



Kenya
Red Cross



28th July 2020

Our Ref: Dr.AM/KCM/07/2020

Your Ref: MOH/1B/15/1/13 VOL.11/154

Susan N. Mochache, CBS,
Principal Secretary,
Ministry of Health,
Kenya Coordinating Mechanism, Chair

Dear Madam,

RE: KRCS APPEAL - EVALUATION TENDER NO. RFP/KCM/001/2019 - 2020

Greetings from the Kenya Red Cross Society (KRCS).

We are in receipt of your letter dated 14th July 2020 and received in our office by way of email from Mr. Samuel Muia on the 20th July 2020. After review of the letter and subsequent analysis of the report from the evaluation committee, by way of this letter, we wish to register formally an appeal on the outcome as informed by the process, manner of analysis and approach used to arrive at the final recommendation. Our appeal presents the grounds for appeal and also presents counter arguments in response to specific conclusions arrived at by either the review committee and/or the letter from the PS dated 14th July 2020 on behalf of the KCM. We will address each comment received from the KCM under a separate section and make a final conclusion on our appeal.

A. Missing budget notes

According to the GF budgeting guidelines, costing assumptions are equivalent to budget notes. KRCS provided budget notes in the form of Assumptions to support the budget. All these were linked to the detailed budget in the cells under column Y in the 'Detailed Budget' worksheet. These assumptions were further provided as per the following worksheets:

1. Assumptions TRC - detailing working on unit cost for the cost category Travel Related costs (meetings, trainings, supervision, technical support, outreaches)
2. Assumption SR HR & Admin – Unit cost for Sub recipient HR and Administration costs
3. Assumption PA – unit cost for PR program management cost including staff and administration costs
4. Assumption Others – unit cost for additional inputs into program implementation (IEC material, consultancy, CHV & Peer Educators stipend, end of project evaluation and IT related costs)

Under the GF budgeting guidelines in every category there are provisions for budget assumptions. For instance, on page 52 under sub section 'Budgetary Assumption', there is a provision for budget assumptions for training as below:

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ALL CORRESPONDENCE TO BE ADDRESSED TO THE SECRETARY GENERAL

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Patron: H.E. Hon. Uhuru Kenyatta CGH, President of the Republic of Kenya

Governor: Mr. Francis Manthia Masika

In the GF budgeting guidelines section 256: *‘Principal Recipients should develop clear budgetary assumptions for each training activity, which provide a clear trail of the cost build-up to arrive at the total cost of training and demonstrate linkages to the training plan.’* See **Appendix 1 for GF guidelines page 52**

A. Missing exchange rates

The exchange rate was calculated and provided as per the GF budgeting guidelines and template. KRCS provided the exchange rate under worksheet *‘Setup’*.

The exchange rate used was (106.411725) derived from the weighted average CBK rates during the month of submission (April) as evident by the exchange rate work sheet cell C22 that was part of the financial proposal. The exchange rate was further referenced and linked to the *‘Detailed Budget’* worksheets in the Grant Currency Columns Z, AM and AZ for Year 1, Year 2 and Year 3 respectively and the quarterly cash out flows Q1(July-Sep 2021) to Q12(April-June 2024).

GF budget guideline sub section 3.5.3 *‘Application of exchange and inflation rates’*.

In the GF budgeting guidelines section 84. *The exchange rate used in the budget should be one that reflects the best estimate of the rate at which the Principal Recipient will exchange their grant currency into local currency over the term of the grant. The method and/or references used should be fully disclosed in the general budget assumptions. No reserve for exchange rate variations may be included in the budget.* See **Appendix 1 for GF guidelines page 21**

B. Missing payment period

Under worksheet *‘Detailed Budget’* the Total Cash Outflow columns AJ, AW and BJ provide annual budgets for Year 1, Year 2 and Year 3 respectively and this were linked to the summary budgets work sheet columns H M & R. This was the minimum requirement as per RFP. In addition, the budget was further broken down into 12 quarterly payment periods starting from the Q1 (July-Sep 2021) to Q12 (April-June 2024) as provided in the same worksheet under Cash Outflows columns (AB, AD, AF, AH, AO, AQ, AS, AU, BB, BD, BF and BH) for Years 1, 2 and 3. **Refer to submitted budgets**

Under section 4.3, page 11 of the RFP Financial Proposal Template, the budget was to be costed yearly which was clearly provided **Refer to RFP/KCM/001/2019-2020.**

In addition, under GF budgeting guidelines section 164 *‘Applicants will submit the detailed budget using the official Global Fund’s detailed budget template, including the following core information: period (quarter) – this should be the estimated period of payment.’* **Refer to Appendix 1 GF Budgeting Guidelines page 34**

C. Missing staffing structure

KRCS provided the Grant Management staffing information under worksheet *‘Assumptions PA’* cells A8: A28 which was linked to the *‘Detailed Budget’* worksheet in cell Y5 *‘HR cost’*. There was no requirement under the RFP for a staffing structure under the Financial proposal section. The organization structure was provided in the Technical Proposal under Institutional Capacity

and Program Management. Also during on site capacity assessment the information on staffing structure was provided to IRP. **Refer to Technical Proposal Pg. 25**

As per the RFP requirements (section 2.5, page 5&6 – Financial proposal, section 4.3, page 10&11 – Financial proposal template), there was no requirement to provide a staffing structure. **Refer to RFP/KCM/001/2019-2020**

Section 164 of the GF budgeting guidelines provides guidance on core information required in a GF budget. A staffing structure is not one of these requirements. **Refer to Appendix 1 GF Budgeting Guidelines page 34**

D. Missing work plan indicating objectives

KRCS provided a costed-work plan running from quarter 1 to quarter 12 under the ‘Detailed Budget’ worksheet according to the GF budget guideline and template. **Refer to submitted budgets**

The costed-work plan integrates modules, interventions, activities, quantities and the quarterly implementation periods in the same worksheet. The objectives of the program was not a core requirement under section 164 of the GF budgeting guidelines. **Refer to Appendix 1 GF Budgeting Guidelines page 34.** The objectives of the program was not a requirement under the financial proposal section in the RFP **Refer to RFP/KCM/001/2019-2020.** Under section 164 of the GF budgeting guidelines, a separate work plan is not a core requirement and the decision to assess against such as standard is arbitrary.

E. Inconsistencies in currency and payment period

KRCS provided both payment currency (KES) and grant currency (USD) as per section 61 and 62 of the GF budgeting guidelines. **In section 61:** *“The budget must be denominated in either Euro or USD depending on the allocation currency.”* **In section 62:** *“Each budget line should be prepared in the currency in which the payment will be made. The payment currency should then be converted into the grant currency.”* The payment period was further broken down into 12 quarterly payment periods starting from the Q1 (July-Sep 2021) to Q12 (April-June 2024) as provided in the detailed budget work sheet under Cash Outflows columns (AB, AD, AF, AH, AO, AQ, AS, AU, BB, BD, BF and BH) for Years 1, 2 and 3.

According to the RFP document, *“The Global Fund budgeting and costing processes should be approached based on the following GF documents: 2.5.1, 2.5.2 and 2.5.3”*. **See page 6. Refer to RFP/KCM/001/2019-2020**

F. Conversant with Current GF Modular Framework handbook

KRCS TB budget was aligned with the Current GF Modular Framework handbook articulating modules, interventions and scope, **see page 83 to 95.** KRCS, therefore, questions the validity of the score of 9/15 in this area. KRCS HIV budget was aligned with the Current GF Modular Framework handbook articulating modules, population, interventions and scope, **see page 29 to 74.** KRCS, therefore, questions the validity of the score of 13/15 in this area.

G. Institutional Capacity and Programme Management

In the assessment report, KRCS noted a scoring of 47/50. HR Capacity – the report indicates that KRCS did not demonstrate expertise and skill set in TB and HIV management. KRCS provided this information (profiles & CVs) on **page 18** of the HIV technical proposal and **page 19** of the TB technical proposal, the expertise of the proposed grant staff was provided and this was also assessed during on-site capacity verification. Additional KRCS capacity and track record in HIV and TB grants management was presented on **pages 6 & 16**.

Asset Management – the report indicated that KRCS did not outline the asset management and securing process. KRCS Finance Policies and Procedure Manual provided outlines the asset management, securing and disposal processes. **See page 26 to 29**

H. General approach of assessment and evaluation

- i. The financial proposal score allocation was not indicated on the RFP unlike the technical proposal scores that were broken down. The detailed scoring matrix was not shared with the bidders and it was developed after the submission of the bids. E.g. external audit report and follow up was not mentioned in the initial RFP guidelines under 2.3.3. This again is arbitrary and introduces a marker of subjectivity in the assessment. As such full marks should be awarded under this section.

According to the scope of work for the financial evaluation committee, *“the financial evaluation will be based on information provided in section 4.3 of the request for proposal guidelines i.e. financial proposal template and financial criteria provided”*. KRCS is surprised that the financial evaluation scoring seemed to have used a guideline that was not officially shared. In reference to the guidance that *“the global fund regulation shall apply”*, there seems to be a strong bias in the criteria used to evaluate KRCS which is a departure from what was contained in the RFP document.

- ii. **Asset Management 3.1.4 goals of the assignment:** The score for KRCS was based on the technical proposal where there was mention of the asset module on the ERP while for AMREF the score was based on the procurement policy that outlined the asset management. KRCS submitted as an annex (KRC014 on the supportive document file) the procurement manual chapter 7 & 8 Pg. 73 – 77 which clearly indicates procurement, inventory management and disposal of assets. This shows at minimum different standards for assessment for each candidate and also arbitrariness that confers benefit on some applicants while disadvantaging others. The standard applied was again arbitrary making the KRCS receive less points. As such full marks should be awarded under this section.
- iii. **Goals of assignment 3.1.5 –are subject to acceptable auditing arrangements:** The evaluation report showed that *“the KRCS application did not mention external audit processes and follow up. 1(2) marks”*. The requirements as per the RFP is on demonstrating ‘acceptable auditing arrangement’s which was demonstrated in KRCS proposals for both TB and HIV.

In addition, the technical proposal section demonstrates the following acceptable auditing arrangements;

- Audit and risk committee at board level that looks into audit and risk compliance (page 19) section 2.3.3.3.3
- KRCS has an internal audit function with 7 staff (section 2.3.3.7.1 page 24) internal controls and risk compliance function
- KRCS has an audit software that operationalizes international standards of audit and risk management
- KRCS submitted annual reports that include signed consolidated audited financial statements of the institution (Annex KRCS 019)

The standard/criteria applied in the assessment was again arbitrary making the KRCS receive less points. As such full marks should be awarded under this section.

- iv. **Grant budgeting guidelines on GF fund:** The evaluation report notes KRCS did not leverage on KRCS investment. KRCS did demonstrate leverage of the GF allocation through in-country funding which does not necessarily mean leveraging on the GF catalytic investment Fund. However, KRCS did demonstrate this leverage in the technical proposal under section 2.3.1.7 Knowledge and opportunities to leverage on Kenya's GF allocation. In this section, KRCS highlighted how it will use its auxiliary roles, linkage to other development partners and tax exemptions. As such full marks should be awarded under this section.
- v. **In the Final Outcome of the IRP Technical Evaluation for HIV,** KRCS was awarded less than maximum scores but with no adequate explanation on the gap. Under "Based on bidders' areas of interest, demonstrated disease technical strategies for HIV/AIDs TB, Malaria and RSSH", KRCS was awarded 5 score out of a possible 7 yet the comment provided was that '*they have sound disease technical strategies for HIV and RSSH. They look at RSSH from a community and facility aspect*'. This again is arbitrary and subjective. There is no explanation on the kind of gap that KRCS should have addressed to warrant less points.
- vi. **Financial Proposal:** The evaluation of the financial proposal was extremely arbitrary and subjective. The award of less points in this section is unwarranted and not justifiable. KRCS has complied to the GF budgeting guidelines. The template used for budgeting is as per the budgeting guidelines. KRCS is familiar with these guidelines and templates and has demonstrated familiarity and compliance with the GF budgeting framework as it has been a successful PR for the last 10 years. KRCS has used the official GF budgeting template. Page 32 of the budgeting guidelines states; 'the annual funding required for each intervention including the following qualitative details;
- Cost assumptions e.g latest historical cost, quotation provided by vendors
 - Reference to development partners costing tools.

157 page 32 of the budgeting guidelines provides for minimum budget requirements as follows;

- Modules
- Interventions

- Proposed implementers
- Cost groupings
- Amount per year and per interventions in grant currency
- Breakdown by key populations

In addition, 158 page 32 of the budgeting guidelines key information requirements for budgets;

- Description of the interventions including details;
 - Target population geographic scope
 - The implementation approaches
 - Other relevant information

Budget guidelines as per GF guidelines December 2019;

1.2 modular framework described in the budgeting template, budget should have

- Modules;
- Interventions;
- Scope and description of intervention package;

KRCS financial proposal showed a detailed budget worksheet that demonstrated the above listed items (See Detailed budget in both TB and HIV financial proposal). In addition, the modular framework indicated *targeted population which were captured under column E* in the HIV budget financial proposal refer to detailed budget worksheet.

KRCS met the minimum requirements noted above in the detailed budgets submitted to KCM. Refer to the soft and hard copies provided in financial proposals for HIV and TB. KRCS met the above minimum requirements, HIV detailed budget showed the target population (column E detailed budget). According to KRCS we note that the rating provided was unfair to KRCS and KRCS should have been awarded full marks under the respective sections on the financial proposal. With all the requirements met, the awarding of less points is subjective and arbitrary.

- vii. **Conflict of Interest** – KRCS notes with concern that the evaluation process was marred with conflict of interest. A KCM member, Ms. Eva Muthuri, who was the Secretary/Analyst in the Independent Review Team for Financial Evaluation. This is in contravention of the guidelines to ensure independence as noted in minutes of the KCM Management Committee dated 19th March 2020. Under Minute 4/01/2020, the minutes indicated that *‘The IRP be independent of KCM members. KCM members to only be involved during review of the IRP recommendations’*. See Bullet 2, page 4.
- viii. **Lack of Meaningful Engagement of all KCM members:** According to the scope of work for the financial evaluation committee, *“The financial evaluation committee shall make recommendations to the KCM. The full KCM has the ultimate responsibility for the final decision made.”* However, KRCS is cognizant that some KCM constituency members have not consented to this decision as communicated to KRCS. This is evident by the dissenting voices through letters shared by various constituencies expressing their objections and concerns.
- ix. The Independent Review Panel’s work was incomplete as separate processes for completing financial proposal evaluation was undertaken, **“6. Orientation of IRP members: Orientation**

of IRP members on GF process, priorities and mechanisms would help promote shared understanding of the process among IRP members. ... At the commencement of the IRP process, there was the expectation that the IRP would undertake both the technical and the financial review. The IRP called for compliance to the RFP which provides that ‘... Evaluators of technical Proposals shall have no access to the financial Proposal until the Technical evaluation is concluded...see page 7 of the RFP’”. See page 9 of the Final report July, 2020. The KCM set up another financial evaluation committee with no scope of work and that the team had no prior knowledge of the technical proposals from the bidders. KRCS interprets this as there was no compliance to the procurement process as per the RFP document. In addition, to the lack of justifiable reasons for having a separate committee for evaluation as lamented by the IRP, the assessment of a conflict of interest in the financial committee evaluation as highlighted above makes the fairness of the process questionable.

It is our understanding based on RFP document, that the threshold for bids to proceed in the whole process was capped at 80% and KRCS, even with the disputed scores, was well above the threshold. From the above, we note in general a high level of arbitrariness and subjectivity in the evaluation process, which is a strong basis for our appeal. This is made more problematic when we consider the comments of the IRP that there was “**5. Lack of common understanding among applicants:** *It was apparent to the IRP that applicants interpreted the RFP documents differently*”. The IRP goes ahead to recommend that “*The KCM should consider organizing a bidders’ conference to provide clarity to would-be applicants on what kind of responses are expected in the applications and what format to use when making applications*”. This makes it difficult to evaluate the strength of one application against another, by any other standard other than considering what is at minimum required by the RFP. In this case, as highlighted above, the evaluation teams went beyond that was required in the RFP, creating arbitrary and subjective standards of evaluation

When an arbitrary decision is adopted, as in such a case, it is not that it just disadvantages us and other applicants, it confers unwarranted advantage to one party. In other words, the review committee appears to be setting an arbitrary evaluation criterion using a standard “borrowed” from the approach of one of the applicants. This is akin to an examiner using one candidates’ answer sheet as a marking scheme. Consequently, the review becomes biased may seem calculated to confer benefit to one party to the detriment of the others.

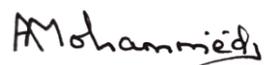
Finally, we feel it is our duty to raise a major flaw in the process. Under **reflections and recommendations** by the Independent Review Panel (IRP), the evaluators admit that they were not in a position to evaluate performance of the individual bidders, “**4. Limited scope for evaluation performance:** *... It focused heavily on assessing institutional systems and structures and does not provide room for assessing track record of performance....*” See page 9 of the **Final report July, 2020**. We are however convinced that it is important for the review committee to have considered all proposals in their entirety including the **track record** of the applicants. It is worth noting that some of the applicants have previously or are currently implementing GF grants. A record of such performance would have more specifically spoken on their ability or otherwise to effectively manage a new grant. This would have been a more realistic assessment of their capacity. We note with concern, that the review committee did not have the mandate to consider current record of GF program implementation. When this is combined with the arbitrary nature of criteria for scoring and the weights attached to the criteria, the final recommendation on capacity of the applicants becomes academic and not grounded in reality.

We believe that this creates a major risk for the country and for the Global Fund, especially when such a recommendation is to combine all grants under one applicant. More specifically, we note that under the current grant, we are managing 71 sub-recipients, the largest number that any PR has successfully managed in Kenya. Moreover, KRCS has consistently maintained the highest level of performance and in the just ended period of assessment (June to December 2019), its GF HIV grant obtained an A1 rating with an average performance of 110% in target achievement. The organization has also demonstrated continuous and consistent accountability of the grant through timely and unqualified external audit reports.

Despite the differences in scope and scale, our track record remains superior, and more poignantly is a true reflection of our technical and financial competence. Our view is that our application has been disadvantaged by a process that was arbitrary and thus unable to produce an outcome based on merit.

It is with these considerations that we humbly submit our appeal for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Asha Mohammed". The signature is written in a cursive style with a horizontal line under the name.

Dr. Asha Mohammed
Secretary General

Cc. John Ochero, Fund Portfolio Manager, Global Fund