



Independent observer  
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## ONGOING ATTEMPT TO CHANGE KENYA'S NON-STATE PRINCIPAL RECIPIENTS DERAIL FUNDING REQUEST SUBMISSION

As Global Fund grants will soon start a new 2021-2024 implementation cycle, the Kenya Coordinating Mechanism (KCM) exerted its prerogative to select non-State Principal Recipients (PR) for the HIV, tuberculosis (TB), and malaria grants. The decision was met with dissent from civil society organizations. At the time of publication, the KCM had not publicly announced the non-state Principal Recipients for the three grants. The KCM needed to nominate the PR in order to submit its funding requests. It had planned to submit in the August 2020 window.

On 14 September 2020, the KCM ceded to pressure and nominated the Kenya Red Cross Society (KRCS) as the non-state PR for the Global Fund HIV grant and the African Medical and Research Foundation (AMREF) as the PR for tuberculosis and malaria grants. This decision followed the reversal of AMREF's nomination as sole PR for the three grants on 14 July 2020 and reverted to the 2018–2020 arrangement. KRCS promptly accepted the decision, but AMREF objected to it. According to our sources who requested anonymity, AMREF proposed three options to the KCM: postponing the submission of the funding request to 8 February 2021 in order to have time to deal with the PR selection; maintaining the earlier decision of AMREF as the sole non-state PR; or awarding the role of PR for HIV to both AMREF and KRCS.

A week earlier, the Global Fund Secretariat rejected the KCM's selection of a new non-state PR for the 2021-2024 cycle due to a lack of transparency and openness in the selection process. In a letter dated 7 September 2020 and signed on behalf of John Ocheri, the Fund Portfolio Manager, the Secretariat indicated that the KCM had to resubmit its funding request by 14 September 2020, with a non-state PR

whose selection was transparent, open, and documented. The KCM submitted the funding request with AMREF as the sole non-state PR, even though some civil society and key population organizations expressed their strong disapproval of the selection process.

In the current grant cycle ending 30 June 2021, Kenya has two non-state PRs: KRCS, which manages the HIV grant, and AMREF which manages the TB and malaria grants. Both KRCS and AMREF have been PRs since 2011. The Global Fund has so far disbursed \$117 million to KRCS to fight HIV and \$67.2 million and \$33.3 million to AMREF for TB and malaria interventions, respectively. The KRCS HIV grant has been awarded the highest possible score of A1 on the Global Fund data explorer (published on 16 September 2020); AMREF received a rating of A2 for the malaria grant and B1 for the TB grant. For the upcoming funding cycle, Kenya's allocation of \$415 million will cover the period from 1 July 2021 to 30 June 2024. About two-thirds of this allocation (65%) will be used to fight HIV, 21% will be used for malaria, while the remaining 14% will be used for TB.

As is the case with the current grants, the country will access the funds through a [dual-track financing mechanism](#), where the Global Fund channels the funds in two "tracks": government and non-governmental sectors. The National Treasury, which is the state PR, will manage 70% of the allocated funds. The KCM is thus required to nominate non-state PRs to administer the remaining 30% of the allocated funds when submitting the funding request, in line with the [Global Fund's Country Coordinating Mechanism policy and its eligibility criteria](#). The policy requires that new and existing PRs are nominated in a transparent process that is documented and based on clearly defined and objective criteria. In addition, CCMs are required to document the management of conflicts of interest that may arise in the PR selection process.

#### Gray areas in non-state PR selection process

The [KCM advertised the position of non-state PR](#) on 14 April 2020, requesting that interested non-governmental organizations submit their proposals by 6 May 2020. The Global Fund found that the CCM provided ample time of at least 21 days for bidders to submit their proposals. Eight non-governmental organizations submitted their proposals. Among the applicants were the current PRs: KRCS applied to be the PR of HIV and TB grants, while AMREF applied to manage all three grants.

The Global Fund considered the establishment of a seven-member independent review panel by the KCM, with technical experts from international health organizations and two CCM members as observers, to be best practice. The panel conducted administrative checks, technical evaluation, and on-site verification. The Global Fund also approved the establishment of another five-member evaluation committee to conduct the financial evaluation.

No	Action	View
1	At least 21 days to submit proposals	Best practice
2	Independent review panel with technical experts from international health organizations and two observers review proposals	Best practice
3	Administrative check	Satisfied
4	Technical evaluation: scoring for main technical areas indicated in the request for proposal	Satisfied
5	Technical evaluation: scoring for sub-technical areas indicated in the request for proposal	Not satisfied
6	On-site verification	Satisfied
7	Establishment of an evaluation committee to conduct a financial evaluation	Best practice
8	Financial evaluation	Not satisfied

9	Evaluation score aggregates and averages, review of significant deviations	Best practice
10	Predetermined scoring on winner determination	Not satisfied

The Secretariat was satisfied with the administrative evaluation process, which eliminated three applicants. At this stage, the independent review panel verified that applicants submitted all mandatory documents in the required formats.

On technical evaluation, the Global Fund noted that the score for the three main evaluation areas: technical approach, monitoring and evaluation, and institutional capacity and program management, were included in the request for proposals. However, the request for proposals did not include scoring for sub-sections, jeopardizing the applicants' ability to adequately respond. The Secretariat then considered the independent allocation of scores by each evaluator, allocated each applicant an average score, and then examined reviewers' scores for significant deviations. Only three applicants obtained the minimum score of 80% and proceeded to on-site verification.

The Secretariat noted that the scoring criteria for on-site verification was clearly spelled out. The independent review panel met with institutional employees, verified key documents, and assessed the applicants' policy systems and processes. After aggregating the scores from the technical evaluation and on-site verification, all three applicants obtained the minimum score of 80% and proceeded to the financial evaluation stage.

The financial evaluation aimed to assess the applicant's knowledge of the Global Fund's budgeting procedures and guidelines. The Secretariat noted that the request for proposals lacked predetermined scoring criteria for the financial evaluation, thus impairing the applicants' ability to respond appropriately. As a result, the Secretariat found the process to lack transparency. The proposal review process culminated with the selection of AMREF as the PR to manage the three grants. KRCS appealed this decision on 28 July 2020. After going through the four stages, the Global Fund noted that the request for proposals did not clearly indicate how the overall winner was to be determined and it left the process open to interpretation.

#### Civil society and key populations express reservations in the non-state PR selection process

Several civil society organizations were deeply concerned about the transparency of the non-state PR selection process in Kenya. The Key Populations Consortium of Kenya raised their concerns about the selection process in two letters, dated 19 July 2020 and 13 August 2020, respectively, to the chair of the KCM. Both letters were endorsed by more than 50 organizations. These organizations complained of "a lack of adherence to the process approved by the KCM to select PRs as communicated to us by our representatives." Additionally, these organizations were dismayed by "a complete disregard of concerns shared by different community representatives in the KCM and on email communication." The organizations representing key populations proposed to retain the two current non-state PRs in order to secure investments made in the current implementation period.

As a follow-up to the first letter from the Key Populations Consortium of Kenya, the National Empowerment Network of People Living with HIV/AIDS in Kenya (NEPHAK) wrote a letter on 22 July 2020, to the chair of the KCM to raise concerns about the delayed nomination of non-state PRs. NEPHAK highlighted the excellent performance of the two current non-state PRs and supported the selection of both to manage grants for the 2021-2024 implementation cycle. On 12 August 2020, NEPHAK wrote a second letter to the chair of the KCM. In this letter NEPHAK complained about victimization and the exclusion of their representatives from discussions regarding the selection of non-state PRs, based on their interpretation of a conflict of interests.

On 18 July 2020, 98 organizations representing people living with, at risk of, and affected by HIV, and civil society also expressed their concerns about the selection process in a letter to the KCM. They indicated that the non-state PR selection process lacked transparency and openness, was tainted by a conflict of interest, lacked communities' meaningful participation, and that the detailed selection report was not accessible to their representatives and communities. They, too, supported retaining the two current non-state PRs to manage the 2021-2024 Global Fund grants in the country.

However, the TB Action Group wrote a letter on 3 August 2020, addressed to all KCM members, differing with concerns of other civil society and key populations. They commended KCM for including two observers in the proposal review process. According to them, the dispute arising from the PR selection process was due to non-declared conflicts of interest by those who voted against awarding AMREF the role of sole non-state PR. For instance, the key population representative in the KCM was a sub-recipient of KRCS for the current 2018-2020 implementation cycle, while the representative of people living with HIV was "a known beneficiary of current consultancies funded under Kenya Red Cross Society through Nephak, a HIV sub-recipient." They called for KCM members to strictly adhere to its conflict of interest policy and respect the process they have actively been engaged in.

#### Conflict of interests undermines the non-state PR selection process

On 14 September 2020, the Civil Society Coalition for HIV, TB, and malaria sent an email to the chair of the Global Fund and the Executive Director in which they indicated that, "A section of our CSO colleagues have raised concerns on the decision to award AMREF Kenya [the role of] PR for HIV, TB and malaria. Whereas each KCM constituency deserves the right to dissent, the attention given to a select minority is disenfranchising the majority voices who have been reduced to bystanders."

The coalition continued to complain that the "majority of the dissenting voices are KRC sub-recipients in the current GFATM (Global Fund to Fight AIDS, Tuberculosis, and Malaria) implementation." They therefore blame the few dissenting voices on having vested interests which were not declared when deliberating the issue at the KCM meeting. Additionally, they noted that the independent appeal committee, commissioned by the KCM to handle the KRC appeal, upheld the decision to award AMREF the role of sole non-state PR. They thus called for the Global Fund to reconsider its current position on the non-state PR selection process and trust a country process that has been tried and tested for several cycles.

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