necessary evidence. (See Appeals Process) | <p>IEC</p> <p>Ethics Committee</p> <p>KCM Secretariat</p> <p>TGF LFA Secretariat</p> <p>KCM Secretariat</p> <p>KCM Appeals Committee</p> |
| 5 | PR engagement in GC7 process | <ol style="list-style-type: none"> 1. Briefing of successful PRs and engagement of TGF for contracting of PRs 2. Involvement of PRs in final designs, SR selection and final Global Fund negotiations | <p>KCM Secretariat</p> <p>GC7 Design Team</p> |

PR Selection Procedures in detail

Stage 1 – Selection Options

1. The KCM and the Global Fund agree on the best structure and split of PRs for Kenya (one State PR and two (2) non-state PR, with each non-state PR managing a maximum of two (2) disease programs).
2. The KCM endorses the procedures, deadlines and terms of reference for the selection process and the TOC and IEC.

Stage 2 – Calls and administrative checks.

3. The KCM advertises the call with clear requirements and a transparent process.
4. The KCM appoints a TOC and IEC. Nominations are tabled before the KCM meeting,

KCM PR Selection Guidelines

5. The Secretariat notifies the selected TOC and IEC members, shares timelines, selection guidelines and provides orientation for the appointed of TOC and IEC.
6. The TOC opens the bid documents, immediately after the deadline for application, in the presence of the bidders or their representatives and conducts administrative checks of Mandatory Requirements, with administrative support being provided by the KCM Secretariat .
7. With administrative support from the KCM Secretariat, the TOC completes the form below for each applicant, indicating the date the bid documents were received, whether they comply (qualify) with mandatory requirements and files the same for use by the IEC panel. The TOC submits minutes of their meeting and a report on administrative checks on mandatory requirements to the IEC .

KCM PR Selection Guidelines

Administrative pre-qualification Form (Phase 1, to be completed by KCM Secretariat in the presence of the TOC)

| # | Required documentation | Date Received | Qualified | or | Not Qualified |
|----------|---|----------------------|------------------|-----------|----------------------|
| 1 | Duly signed Letter addressed to the KCM Chair Expressing interest for the tender. Contact details i.e. email address and telephone number indicated | | | | |
| 2 | Entity Kenyan registration certificate | | | | |
| 3 | Identity of office bearers (Board and Senior Management) | | | | |
| 4 | Tax Compliance Certificate | | | | |
| 5 | Audited accounts for previous two years | | | | |
| 6 | 10-page proposal providing evidence of appropriate experience | | | | |
| 7 | Organogram of staff with proposed PR team (and CVs) | | | | |

Phase 2 – Technical Evaluation

1. An IEC review panel will evaluate those applications that have been successfully administratively screened in the pre-qualification phase.
2. Qualified, complete, eligible applications are then technically evaluated against the criteria below.
3. Panel members will be supplied with folders of each applicant and will individually review each application, entering a score into the form below.

KCM PR Selection Guidelines

Technical evaluation scoring form (Phase 2, to be completed by individual IEC members)

Panel Member's Name:

Date of Evaluation:

| Competence | Indicators | Points | Score | Rationale for Score Given |
|--|---|--------|-------|---------------------------|
| Management | <ul style="list-style-type: none"> ● Planning Capacity ● Human resource capacity ● Reporting Capacity ● Procurement capacity ● Risk management | 30 | | |
| Finance | <ul style="list-style-type: none"> ● Ability to pre-finance ● Strong accounting systems ● Capacity to disburse and report ● knowledge and understanding of Global Fund budgeting guidelines | 30 | | |
| Program | <ul style="list-style-type: none"> ● Grant management experience (including evidence of past performance, RSSH, CSS & pandemic preparedness) ● Programme Implementation Planning ● Monitoring & evaluation capacity ● SR or grantee performance management and capacity building ● Capacity to ensure services are safe for beneficiaries.¹⁷ ● Manage government and community relations | 40 | | |
| Total Score | | | | |
| Overall Comments (max 3 Bullet points): <ul style="list-style-type: none"> ● Xx ● Xx ● xx | | | | |

4. The scoring sheets will be submitted by each individual IEC member to the KCM Secretariat within 5 days of issue to individual IEC members.

¹⁷ Experience with implementing policies and procedures to prevent and respond to safeguarding against Sexual Exploitation and Abuse and Sexual Harassment (SEAH) and also ensuring child protection

KCM PR Selection Guidelines

5. The Secretariat will create a summary sheet showing all criteria and all scores for each panel member and an average.
6. The panel will meet to deliberate and agree by consensus the final technical evaluation score per applicant.
7. The IEC Chair, with the assistance of the Secretariat, will agree on on-site verification visit with the applicants scoring 70% or more.

Phase 3 - On-site verification visits

The purpose of the onsite visit is to allow the IEC panel to verify the information that has been provided in the Phase 2 - Technical Evaluation, and to establish **capacity, readiness and evidence of past performance**. Visits are expected to take 3 hours and will attempt to cover some of the most essential elements discussed below (within reason). Four dimensions will be considered:

Onsite Verification Visit Form (Phase 3 – to be completed by individual IEC members)

| # | Dimension | Points | Score | Rational e for Score Given |
|--|---|--------|-------|----------------------------|
| 1 | Respect for health rights, equity, and gender | 20 | | |
| 2 | Program Reporting and Evaluation | 20 | | |
| 3 | Sub-recipient Management Capacity ¹⁸ | 20 | | |
| 4 | Financial and PSM management system | 20 | | |
| 5 | Risk Management capacity | 10 | | |
| 6 | Stakeholder (Government, Donor and Community) relations | 10 | | |
| Total Score | | | | |
| Overall Comments (max 3 Bullet points): | | | | |
| <ul style="list-style-type: none"> ● Xx ● Xx ● xx | | | | |

The following provides guidance to the onsite verification dimensions:

1. **Respect for Human rights, equity and gender:** How well does the applicant articulate a suitable approach to managing grants associated with specific diseases and key and vulnerable populations. How well does the proposal reflect a commitment to respecting the rights of the beneficiaries including prevention of sexual exploitation abuse and harassment (PSEAH) and child protection? How well does the proposal

¹⁸ Assessment dimensions that are not geared to specific organizations but towards specific capacities needed in GC7.

KCM PR Selection Guidelines

integrate local knowledge, and expertise of populations served, host country colleagues, and local partners? How well does the applicant articulate a plan that includes collaboration with local governments, and communities? To what extent does the applicant propose prioritizing local expertise over external stakeholder engagement?

2. **Evaluation of Past Performance** - To what extent does the applicant demonstrate evidence of experience of innovative, and clearly articulated past performance on Global Fund or similar projects, with similar investments and similar donors, particularly showing effective grant implementation. To what extent does the applicant demonstrate experience collaborating with partners and coordinating with existing Global Fund, national and county implementing partners, and/or host governments to achieve the goals of the country's on the three diseases (HIV, Tuberculosis and Malaria), R SSH, community systems strengthening, pandemic preparedness, and good governance practices?
3. **Applicant's Organizational Capacity Development Expertise.** How well does the applicant demonstrate an ability to build capacity of local sub-recipients for disease programming across each of the disease strategies. How well does the applicant demonstrate the capacity to provide technical assistance as well as implement high-quality, evidence-based interventions for key and vulnerable populations (e.g., Adolescent and young women (AGYW), children and youth, and women)? To what extent is staff involved in this project qualified to perform the tasks described? (CVs/Resumes provided should include information that they are qualified in the following: grant management, fiscal management, reporting, KP health programming; resolving gender disparity; health systems strengthening, and capacity building among and collaboration between Governmental and non-governmental partners.)
4. **Financial and PSM management system** – How well does the applicant demonstrate an ability to access , disburse, record and report on financials, supported by a system that is consistent and prevents loss or misuse of resources. To what extent does the applicant have the capacity to establish demand for commodities, order accurately, track the movement of commodities, receive and store appropriately, control the issue and distribution and report on levels and utilisation.
5. **Risk management capacity and system¹⁹ - Review of risk posed by applicants.** The IEC will review the track-record of executing programs or activities under international grants, cooperative agreements, or procurement grants, and integrity and business

¹⁹ Identifying and mitigating risks regardless of risk type such as program, finance, PSM, governance, political, etc.) – system that shows the applicant use appropriate risk identification (severity, likelihood), mitigation and residual risk monitoring.

KCM PR Selection Guidelines

ethics. The IEC’s framework for evaluating the risks posed by an applicant may incorporate:

- (1) **Financial stability.** The *financial resources* of the applicant are adequate to support programme demands; the *internal control systems* of the applicant are effective to prevent and detect misuse of resources or fraud; the *financial management system* is effective and accurate; and the financial management system has the capacity to *support programme* requirements.
- (2) Quality of management systems and ability to meet the management standards prescribed in (1) above.
- (3) **History of performance.** The applicant's record in managing large relevant international grants, and if it has prior experience with Global Fund grants, including the performance of these grants (grant ratings letters), timeliness of compliance with reporting requirements, conformance to the terms and conditions of previous grants, and if applicable, the extent to which any previously granted amounts were expended and accounted for .
- (4) Reports and findings from audits performed under previous grants or grants managed.
- (5) The applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on entities in Kenya and from the Global Fund.
- (6) Existence of policies and measures that prevent and respond to Sexual Exploitation Abuse and Harassment (SEAH) and also ensuring child protection among programme beneficiaries and within the organisation.

Phase 4 – Final ranking and recommendations

After completion of the Phase 3 onsite verification, qualified applicants (phase 2 score = or >70%) are placed in rank order based on their overall score from the objective IEC review panel in Phase 2 and 3. The IEC will meet in person and deliberate on each applicant before agreeing on the rank of the applicant. All IEC members will be provided with all applicants’ documents and their corresponding Phase 2 (technical) score and Phase (on-site verification) sheets prior and during the meeting. The IEC should use the following tool to document its recommended rankings for applicants:

Final Ranking and Recommendations (Phase 4 – to be completed by KCM Secretariat and approved by all IEC members)

| Applicant | Phase 2 score (technical) | Phase 3 score (on-site verification) | Recommended Rank | Rationale for Rank Given | Critical Risks that Need to be Mitigated if Chosen at the PR |
|-----------|----------------------------|---------------------------------------|------------------|--------------------------|--|
| | | | | | |

KCM PR Selection Guidelines

| | | | | | |
|--|--|--|--|--|--|
| | | | | | |
| | | | | | |

The IEC will follow the guidance below to deliberate on and rank applicants:

1. If two or more applicants are tied for top ranking, the IEC will conduct a further review of the applicants tied for highest rank. The IEC will deem the applicant with the highest overall score in the Technical Approach section as top ranked. In the event there is still a tie, the IEC will move to the Applicant’s Phase 3 results to deem the applicant with the highest overall score in that section as top ranked.
2. Any statements of performance submitted by applicants in response to this EoI will be assessed for accuracy. In the event past performance described is not aligned with actual performance as documented in an official document, the IEC would consider any inaccuracies in determination of ranking. False statements or claims and misrepresentation or mischaracterization of any information in connection to the application can lead to disqualification.
3. A PR Selection Outcome report on the process, analysis and findings (with rankings and recommendations) is shared with the KCM for approval
4. The KCM Chair shares the results of the PR Selection and the recommendations to be made to the Global Fund.
5. The Secretariat forwards the recommendations to the Global Fund for final comment and approval. The Global Fund formally shares approval with the Chair and Secretariat.
6. The KCM Chair and Secretariat formally notify all PR applicants of the final decision and make a public announcement via pre-approved media sources.

Annex 8 – ‘Go-no-go’ decision matrix following an Appeal Application

| # | Criteria | Demonstration/evidence | Source |
|----------|---|--|--|
| 1 | Administrative or procedural irregularity | The applicant must set out clearly and fully what they consider the irregularity/error to be, how and when this occurred and how it may have or did affect the assessment, progression or withdrawal decision. | Applicants letter of appeal |
| 2 | Mitigating circumstances | Mitigating circumstances where, for good reason, the decision-making body (IEC) was not made aware of the information, or it was | Applicants letter and additional information |

KCM PR Selection Guidelines

| | | | |
|----------|--|--|--|
| | | unavailable at the time. Valid and over-riding reason this evidence was not made available to the decision-making body (IEC) at the time of adjudication | |
| 3 | Prejudice or bias | The applicant must set out clearly and fully the reasons for the claim of bias or perception of bias. This may include comments from a third party which records the comments or remarks made by others | Third party report. Minutes |
| 4 | Compliant with best practice Appeals process | Appeals which are obsessive, harassing or repetitive, pursuing non-meritorious appeals and/or demanding unrealistic, unreasonable outcomes, pursuing appeals in an unreasonable manner, even where these may be meritorious will lead to the appeal being rejected | Appeals letter or evidence of social media or public pressure to influence a result. |

Annex 9 - Terms of Reference for the KCM Appeals Committee

Terms of reference

The Independent Appeals Committee is set up, at the request of the KCM, as a last resort, to review and settle appeals relating to the PR or SR selection process. The committee will be determined by the Ethics Committee to ensure appropriate skills, independence and no material conflict of interest. The purpose of the Committee is to review the documentation of the processes to ensure that the KCM has followed reasonable steps to fulfil its duty.

Membership

1. The Committee will consist of 5 members (individuals with no previous involvement with the PR/SR or this case and no vested/declared interest in the new grant or any applicant for the new grant)
2. The committee skills will include: an expert in Health programming, an expert in the Global Fund grants or the concept note design process, a legal expert (contract and or procurement law), a financial expert. The KCM Secretariat will provide administrative support.
3. The Appeals committee will appoint the Chair of the committee based on a record of integrity, influence in the health ecosystem and independence.

The Appeal Committee's TOR will include:

1. Agreeing dates and venues for the Committee to conduct its work and the delegation of Committee work to individual Committee members.
2. A review of the documentation used to solicit expressions of interest, evaluate the organizations expressing interest and reporting recommendations to the KCM.
3. Request additional evidence from the GF, the KCM, the KCM Secretariat or the appellant.
4. Request an audience with the Appellant or any other appropriate stakeholder, if required, to hear additional evidence.
5. Meet as a Committee to agree on final recommendations.
6. Meet with the KCM Chair and TGF Fund Portfolio Manager to brief on the outcome of the Committee's work.
7. Document, as an Appeal Committee report, the findings of the Committee's work, and submit the same to the Chair of the KCM.

The documentation of the PR selection process will be provided to the Appeal Committee by the Chairperson of the IEC on the documents formally submitted to the Global Fund as part of the funding request or concept note. These said documents have to be submitted to the GF to demonstrate that the KCM has met the GF Eligibility Requirement 2 (ER2) i.e., open and

KCM PR Selection Guidelines

transparent PR selection process. The ER2 is evaluated as part of the minimum eligibility requirements before a funding request/concept note is accepted for review by the Global Fund Technical Review Committee.

The Independent Appeals Committee will review documentation submitted and may decide to hear evidence from the Appellant or any other participants in the process. The Appellant may be called to present its case to the Independent Appeals Committee. The Chairperson of the KCM Evaluation Sub-committee may be called upon to explain any of the documents or processes and the Chair Person of the KCM may be called upon to explain the processes and discussion of the KCM as it relates to the nomination of PRs for the funding proposal/concept note.

The Appeal Committee Process

The process to be followed by the Independent Appeals Committee will be as follows:

1. The KCM will finalise the TORs for an Independent Appeals Committee, select an Independent Appeals Committee (and Chair of the Committee) for the purpose of the appeals task.
2. All members of the newly selected Independent Appeals Committee will sign a declaration of interest clearly indicating any potential conflict of interest. These will be submitted to the Chair of the KCM who may opt to seek the verification of the information through the Secretariat or Ethics Committee.
3. The Chairperson of the Independent Appeals Committee will finalise the Terms of Reference with the members of the Committee and agree on timelines, division of labour and the process map to be followed.
4. Documentation of the PR/SR nomination process will be shared with all members of the Independent Appeals Committee.
5. The Independent Appeals Committee will meet to review the selection process and the merits of the appeal. The appeal application will be adjudicated against a matrix of requirements described in Annex 1. An application must satisfy 90% of the criteria to be considered for a full appeal assessment.
6. Thereafter, the Independent Appeals Committee will assess the appeal as per the lines of inquiry below.
7. The Chairperson of the Independent Appeals Committee will communicate the decision of the Independent Appeals Committee to the appellant, the KCM Chair and the Global Fund Country Team. The decision will provide a determination of whether the appeal be upheld or not, and what course of action should be taken because of this assessment.

KCM PR Selection Guidelines

Potential lines of inquiry

The Independent Appeals Committee is advised to review the process considering the following as well as any other questions it may seek to answer:

1. Was the call for expressions of interest publicized broadly to make the process open?
2. Were the expectations from applicants clear in the application and expression of interest documents published to ensure openness?
3. Was there an opportunity for applicants to ask questions about the documents and were these answered and shared to ensure openness?
4. Did all the members of the KCM Technical review Committee sign and submit Conflict of Interest declaration forms to ensure fairness?
5. Was Conflict of Interest managed in the KCM TRC meetings?
6. Is the TRC assessment tool comprehensive and unambiguous in terms of the criteria and scoring mechanism? Did all TRC members receive sufficient briefing/training to ensure the use of the tool was consistent?
7. Did all the members of the TRC participate in the evaluation process to ensure fairness?
8. Did each TRC member score the technical and financial assessments for each PR/SR? Are the scoring scripts available for each Member of the TRC? Does the consolidation sheet show the inputs of all TRC members.
9. Did all the TRC members agree on the moderated scores for each applicant to ensure fairness?
10. Were there discussions and an opportunity for questions from members of the KCM TRC to ensure that everyone had an opportunity to speak to ensure fairness?
11. Was there an opportunity for discussion at the KCM meeting where the KCM TRC presented their recommendations to ensure openness and fairness?
12. Did the KCM agree either through consensus or vote on and accept the final funding request concept note submitted with the final parties listed as PRs or SRs to ensure that eligibility requirement was met?

The Independent Appeals Committee may decide to employ the services of a legal firm or an audit firm to support the Committee or committee and to record and document the deliberations and decisions.

Independent Appeals Committee Hearings

The procedure for the meeting is as follows:

1. The Independent Appeals Committee members will meet for an hour prior to the start of the appeal to agree the questions they would like to put to the applicant and the TRC-representative(s).

KCM PR Selection Guidelines

2. The Chair explains the purpose of the hearing and asks all those present to introduce themselves (5 minutes maximum).
3. The Chair invites the applicant to give a summary of the main grounds for their appeal (10 minutes maximum).
4. The Chair invites the TRC representative(s) to give a summary of their position on the appeal (10 minutes maximum).
5. If the applicant or TRC representative(s) have asked to call other people to present evidence, the Chair will decide when and if it is appropriate to call them into the hearing. They will only be permitted to attend the hearing when asked to give evidence and may not stay for the entire proceedings.
6. The Independent Appeals Committee will put questions to both the applicant and the TRC representative(s) as appropriate (40 minutes for each maximum).
7. The Chair may permit either the applicant or the TRC representative(s) to put questions to each other at any stage of the hearing, however, all questions must be put through the Chair.
8. The Chair will ask the applicant if they want to make any concluding remarks before the Committee retires to consider its findings (10 minutes maximum). The Chair will draw matters to a close and the Committee will retire to make its decision (5 minutes maximum).
9. The Chair has the discretion to vary the procedure in any case where they consider it appropriate and just to do so. Any variation must be recorded in the notes of the meeting and must be in accordance with the Appeals Procedure.
10. The Chair has the right to adjourn the hearing until a future date or time in exceptional circumstances.

The Appeal Committee Deliverables

The Appeal Committee will produce the following deliverables for the KCM:

5. Minutes of the Appeal Committee meetings and consultations.
6. A verbal summary of the process and the findings of the Appeal Committee to the Chairperson of the KCM.
7. A written report describing the purpose, the scope, the process, the findings and the recommendations (appeal upheld or dismissed and the recommendations for action) of the Appeal Committee circulated to the Chair of the KCM.

Appeals panel decisions: - The Appeals Panel can make one of the following decisions: (a) Uphold the appeal (b) Partially uphold the appeal (c) Reject the appeal.

KCM PR Selection Guidelines

Communication of the appeal panel's decision

The outcome of the formal stage of the procedure must be communicated to the KCM for approval and thereafter to the appellants in writing within seven calendar days. Clear and concise reasons for each decision will be provided.

KCM PR Selection Guidelines

Annex 10 - Appeal Committee Process Map

| # | Stage | Detailed activities | Driver | Months (1,2,3,4) | | |
|---|--|--|------------------------|---------------------|--|--|
| 1 | Appeal Request filed | A claimant initiates an Appeal by filing a statement of claim that specifies the relevant facts and remedies requested. | KCM Secretariat | | | |
| 2 | Answer request | a A respondent (in this case the KCM) responds to an Appeal claim by filing an answer that specifies the relevant facts and available defenses to the statement of claim. | KCM Chair | | | |
| 3 | Appeal Committee Selection ²⁰ | The KCM agrees competencies required on the Committee and a term of reference for the Committee. Appeal Committee selection is the process in which the KCM Chair ²¹ receives lists of potential Committee Members from either the KCM or the KCM Secretariat (or both) and selects the Committee to hear their case, including the appointment of a Committee Chair. The Chair checks if proposed Committee members are prepared to stand. Letters of appointment and terms of reference are sent out to the proposed Committee. A logistics plan for the Committee is developed and managed by the KCM Secretariat. | KCM Chair | | | |
| 4 | Pre-hearing caucus | Prior to the hearing, the Committee and parties meet telephonically/via Skype to schedule hearing dates, resolve preliminary issues and request specific documentation, key informant interviews and evidence of precedence. | Chair Appeal Committee | | | |
| 5 | Committee discovery | Discovery is the exchange of documents, information, and key informant interviews in preparation for the hearing. Committee members analyze detailed documents and create/modify their line of inquiry. | Chair Appeal Committee | | | |

²⁰ If contracting is required, at least 2 weeks needs to be budgeted for the procurement process.

²¹ In the case where the appeal is against the Chair of the KCM, the Vice Chair plays this role.

KCM PR Selection Guidelines

| | | | | | | | |
|-----------|--------------------------|--|------------------------|--|--|--|--|
| 6 | Committee hearings | The Parties and Committee members meet in person to conduct the hearing in which the parties present arguments and evidence in support of their respective cases. | Chair Appeal Committee | | | | |
| 7 | Committee decision | After the conclusion of the hearing, the Appeal Committee deliberates the facts of the case and reaches a consensus decision (or, in the absence of consensus, by a majority vote) to uphold or reverse the KCM decision in question. | Chair Appeal Committee | | | | |
| 8 | Committee reporting | The Appeal Committee renders a written report tabling the request for an appeal, the Appeal Committee's TOR, line of inquiry, findings, and decision (See contents of this report). | Chair Appeal Committee | | | | |
| 9 | Committee communications | The Appeal Committee briefs the key parties and arranges for its report to be shared with mutually agreed stakeholders (like the Global Fund). | Chair Appeal Committee | | | | |
| 10 | KCM Governance | The KCM Secretariat files all the minutes, evidence documents and the Appeal Committee report. The KCM makes changes to its governance manual (at a KCM with a quorum and with a majority vote) should the outcome of the Appeal require it. | KCM Secretariat | | | | |