



The Office of the Inspector General

Report on the Review of Local Fund Agent Tendering Process

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Review of the Local Fund Agent Tendering Process

Acronyms

ASA	Administrative Service Agreement
CEG	Cost Evaluation Group
CPC	Country Programs Cluster
CPU	Corporate Procurement Unit
CRC	Contract Review Committee
CSC	Corporate Services Cluster
DED	Deputy Executive Director
EOI	Expression of Interest
ERP	Enterprise Resource Planning
EMT	Executive Management Team
FPM	Fund Portfolio Manager
GAO	United States Government Accountability Office
IQC	Indefinite Quantity Contract
LFA	Local Fund Agent
LFA-TP	Local Fund Agent - Tendering Process
OIG	Office of the Inspector General
PC	Portfolio Committee
PO	Program Officer
PR	Principal Recipient
RFP	Request for Proposal
RT	Regional Team
RTL	Regional Team Leader
SOW	Statement of Work
TEC	Technical Evaluation Committee
TERG	Technical Evaluation Reference Group
ToR	Terms of Reference
WB	World Bank
WG	Working Group
WHO	World Health Organization
WO	Work Order

Executive Summary

Introduction

1 The Global Fund to Fight AIDS, Tuberculosis and Malaria (the “Global Fund” or “Global Fund”) does not have offices outside of Geneva and instead contracts Local Fund Agents (LFAs) to assess the capacity of grant recipients to implement programs, verify performance results and financial data reported by such grant recipients and to provide independent advice on issues related to grant implementation. However, LFAs are not “agents” in the true sense of the word because they are not empowered to represent the Global Fund’s views or make decisions regarding grants. The LFA provides independent, professional expertise and advice to the Global Fund at the country level.

2 The Office of Inspector General (OIG), as part of its 2009 work plan carried out a review of the tendering process for Local Fund Agent (LFA) services. The objective of this review was to obtain some assurance that the recent LFA tendering process (LFA TP) was undertaken fairly, transparently, competitively, objectively and would result in value for money for the Global Fund. A fair, transparent and objective process would result in effective competition which helps to provide some assurance that the Global Fund will obtain best value for money from the LFAs contracted.

3 It is important that the LFA procurement process is undertaken objectively and results in the selection of the best teams given:

- (a) the importance of the LFA role in the Global Fund’s model and as part of the Global Fund’s fiduciary arrangements;
- (b) LFA fees represent the second largest budget line in the Secretariat’s budget. They have risen from some \$675,000 when first used in 2002 to a budgeted annual amount of about US\$ 58 million for 2009, which represents 24% of the overall Global Fund Secretariat budget; and
- (c) LFAs have been selected for a period of four year period with a mid term evaluation of performance after two years.

4 There have been ten organizations providing LFA services to the Global Fund since its inception. These organizations were selected through a competitive process in 2003. Through the full and open competition that started in April 2007, the Global Fund sought proposals from qualified organizations to act as LFAs for the next four years. The process was completed in August 2008 with the selection of 14 entities to provide LFA services. Forty one (41) countries changed LFAs. The incumbent LFAs retained 93% of the business and new LFAs took some 7% of the LFA business. There was also a significant re-distribution among the incumbent LFAs with the combined portfolios of the former two largest LFAs decreasing from 80% to 63% of countries.

5 At the time the LFA TP process was undertaken, the Global Fund was still under the Administrative Services Agreement (ASA) signed with the World Health

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Organization. Under this arrangement, WHO provided a range of administrative support in the areas of human resources, finance, administration, procurement and IT services. The LFA TP therefore followed WHO procurement policies and procedures.

Scope and methodology

- 6 The OIG's review of the LFA TP followed three lines of enquiry:
- (a) *Governance* which covered the processes, structures, policies etc that affected the way the LFA TP was managed. This covered the relationships among the key stakeholders i.e. the Global Fund Secretariat, WHO etc.
 - (b) *The process followed* which covered the different stages of the procurement process i.e. planning; solicitation, evaluation, contracting and to a limited extent contract management. It involved verifying that the processes followed were in compliance with laid down policies and procedures and best practice that promotes fairness, transparency and objectivity.
 - (c) *Value for money* which covered assessing whether the LFA TP process would result in LFA services that provides the greatest overall benefit under the specified selection criteria in terms of a tradeoff between price and performance.
- 7 The review included a verification of whether the procedures followed and the documents produced complied with the Global Fund's intention of running a fair, transparent and open competitive process. It did not cover a review of the merits of the LFA model.
- 8 OIG's review of the LFA-TP followed the process from the initial Expression of Interest (EOI) document to the signed WO contract. The process was reviewed through the following phases:
- (a) Planning;
 - (b) The solicitation process (including all sub-processes);
 - (c) The LFA TP receipt and evaluation process; and
 - (d) The contract and contract administration.
- 9 The executive summary, which briefly highlights the findings and conclusions arising from the review and the detailed findings in the rest of the report. It is, however, essential that our report is read in its entirety in order to comprehend fully the approach to, and findings of, our work. Recommendations offered have a strong focus on lessons learned for the future.

Summary of findings

- 10 The LFA-TP had some significant improvements over the first LFA in 2003. Most significant of these were the following:

- (a) The current contracts are much more robust in meeting the Global Fund's needs in relation to programmatic issues when compared to the narrow scope of LFA services in the previous contracts;
- (b) The LFA-TP attracted a greater diversity in potential service providers that showed an interest in undertaking the LFA role than was in the case in the past LFA TP process;
- (c) The 2003 rates used as the basis for payment over the past 5 years have been changed from what was either a "complex rate" or a "routine rate" to an annual salary rate for named individuals who are to perform specific LFA services. Since there was no definition of which services qualified for complex or routine rates in the 2003 contracts, a serious problem existed over the life of these contracts.

11 The Board through its Portfolio Committee provided strategic direction for the LFA TP. All principles established by the Board for the LFA TP process, with the exception of the one concerning the diversification of the LFA base, were met. While the incumbent LFAs retained 93% of the business, the proportion of the business held by the three leading incumbent LFAs fell from 85% to 67%. A governance structure to run the LFA TP was established with the LFA Steering Group taking responsibility for the process at Secretariat level. However, the set up for the first LFA SG was not ideal in providing the necessary leadership to deal effectively with the challenges that arose during the LFA TP process. In the latter part of the LFA TP process, this situation was rectified and more effective leadership was evident.

12 Although there were many significant improvements in the LFA-TP process, OIG noted that the way the LFA-TP was carried out and the results it achieved clearly indicate the need to strengthen the procurement process and make it more efficient. These are summarized in the following paragraphs.

13 The effectiveness of the governance structure in supporting the LFA TP process was hampered by the lack of a procurement strategy to guide the management of the LFA TP process. While some components of such a strategy were considered by the first LFA SC, they were never consolidated into a strategy and in most cases the issues raised were not followed through. This impacted the efficiency and effectiveness of the process followed. The process took too much longer than envisaged against the LFA TP plan and was highly resource intensive for both the Global Fund and tender competitors alike. The process consumed enormous amounts of senior and middle management time and proved to be frustrating for prospective suppliers. The process needs to be streamlined and simplified.

14 The Global Fund has embraced the concept of risk management as vital to its success as an organization. A highly complex and high volume procurement

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undertaken in a highly compressed timeframe inevitably was bound to have inherent risk which if not identified and mitigated would affect the efficiency and effectiveness with which the process was run. The Global Fund did encounter many risks and because some of them had not been anticipated and had not been adequately planned for, the Global Fund often found themselves in a reactive mode in having to apply extraordinary effort to address the issues identified. This came at the cost of inefficiencies and delays.

15 The LFA TP process brought together many stakeholders both internal and external to the Global Fund structure. However, the roles, authorities, accountabilities and interfaces between the various entities/ committees/ individuals involved in directing and managing the LFA process were not clearly defined. A lot of the first LFA SG's time was spent clarifying who was responsible for what. Key roles such as quality assurance remained unallocated for the greater part of this process. There was a change in the leadership of the LFA SG and this created a significant improvement in the effectiveness of the Committee. The elevation of the chairmanship of the Committee to the Deputy Executive Director resulted in better oversight, the creation of quality assurance functions, convergence of opposing viewpoints, better communication etc..

16 A communication strategy was established to articulate, explain and promote communication through a consistent, unified "voice" of the LFA TP process activities. However, this was not followed especially under the first LFA SC. This was particularly necessary to keep communication open among the many stakeholders and ensure that significant matters that affected the process were elevated to the appropriate levels early enough for resolution.

17 The WHO policies provided a basic framework against which the LFA TP process could be run. However, the WHO policies were developed with their own needs in mind and given the variations in the WHO and Global Fund mandates, were not entirely appropriate for Global Fund purposes. The Global Fund developed their own policies to complement those of WHO but these were not adequate and as a result failed to provide a comprehensive operational framework or defined procedures for the LFA TP process.

18 The LFA TP process generated a large unprecedented volume of work for the Global Fund procurement team. There were varying capacity needs in terms of number and skills required to manage this highly complex and time compressed procurement which were not always available. Measures to address capacity such as provision of training and appointment of consultants to support the process were implemented and provided some relief to the constrained environment and the overall effectiveness of the LFA TP process.

19 The use of the multiplier¹ concept as part of the LFA TP evaluation criteria proved to be overly complex and unsuitable for the wide range of types of LFA competitors. The types of organizations competing included partnerships, some small firms, and some not-for-profit organizations. For some of these organizations, establishing multipliers was an extremely arduous task requiring the gathering of information from over 100 world-wide offices. In general, it was a far more complex task for international profit based organizations than for not-for-profit organizations. Although the Global Fund solicitation documents were clear on how the multipliers were to be established, some competitors misinterpreted the instructions causing delays in the process. Other aspects of the cost evaluation methodology were also inappropriate e.g. offerors were asked to provide salary rates and other cost related components in the initial framework contract phase without requiring them to commit to sticking to them.

20 One option which should in the future be considered to overcome the enormity of this complex procurement is to stagger the LFA-TP process by Region over an extended timeframe. For instance, all the countries in 2 of the 8 Regions could be competed each year. This option presents several advantages. First, it reduces the sheer volume of the workload for all concerned, allowing those CPC staff whose countries are not in the current round of LFA competition to focus on their normal activities. Secondly, staggering the LFA competitions would accelerate the learning process. That is, lessons learned with general applicability could be passed on to the next round of competitions, thereby more quickly increasing the efficiency and quality of the process. Finally, the risk of not having staff with recent experience in conducting this complex procurement would be reduced.

21 Global Fund management was unable to determine whether best value was achieved. OIG was also unable to reach a conclusion because of the following:

- (a) There was an expectation that a bid for services in 130 countries would generate a commensurate number of bids. However, only 27 suppliers qualified for the IQC competition for 130 countries and in practice incumbents retained 93% of the business. This limited the potential for obtaining best value through a broad supplier base from which to select;
- (b) There was no benchmarking information available to compare the price obtained to the prices paid by others for the same or similar services; and
- (c) At the time of the LFA-TP, there was no past performance information with which to compare the quality of LFA services between LFAs. The Global Fund has just introduced performance evaluation requirements into the new LFA contracts.

¹ The multiplier is a fixed factor negotiated with the offeror that is applied to the actual salary cost of the individual providing the services. The costs typically included in the multiplier are fringe benefits, indirect costs applicable to labour, and variable costs associated with the provision of LFA services and profit.

Conclusion

22 OIG concluded that the LFA TP process followed best practice that promotes fairness, transparency and objectivity. The Global Fund was quick to address instances where there was concern that the process would not be fair. For example, they discarded an over complex and inappropriate cost methodology as the process was underway. This decision was prudent and demonstrated the Global Fund's concern to maintain the integrity of the LFA-TP. Further improvement needs to be made to make the process more efficient, economic and effective in future.

23 A fair, transparent and objective LFA TP should help to provide some assurance that it will result in best value for money from the LFAs contracted. However, as the detailed report shows, OIG was not able to provide assurance that best value was achieved. As the old adage goes "the proof of the pudding is in the eating". In practice, 93 per cent of the contracts placed went to incumbent LFAs and, in the absence of performance standards and performance evaluation results from their prior work, it is difficult to predict whether the Global Fund will obtain best value. However, now that formal LFA performance evaluations are mandatory, the resulting performance information should provide the Global Fund with an important input for evaluating best value in future LFA competitions.

Background

Overview

24 The Office of Inspector General (OIG), as part of its 2009 work plan has carried out a review of the tendering process for Local Fund Agent (LFA) services. The objective of this review was to obtain assurance that the recent LFA tendering process was undertaken fairly, transparently, objectively and would result in value for money for the Global Fund. A fair, transparent and objective process provides some assurance that the Global Fund will obtain best value for money from the LFAs contracted.

25 The Global Fund to Fight AIDS, Tuberculosis and Malaria (the “Global Fund” or “Global Fund”) does not implement programs directly. Instead, it grants funds to country and regional recipients to implement programs that have been designed by local stakeholders. The Global Fund model is such that it does not have offices outside of Geneva and instead contracts Local Fund Agents (LFAs) to assess the capacity of grant recipients to implement programs, verify performance results and financial data reported by such grant recipients and to provide independent advice on issues related to grant implementation. The LFA provides independent, professional expertise and advice to the Global Fund at the country level.

26 It is important that the LFA procurement process is undertaken objectively and results in the selection of the best teams given :

- (a) the importance of the LFA role in the Global Fund’s model and as part of the Global Fund’s fiduciary arrangements. The Global Fund does not have a country-level presence outside of its offices in Geneva, Switzerland. Instead, it contracts Local Fund Agents to oversee, verify and report on grant performance. However, it is not an “agent” in the true sense of the word in that LFAs are not empowered to represent the Global Fund’s views or make decisions regarding grants.
- (b) LFA fees represent the second largest budget line in the Secretariat’s budget. The LFA services were first used in 2002 when annual LFA expenses totaled some \$675,000 but have now increased to a budgeted annual amount of about US\$ 57 million for 2009, which represents 23% of the overall Global Fund Secretariat budget.
- (c) LFAs are selected through a competitive bidding process for a period of 2 (two) years with possible extension for another two years, subject to the successful of performance of the contractors. The decision arising from the LFA TP is therefore binding to the Global Fund for a long period of time.

27 The LFA costs have risen steadily since the inception of the Global Fund. There was a substantial increase in LFA costs between 2006 and 2007 which was largely

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attributable to the introduction of on-site data verification as a new LFA service in 2006. This is also attributed to the increased grant portfolio since assessments and grant negotiations account for a large part of LFAs work. The table below demonstrates the rising cost of LFA Services since inception based on Global Fund's audited financial statements for 2002-2008 and the budget for 2009.

Year	LFA Expenditure US\$	As a percentage of operating expense %	As a percentage of grant Profit and Loss disbursement %
2002	673,000	5.27%	1.29%
2003	10,119,000	31.08%	0.95%
2004	12,176,000	23.99%	1.43%
2005	19,200,000	26.00%	1.27%
2006	23,894,000	27.83%	1.31%
2007	32,873,000	28.04%	1.27%
2008	35,269,000 ⁴	21.29%	1.49%
Total	134,204,000		
2009	56,600,000	23% ²	1.23% ³

Table 1: LFA costs in comparison to the operating expense and grants disbursed

¹ LFA approved budget for 2009. In addition to work linked to disbursements, a large part of the LFA's work takes place prior to grant signature e.g. PR assessments. The increase in costs is therefore explained by the increase in grant portfolio and associated costs in negotiations undertaken.

² LFA as a % of operating budget for 2009

³ LFA as a % of estimated grants to be disbursed in 2009

⁴ The total LFA costs for 2008 were US\$ 35,269,000. However, WHO had US\$ 8,200,000 credit from LFA costs booked in past years which offset the total cost bringing the net amount reported in the financial statements to US\$ 27,069,000.

28 There have been ten organizations providing LFA services to the Global Fund since its inception. These organizations were selected through a competitive process in 2003. In 2007, the Global Fund sought proposals from qualified organizations to act as LFAs for the next four years and provide the Global Fund with the programmatic, financial, and contextual information required to make sound grant management decisions under Framework (Indefinite Quantity) contracts.

29 This tender was a full and open competition, under which any type of organization, small or large commercial (for profit) firms, non-profit organizations, educational institutions, consulting firms specialized in monitoring and evaluation, finance, procurement and/or supply management, health (this list is not exhaustive), were eligible to compete. The LFA TP was concluded in August 2008 with the selection of 14 entities to provide LFA services in all of the countries, territories and regions where Global Fund grants are being implemented.

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30 The table reflects the LFAs in place before and after the LFA-TP, including the respective share of the “market” held by the firms:

	Prior to 2007 LFA-TP		After the 2007 LFA-TP	
	Countries	Percentage	Countries	Percentage
Incumbents				
PWC	70	56	58	48
KPMG	29	22	14	12
Emerging Markets	9	7	9	7
UNOPS	8	7	12	15
Swiss Tropical Institute	8	7	17	17
Crown Agents	1	1	2	3
	125	100%	112	93%
New LFAs				
Grant Thornton	0	-	1	1
Deloitte and Touché	0	-	2	2
Medical Services	0	-	2	2
Hodar Conseil	0	-	3	2
Finconsult	0	-	1	1
Subtotal		-	9	7
TOTAL	125	-	121	100

Table 2: Results of the LFA TP (Source: The Global Fund Secretariat)

31 At the time the LFA TP was undertaken, the Global Fund was still under the Administrative Services Agreement (ASA) signed with the World Health Organization. Under this arrangement, WHO provided a range of administrative support in the areas of human resources, finance, administration, procurement and IT services. The LFA tender therefore followed WHO procurement policies and procedures.

Scope and methodology

32 The OIG’s review of the LFA TP followed three lines of enquiry:

- (a) *Governance* which covered the processes, structures, policies etc that affected the way the LFA TP was managed. This covered the relationships among the key stakeholders i.e. the Global Fund Secretariat, WHO etc.
- (b) *The process* which covered the different stages of the procurement process i.e. planning; solicitation, evaluation, contracting and to a limited extent contract management. It involved verifying that the processes followed were in compliance with laid down policies and procedures and best practice that promotes fairness, transparency and objectivity.
- (c) *Value for money* which covered assessing whether the LFA TP would result in LFA services that provide the greatest overall benefit in terms of a tradeoff between price and performance.

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33 The review included a verification of whether the procedures followed and the documents produced complied with the Global Fund's intention of running a fair, transparent and open competitive process. It did not cover a review of the LFA model. It also did not cover a complete re-performance of the detailed work carried out by the eight Technical Evaluation Committees (TECs) or the CPU Cost Evaluation Group (CEG) in either the Indefinite Quantity Contract (IQC) or Work Order (WO) stages of the competition.

34 The review of the governance for the LFA-TP was conducted through a series of interviews and an examination of the minutes of the LFA -Steering Committee (LFA-SC) and interviews with individual committee members. The review was anchored in the review criteria listed at the beginning of each section. The appendices provide further details of the LFA TP and the steps followed in this review.

Appendix	Detailed information
A	Flowchart of the LFA TP
B	Chronological order of events
C	List of Interviewees
D	Key reports reviewed

Table 3: List of appendices showing details of the LFA TP and the steps followed in this review.

35 OIG's review of the LFA-TP followed the process from the initial Expression of Interest (EOI) document to the signed WO contract. The process was reviewed through the following phases:

- (a) Planning;
- (b) The solicitation process (including all sub-processes);
- (c) The tender receipt and evaluation process; and
- (d) The contract and contract administration.

36 To determine whether the process had been carried out fairly, transparently and objectively, OIG selected a sample of one country from three out of the eight regions. The countries reviewed were:

Region	Country	Work Order Competitors
Southern Africa	Mozambique	KPMG, Grant Thornton, Emerging Markets Group
East Africa	Rwanda	KPMG, UNOPS, Crown Agents, PwC, Grant Thornton
Middle East and North Africa	Somalia	KPMG, PwC

Table 4: List of countries reviewed

Recommendations

37 Recommendations offered have a strong focus on lessons learned for the future. Since the LFA TP was undertaken under the WHO policy and the Global Fund is

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no longer under the ASA, it is not be practical to make recommendations to correct certain shortcomings noted which date from that period.

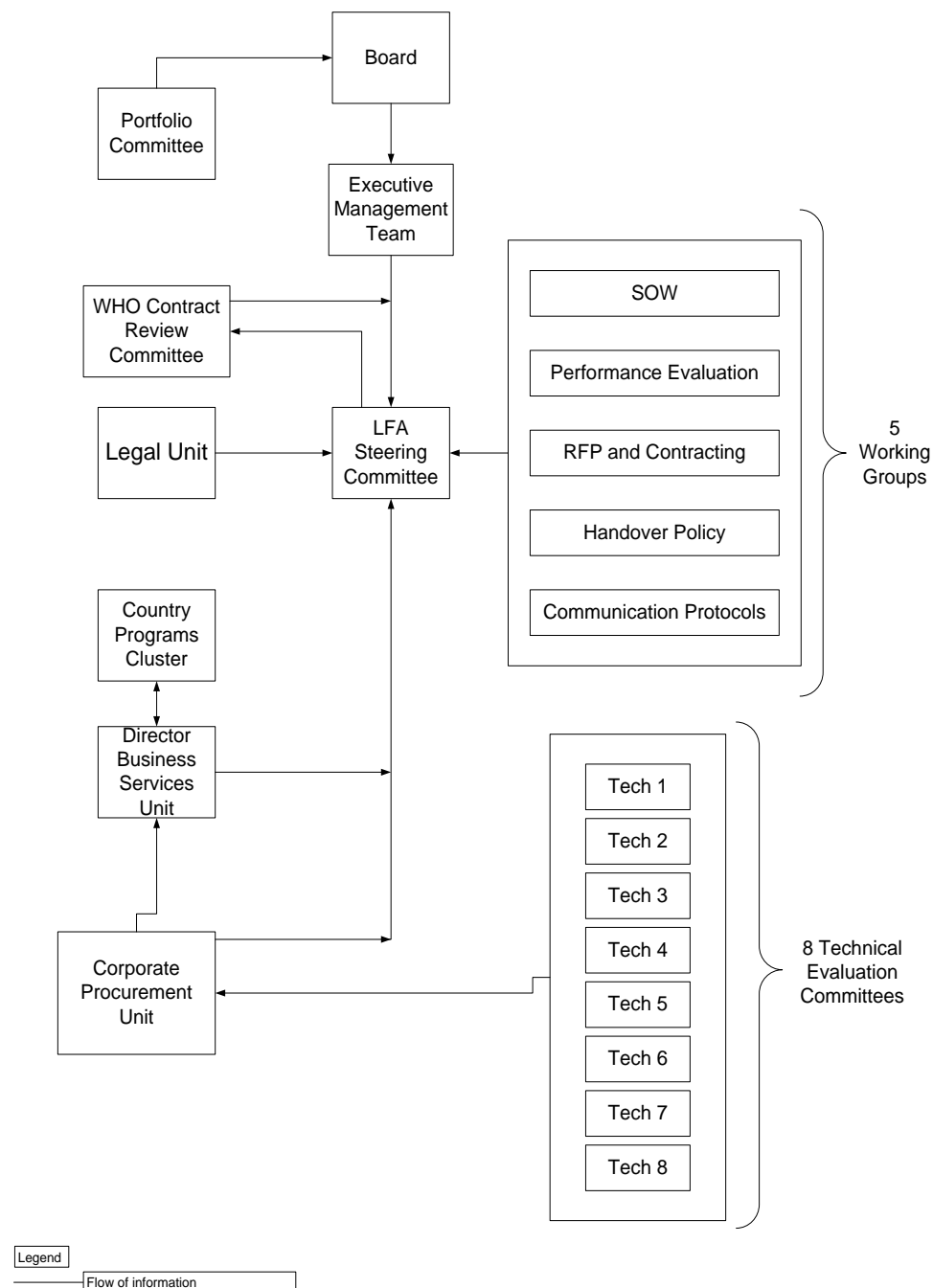
38 The recommendations have been prioritized. However, the implementation of all recommendations is essential in mitigating identified risks and strengthening the internal control environment in which the programs operate. The prioritization has been done to assist management in deciding on the order in which recommendations should be implemented. The categorization of recommendations is as follows:

- (a) *High priority*: Material concern, fundamental control weakness or non compliance, which if not effectively managed, presents material risk and will be highly detrimental to the Global Fund's interests, significantly erodes internal control, or jeopardizes achievement of aims and objectives. It requires immediate attention by senior management;
- (b) *Significant priority*: There is a control weakness or noncompliance within the system, which presents a significant risk and management attention is required to remedy the situation within a reasonable period. If this is not managed, it could adversely affect the Global Fund's interests, weaken internal control, or undermine achievement of aims and objectives; and
- (c) *Requires attention*: There is minor control weakness or noncompliance within systems and proportional remedial action is required within an appropriate timescale. Here the adoption of best practice would improve or enhance systems, procedures and risk management for the Global Fund's benefit.

Governance

Overview

39 The LFA-TP governance arrangements comprised of the structure (committees and working groups), and WHO policies and regulations in force at the time of running the LFA TP. The organogram of the governance structure is provided below.



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40 At the strategic level, the LFA TP fell under the auspices of the Portfolio Committee (PC) that provides strategic direction in relation to the Global Fund's grant portfolio. The Portfolio Committee (PC) deliberated on the results of four separate reviews concerning LFAs conducted by the Euro Health Group, the United States Government Accountability Office (GAO), the OIG Report on LFAs, and a Secretariat Survey of the Global Fund users of LFA services. A summary of the recommendations from these reports is provided at Annex D.

41 The Board at its Fifteenth Board Meeting of 25-27 April 2007.² provided guidance to the Global Fund Secretariat about the key principles to follow in the LFA-TP. Amongst other things, these key principles included:

- (a) Establishing a more rigorous LFA performance assessment system;
- (b) Ensuring that LFA work covers monitoring of financial management and program performance and is able to link the two components;
- (c) Encouraging the involvement of a diversity of participants in the LFA TP i.e. including civil society with the possibility of setting up a process to encourage consortia applications; and,
- (d) Developing protocols to manage LFA work and interfaces.

42 Until 31 December 2008 when the ASA was terminated, the Global Fund followed the WHO's procurement policies including the review and approval of all Global Fund contractual arrangements for amounts exceeding \$200,000 by the WHO Contracts Review Committee (CRC). Under the LFA-TP governance structure, the CRC role included reviewing and verifying the Global Fund's contractor selection process to ensure it was based on fairness, integrity and transparency and that the proposed selection of a contractor would be in the best interest of the organization. As a general rule, the lowest responsive bid was presumed to be in the best interest of the Global Fund, but other conditions or circumstances, relating in particular to quality, time or to the financial implications of the proposed arrangement, could make it desirable to choose a bid other than the lowest. The CRC had the authority to reject any or all bids when it considered this to be in the Global Fund's best interest.

43 The Executive Management Team (EMT) is composed of the Secretariat's senior management staff which provides overall management and direction on all matters concerning the Global Fund. The LFA TP therefore falls directly under the ambit of the EMT. The EMT established an LFA Steering Committee (LFA-SC) to manage the LFA TP. There were two LFA-SCs during this process. The first was co-chaired by directors from the Corporate Services Cluster (CSC) and the Country Programs Cluster (CPC). It was disbanded once the RFP-IQC was issued and a second LFA-SC was then established with new Terms of Reference (ToRs). The second LFA-SC was chaired by the Deputy Executive Director (DED). Both committees had representation from CPU, CPC, the LFA Management Team and Strategy, Performance and Evaluation Cluster. The Legal Unit participated on both committees in an advisory role.

² Refs: Global Fund/B15/DP50, Global Fund/B/15/7

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44 The ToRs for the first LFA-SC were presented at its first recorded meeting, May 14, 2007 and was subsequently approved with minor modifications by the EMT. The ToRs outlined its responsibilities as:

- (a) Deciding on the solicitation approach (worldwide, regional, or local);
- (b) Deciding on the type of solicitation and resulting contract based on various approaches presented by the CPU;
- (c) Drafting the Statement of Work (SOW) for the Request for Proposal (RFP);
- (d) Drafting the tender evaluation criteria;
- (e) Reviewing and clearing questions for the LFA taskforce;
- (f) Nominating Technical Evaluation Committee (TEC) members (individuals having specialized knowledge, skills, experience, and/or capability to perform a analysis of technical proposals);
- (g) Making award recommendations to the WHO-CRC;
- (h) Making final award decisions;
- (i) Communicating with the EMT and the Board.

45 The LFA SC established Working Groups (WGs) for developing outputs to be used in the LFA TP. It delegated responsibilities to the WGs and in turn considered their recommendations. The WGs were requested to develop the following:

- (a) SOW;
- (b) LFA performance measurement system to include in the RFP-IQC and eventually in the LFA contracts;
- (c) Documentation for the RFP and contracting;
- (d) Handover policy; and
- (e) Communication protocol.

46 The first LFA-SC established eight TECs which evaluated each of the suppliers' proposals for each country within the 8 Regions. The TECs were composed of at least 5 persons i.e. 4 Global Fund staff members (3 FPMs from within the Region and 1 from outside the Region), and 1 independent member from outside the Global Fund. Once the technical evaluations were completed, each TEC Chairman prepared a Memorandum to the Manager of the CPU providing the technical scoring for each county for each competing supplier and a narrative describing the supporting scoring rationale. The same process was used for both the IQC and WO technical evaluations.

47 The CPU contract specialists were responsible for the IQC cost proposal evaluation. For the WO competition the CPU recruited six outside specialists including three members from the World Bank (WB). The World Bank team comprised two cost analysts and a senior consultant (a procurement lawyer). This report refers to these individuals as the Cost Evaluation Group (CEG). The CEG was supervised by a CPU Contract Specialist.

48 The CEG, on receiving the TEC Chairmen's Memoranda, compiled and combined the technical and cost scores to arrive at a ranking of competing firms which

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indicated the apparent winners. The ranking summaries were then forwarded to the Manager of the CPU who submitted them to the WHO-CRC for approval.

Governance structure

The Board through its Portfolio Committee provided strategic direction for the LFA TP. All principles established by the Board for the LFA TP with the exception of the one concerning the diversification of the LFA base were met. A proper governance structure to run the LFA TP was established with the LFA Steering Group taking responsibility for the process at Secretariat level. However, the set up for the first LFA SG was not ideal in providing the necessary leadership in dealing effectively with the challenges that arose during the LFA TP. In the latter part of the LFA TP, this situation was rectified and better leadership was realized.

49 The Board through the PC provided the principles to be followed and a matrix of issues to be addressed during the LFA-TP. OIG concluded that all the principles noted above except one were implemented. The exception related to encouraging a

Key Audit Criteria

A proper governance structure should be established to manage the LFA TP. All stakeholders should have clear ToRs and have suitably qualified people to manage the process.

diversity of participants, including civil society, and the possibility of setting up a process to encourage consortia applications. Responsibility for taking forward the principles referred to above was delegated by the EMT to the LFA-SG.

50 The failure to realize the desired diversity is evidenced by 93% of the LFA business remaining with the incumbent LFAs leaving only 7% going to five new LFAs. The 2003 LFA-TP resulted in 85% of the LFA business going to three organizations and in this LFA TP, it fell to 67%. There are 41 countries with a change in the LFA. In addition, there is a significant re-distribution among the incumbent LFAs with the combined portfolios of the former two largest LFAs decreasing from 80% to 63% of countries

51 The first LFA-SG was chaired by both the CSC and CPC Directors. The co-chairmanship structure did not provide the necessary leadership to deal effectively with opposing views taken by members on numerous issues. There were a series of misunderstandings between the CPU and the CPC representatives that could have been managed better. These opposing views, frequent communication problems, and the limited procurement process experience of many members affected the pace at which the LFA TP evolved. An example of opposing views was CPC's interest in having quality LFAs who CPU viewed to be very costly. This called for strong leadership to address these issues and effectively steer the process to its intended conclusion. The effectiveness of the second LFA SC and progression of the LFA TP can be partly attributed to the change in leadership.

Procurement strategy

The effectiveness of the governance structure in supporting the LFA TP was hampered by the lack of a procurement strategy to guide the management of the LFA TP. This impacted the efficiency and effectiveness with which the process functioned.

52 A critical starting point in any complex procurement is the development and approval of a procurement strategy. A procurement strategy should have been the

Key Audit Criteria

A procurement strategy should be developed that identifies the best way of obtaining LFA services. It should also incorporate the Board's strategic guidance in regard to the LFA TP.

key strategic planning document to provide senior management with agreed upon direction for the LFA TP. It provides guidance on what senior management would want to see as the end result of the LFA-TP and what criteria management will consider as evidence of a successful process.

53 Although there was no documented formal procurement strategy in place, the Global Fund Board's Portfolio Committee

provided direction to the LFA TP. Several elements of this strategy were articulated in the first LFA SC but never documented and followed through. A formal procurement strategy would have ensured that all key aspects relating to the LFA-TP were articulated. These include having a risk management plan, oversight and quality assurance plan etc. The absence of a formal procurement strategy resulted in the failure to plan for mitigation strategies for anticipated risks that may have impacted the LFA TP from the onset and where mitigation strategies were identified, these were not followed through. In consequence, the Secretariat was reactive and not proactive in addressing risks as they arose.

54 These challenges resulted in delays in the LFA TP as the first LFA SC grappled with a complex procurement process in a highly compressed timeframe. The procurement strategy should also have provided the LFA-SC with milestones against which the progress of the LFA TP and performance would be assessed. Failure to anticipate risks in the strategy also meant that the set timeframes were unrealistic and, as a result, the LFA TP fell behind schedule.

Recommendation 1 (High)

- (a) *The Global Fund should develop a procurement strategy for all its major and/or complex procurements. Criteria for procurements that require procurement strategies should be included in the Global Fund procurement regulations. Such a strategy should address the procurement objective, an analysis of the market capability to meet the procurement objectives, communication and reporting, oversight and quality assurance of the process, analysis of risks inherent to the*

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process, options for tendering and contracting, Secretariat capability to handle the process etc.

(b) *In the event that the Secretariat sets up a steering committee to manage future LFA TPs, consideration should be given to:*

- Elevating the chairmanship of this important committee to an appropriately senior level;*
- Defining clearly the roles and responsibilities for all key stakeholders;*
- Development of checks and balances for the process including reporting to the EMT;*
- Communication between Secretariat stakeholders etc.*

55 The development of such a strategy called for senior management to understand the environment in which the LFA-TP process was to run. This in most organizations is done through undertaking a Strength Weakness Opportunities and Threats (SWOT) analysis. Understanding the environment determines the strategies that can/cannot work. Once the management understands the environment, then it can determine the key success factors i.e. what it would take for the Global Fund to meet its goal of attracting potential LFA service providers. These success factors would be used to determine whether the Global Fund has the core competencies or capabilities to run a successful LFA-TP. In cases where the Global Fund's competencies are inadequate to achieve the key success factors, the Global Fund would develop strategies on how to develop or acquire these competencies in order to run an efficient and effective LFA-TP process. This should all inform and be part of the LFA-TP process procurement strategy.

56 To illustrate this, as part of this strategy, the Global Fund needed to consider the implications of implementing the Board direction to diversify the LFA base. In order to decide on the most cost effective approach before investing the time and resources to try and get greater diversity in service providers, the Global Fund needed to carry out an analysis of its requirements, identify the possible entities that can provide LFA services to the Global Fund and the risks and costs that would be associated with each type of service provider.

57 The analysis would inform the decision about whether diversifying the LFA base made sense or whether it was better to stay with the status quo. In cases where it is agreed that the Global Fund would reap optimal benefits from the diversification, the Global Fund would then have developed a strategy on how to attract the different service providers. Such an analysis would probably have to be undertaken on a regional basis to take into account the different regional contexts and investments for diversification and would only be directed at those regions and countries where diversifying the LFA base was likely to be successful.

58 As an example in some regions, the committees received bids from small organizations that showed they had the capacity to provide the services required.

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However, members of the various TECs preferred to have the incumbents or other LFA service providers with proven capacity to undertake LFA services. Therefore trying to attract other service providers was a futile exercise and a waste of time and money. Another consideration is that if the Global Fund was heavily dependent on three firms for its LFA services, it was probably impossible to change the LFA base without significantly disrupting the Global Fund processes.

Recommendation 2 (Significant)

- (a) *In order to satisfy the Board's wishes to diversify the LFA base, the Global Fund should conduct a risk based analysis before the next LFA TP to determine:*
- *Whether the costs and benefits of the diversifying the LFA base makes sense;*
 - *Whether diversification should be pursued or not based on the risk situation in specific countries(the status quo may be the preferred option);*
 - *Where the best probability exists to diversify the LFA base;*
 - *What development efforts and costs would be incurred to develop the markets in both the high and lower probability countries;*
 - *What are reasonable targets in terms of LFA diversification; and*
 - *What options are there as to how to develop greater diversity in the LFA base.*
- (b) *Diversification of the LFA base can only be justified if it results in a better quality of LFA services and lower costs. As part of the subsequent procurement strategy, a cost benefit analysis should be undertaken to determine whether it is worthwhile to invest the time and money to diversify the LFA base and whether it is likely to have the desired impact on the quality of the LFA services and costs. This will help inform decision making related to this matter in the future.*

Risk management

The Global Fund has embraced the concept of risk management as vital to its success as an organization. A highly complex and volume procurement undertaken in a highly compressed timeframe inevitably was bound to have inherent risk which if not identified and mitigated would affect the efficiency and effectiveness with which the process was run. The Global Fund did encounter many risks and because they were not anticipated and planned for, the Global Fund often found themselves in a reactive mode in having to apply extraordinary effort to address the issues identified. This came at the cost of inefficiencies and delays.

59 The Global Fund has embraced the concept of risk management as vital to its success as an organization. However, the LFA TP for the acquisition of such a key part of its business model was undertaken without a formal risk management plan.

60 The Global Fund's risk approach to the LFA TP should have been two fold i.e. (a) identifying and classifying countries by risk and using this in the tendering and

Key Audit Criteria

Management should identify major risks likely to compromise the success of the tender process and development of mitigation plans to address such risk.

contracting of service providers and (b) requiring that the scope of work and associated costs of LFAs is dependent on the risk profile of the countries. OIG noted that the risk approach was not applied to this LFA TP. At the time, the risk model developed by Country Programs was not yet in place. As a result, all countries were presumed to have the same risks and therefore required the same extent of work. Costs were based on the type of entities selected as

opposed to the volume of assurance that LFAs would be expected to provide for different countries. This matter requires senior management's attention in planning the next LFA TP.

61 A highly complex and volume procurement undertaken in a highly compressed timeframe inevitably was bound to have inherent risk which if not identified and mitigated was bound to affect the efficiency and effectiveness with which the process happened. Although risks in many instances may have been anticipated, plans to mitigate them were not developed and where they were, they were not implemented. Examples of risks that arose during the process that could have been proactively mitigated were:

- (a) Risk of not meeting the time schedule;
- (b) Risk of having many respondents creating a large volume of work;
- (c) Risk that staff resources particularly within the CPU would be insufficient;
- (d) Risks of the LFA-TP activity affecting the on-going activities of the Global Fund and LFAs i.e. the impact the award of new LFA contracts might have on the activities of the incumbent LFAs within the grant cycle;
- (e) Risks the Global Fund would face from new inexperienced LFAs taking over during a crucial time in the grant cycle; and
- (f) Risk that the multiplier concept as a component of the tender evaluation cost criteria would not be clear.

62 The Global Fund did encounter these and other risks and once they occurred, extraordinary efforts were applied to overcome most of them. This came at the cost of inefficiencies and delays since the LFA-SG and the CPU often found themselves in a reactive mode and numerous activities had to be planned "on the go." An example is the risk associated with using complex cost evaluation criteria which created a schedule delay of about 4 months. The level of effort to address risks as they arose would have been significantly reduced had a risk management plan and associated mitigation strategies been put in place much earlier.

Recommendation 3 (High)

A risk management plan should be developed as part of the procurement strategy for all major and/or complex procurements undertaken by the Global Fund. While risk mitigation strategies may not fully address the risks, they reduce the negative impact of such risks. Further, identifying risks at the beginning of the process forces management to think carefully about how such risks can be partially, if not fully mitigated, through improved process design.

Definition of roles

The organogram showing the governance structure of the LFA process shows the different stakeholders this process brought together. However, the roles, authorities, accountabilities and interfaces between the various entities/ committees/ individuals involved in directing and managing the LFA process were not clearly defined. Key roles such as quality assurance remained unallocated for the greater part of this process. A lot of the time of the LFA SG was spent clarifying who was responsible for what.

63 In a complex procurement, it is essential that the roles of all stakeholders are defined as part of the procurement strategy. For the LFA TP, CPC specified what it needed and CPU furnished advice on the best method of procurement within the organization's procurement policy. While these fundamental roles were generally understood, the roles, authorities and interfaces of the LFA-SC vis a vis the CRC were not. In one instance, the CPU went directly to the WHO-CRC to discuss information relating to the preliminary results of the process without involving the LFA-SC which had responsibility for making award recommendations to the WHO-CRC. A review of the first LFA SC minutes revealed that discussions were common about who was responsible for what and whether certain activities would require LFA-SC approval.

Key Audit Criteria

There should be clearly defined roles, authorities, accountabilities and interfaces between the various entities/ committees/ individuals involved in directing and managing the LFA process.

64 As part of the procurement strategy, management should have defined a system of quality assurance i.e. 'checks and balances' in the entire LFA TP to validate the results at the end of each stage. Quality assurance designates all planning, preparatory work, checking and measuring activities necessary to achieve desired standards of service³. This should not be considered additional or optional, but rather an integral part of doing the job properly.

³ World Bank Consulting Services Manual 2006

65 The lack of proper quality assurance measures were more pronounced in the first LFA SC regime. The only formal yet unplanned quality assurance activity carried out during the RFP-IQC stage was the E&Y and OIG reviews of the cost evaluation process. These reviews may not have been required had there been good risk management and quality assurance plans with adequate management oversight in place from the onset of the process. Subsequent to these reviews, the second LFA-SC established the CEG to provide quality assurance in the WO competition. The second LFA-SC met weekly to provide the oversight function.

66 Quality assurance would have ensured that there was early detection and resolution of issues so as to minimize the potential impact of any errors or omissions, particularly as they might affect the fairness, transparency and objectivity of the process. Clarity on roles and responsibilities would also ensure that all aspects of the LFA-TP were carried out with due diligence, reflected the Board's wishes, and complied with the principles of fairness, transparency and objectivity.

Recommendation 4 (Significant)

The effectiveness of the different players in the governance structure of a complex procurement should be strengthened by a comprehensive definition of ToRs and roles, responsibilities and authorities of the committees involved in the procurement process. The interfaces between the different stakeholders should be defined. These should be communicated to all stakeholders. The leadership and membership of screening committees should be carefully considered by senior management. Management should also ensure that oversight and quality assurance measures of the process are put in place to detect and resolve issues that can hold up or compromise the process.

Communication strategy

There was a communication strategy established to articulate, explain and promote communication through a consistent, unified "voice" of the LFA TP activities. This was particularly necessary to keep communication open among the many stakeholders and ensure that significant matters that affected the process were elevated to the appropriate levels early enough for resolution. However, this strategy did not provide comprehensive guidance on communication between stakeholders and where it did, was often not followed by LFA SC members.

67 A communication strategy was established as part of the LFA TP. This was particularly necessary given the many stakeholders to the process and the need to keep communication open between them. Ideally the communication strategy was meant to articulate, explain and promote communication through a consistent, unified "voice" of the LFA TP activities. However this strategy was not comprehensive and was often not followed and this resulted in the failure to share key information

with appropriate stakeholders at specific times which resulted in tardy decision making and in other cases crises that could have been avoided.

Key Audit Criteria

A communication strategy should be developed to ensure that all participants within the governance structure are clear as to their responsibilities for both internal and external communications.

68 OIG notes that this was particularly the case where the CPU took matters to the WHO CRC without getting approval and clearance from the first LFA SC as should have been the case. As in any organization, when taking items forward for approval, it is important to ensure that there is a consolidated corporate

position. Key stakeholders like the EMT were not always informed about the emerging concerns potentially affecting the process outcome. Further, CPU representatives were not always available at LFA-SC meetings to make key information available for decision-making.

69 During the competition, all Global Fund staff were instructed to restrict communications with competitors which included incumbents who were still actively carrying out LFA functions. The LFAs interviewed stated that restrictions on communicating with the Global Fund from July 2007 until November of 2008, affected their operations e.g. training was put on hold and they were unable to plan for future work which inevitably affected the level of service that they were able to provide to the Global Fund.

Recommendation 5 (Requires attention)

Any complex procurement project should be supported by a clearly enunciated and comprehensive communication strategy which is applied in practice. Authority to engage in external communications should be clearly stated in the strategy. Regular internal communications should be maintained with all senior management and all steering committee members particularly with high risk aspects of the process and where sharing of information is necessary to promote the efficiency and effectiveness of the process. Open communications should be encouraged wherever possible so that members are made aware of any issues which could jeopardize the integrity or effectiveness of the process.

Procurement policies

The WHO policies provided a basic framework against which the LFA TP should be run. However, the WHO policies were developed with their own needs in mind and given the variations in the WHO and Global Fund mandates, may not have been entirely appropriate for Global Fund purposes. The Global Fund developed their own policies to complement those of WHO but these were not adequate and as a result failed to provide a comprehensive operational framework or defined procedures for the LFA TP.

70 Under the ASA, the Global Fund's LFA-TP was subject to the WHO administrative procedures and rules regarding procurements of greater than \$200,000. Guidance about procurement is provided in the WHO Financial Rules and specific sections of the WHO Manual. However, OIG noted that WHO and Global Fund are substantially different in their mandates and as a result in the way they operate⁴: The Global Fund is a financial instrument created to leverage financial resources for the target programs and not an implementation agency. On the other hand, the WHO implements specific actions in the context of defined programs and activities - providing in-kind assistance to countries such as technical support, drugs, medical supplies and equipment.

Key Audit Criteria

There should be comprehensive policies to guide LFA retender process.

71 Because of this, Global Fund's own procurement bears little resemblance to WHO's in terms of nature, frequency and scale. For example, WHO's preferred selection method is Lowest Cost Selection (LCS) which is inappropriate for most of Global Fund's selections of consultants since quality is a key component to the procurement decision. As a result of this, the WHO policies were developed with their own needs in mind and may not have been entirely appropriate for Global Fund purposes. The Global Fund needed therefore to develop their own policies to complement the WHO ones in order to further strengthen the procurement process.

72 The Global Fund, although still falling under WHO authority prior to 1 January 2009, had developed its own Procurement Policy, which was approved on June 5, 2003, and updated on November 3, 2006. The Global Fund procurement policy in effect established general principles and described the procedures applicable for contracts over a range of increasing dollar-value thresholds. However, neither the WHO policies nor the Global Fund procurement policies at the time provided a comprehensive operational framework or defined procedures for the LFA TP type of procurement.

73 Even when the WHO policy was combined with the Global Fund procurement policy, there were still gaps identified in the process such as procurement methods to apply, types of contracts etc. In the combined process followed, the same procurement processes were applied regardless of the nature of the procurement e.g. for standard services, goods, consulting services from firms, consulting services from individuals

74 Even within the broad category of services, different types of services require different sourcing, procurement and contracting practices and procedures. High-level, critical consulting services of a predominantly advisory and intellectual nature cannot be acquired in the same manner as all other service contracts. This has been

⁴ Assessment of the Global Fund Procurement Practices, Jose Moscoso, June 2007.

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recognized by other financing mechanisms that have been in operation for much longer like the World Bank which has developed different policies to guide the procurement of the different categories of services.

75 As mentioned earlier the Global Fund has recently introduced a new procurement policy. The policies provide a broad framework in which the Global Fund procurement will be undertaken and are aligned to best practice. The regulations that support the policies are still under development. It will be important to ensure that the regulations meet the Global Fund's needs relative to the procurement process for complex professional service contracts.

Recommendation 6 (Significant)

The Global Fund should in its new procurement policy take cognizance of and make provisions for the different types of services that require different sourcing, procurement and contracting practices and procedures. The procurement policy should provide general direction, detail all mandatory actions and should designate approval authorities and dollar limits for various procurement actions and should specifically address the acquisition of professional service contracts.

Capacity to manage the LFA-TP

The LFA TP generated a large unprecedented volume of work in the area of procurement. There were varying capacity needs in terms of number and skills required to manage this highly complex and time compressed procurement which were not always available. Measures to address capacity such as provision of training and appointment of consultants to manage the process were implemented and provided some relief to the constrained environment and the overall effectiveness of the LFA TP.

76 The key Secretariat stakeholders in managing the LFA-TP were the LFA SC and the CPU. The LFA SC and technical committees brought together different individuals to manage and provide input to the LFA TP. These brought diverse experience with the LFAs to the table although their core competence was not in procurement. Such individuals would have benefited from some training. This meant that they required continued guidance in the execution of their intended roles especially given the complexity of the assignment. This guidance should have been provided by the CPU. However, OIG noted that the CPU did not attend some of the LFA SC meetings to provide such guidance. Legal also provided advisory services to the LFA SC. However, there were instances

Key Audit Criteria

All units and /or committees should have adequate capacity (numbers and skills) to direct and manage the tender work. All committees should plan to acquire any additional support they may require e.g. technical, procurement, legal etc.

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noted where CPU did not seek and/or take Legal's advice on matters, which called for their input.

77 The Chairpersons for each of the TECs came from the Regional teams which had day-to-day responsibility for the countries whose proposals were under evaluation. This created a potential conflict of interest⁵ risk since the technical selection team was greatly skewed towards the staff that are actively involved in the working with the LFAs. This risk was partially mitigated by having an independent member on the committee.

78 The LFA TP generated a large unprecedented volume of work in the CPU. The staff of the CPU, and in particular the contract specialists, provided technical advice to the LFA-SC and TECs, issued the Expression of Interest (EOI), the RFP-IQC and the RFP-WO, evaluated the cost proposals for the RFQ-IQC and supervised the cost evaluation process for the RFP-WO. There were 451 country proposals of about 50 pages each which were received from 27 different offerors. On completion of the IQC competition, 27 firms submitted 203 WO proposals for 78 countries. For an additional 35 countries only one proposal was received.. This situation was exacerbated by the internal reorganization of Global Fund clusters, units and teams, the new WHO Enterprise Resource Planning (ERP), and the decision to compete the IQCs on an individual country basis. The latter factor alone caused the generation of about half a million photocopies. In addition to this, CPU staff were expected to carry on with their normal work.

79 This called for more 'bodies' to assist with the work load in the CPU. However, at the time, there were numerous vacant positions in the CPU. The CPU's attempt to fill the vacant positions before the LFA TP started was never realized. The CPU team remained grossly understaffed up until the work order cost evaluation stage when additional resources were secured to increase capacity. They had to work long hours for over a year in order to ensure that the LFA TP was a success. However, the shortage in staff affected the timeliness of some deliverables by the CPU, quality of support that was provided to stakeholders throughout the process and affected the quality of work within the unit.

80 Initially, the LFA SC considered whether to run one LFA-TP or to stagger it for the different regions. The decision to run the LFA-TP for all the regions at the same time did not only create a large volume of work for all that were involved but also disrupted Global Fund activities. This large volume of work was further complicated by having a complex procurement process with a tight time schedule. While it was not possible to compute the staff time and cost input into this process, there was a general consensus that it was very high especially in the CPU and CPC. Work

⁵ Conflict of interest is a situation in which an individual, has interests (financial, organizational or other) that would or may appear to make it difficult for them to fulfill their obligations to the Global Fund in an objective, independent and professional manner, or a situation in which it is reasonable to foresee that such an interest would arise.

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undertaken by staff in relation to the LFA-TP was in addition to their normal work implying that one of the two pieces of work must have suffered.

Recommendation 7 (Significant)

- (a) All non contracts personnel involved in large/ complex procurement processes should be trained on their respective roles.*
- (b) The CSC capacity should also be increased when there are highly voluminous, complex and/or major procurements.*
- (c) The Global Fund should consider dividing the LFA-TP process into batches and staggering the LFA TP of the batches over time. It would ensure quality of the process as more time can be dedicated to working with the details of proposals*

The LFA Tendering Process

Overview

81 The decision to employ an RFP commits an organization to a formal process based on fair and open competition and equal access to information. The RFP itself provides a standardized framework for service provider proposals and highlights the business, technical, and legal issues that must be included in the final contract.

82 As detailed in the flow chart in Appendix A, the Global Fund decided to run a two stage competition in each of its 8 Regions. The first stage involved a competition for IQCs. In this stage, each competitor was required to submit a proposal for each of the countries for which it wished to provide LFA services. The competitors' proposals had to provide both a technical and a cost section which were then separately evaluated by 8 TECs (the technical proposal) and the CPU (the cost proposals). The combined results of the evaluations were expected to produce a list of all competitors who would be awarded IQCs and thereby be pre-qualified to provide LFA services in each of the countries for which it had been granted an IQC.

83 In effect, the first stage served to determine which competitors would be prequalified for the second stage of the process, the Work Order (WO) competition. However, holding an IQC did not represent an entitlement to perform LFA services in any particular country. Holders of IQCs, who were not successful at the WO stage, would remain pre-qualified to provide LFA services at any time within the four year period for which their IQCs remained valid. To put a time perspective to the LFA-TP, a chronology of key events is presented under Appendix B.

Planning for the LFA -TP

As the adage goes “a battle well planned is a battle half won”. The Global Fund did not prepare a formal procurement plan for the LFA-TP. However, there was evidence seen of some planning activities being undertaken at the beginning of the LFA TP. The lack of a formal plan meant that key aspects to better manage the LFA TP such as identification of appropriate methods for the selection method, setting of realistic milestones and timelines, identification of critical success factors etc were not documented. The greatest impact of this was seen in the slippage of the timeline by over a year.

Key Audit Criteria

There should be a plan that spans all process stages from project initiation through solicitation to contract management.

84 While the procurement strategy lays out the goals that need to be accomplished and the ideas for achieving those goals, a procurement plan that addresses how the strategy will be implemented should be developed. As the adage goes “a battle well planned is a battle half won”. In essence the procurement strategy represents the ‘war’ and the plan covers the

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different battles needed to win the ‘war’. The Global Fund did not prepare a procurement plan for the LFA-TP. However, there was evidence seen of some planning activities being undertaken at the beginning of the LFA TP.

85 There were significant delays experienced in the LFA TP. The table below provides a synopsis of the projected timeline against the chronological order of events (Details are contained under Appendix B). It shows how the process started on time and how the LFA TP slipped as time went by.

Description of action	Planned date	Actual date
Pre-solicitation notice	April 2007	23 April 2007
RFP issued	30 June 2007	25 July 2007
Deadline for receipt of proposals	30 August 2007	21 September 2007
Evaluations completed	30 September 2007	18 December 2007
CRC approval	15 October 2007	28 April 2008
Selection of LFAs i.e. awarding IQCs	15 November 2007	August 2008
Work order competition		On going at the time of this OIG review

Table 5: Timeline for the LFA-TP

86 Some of the benefits that the Global Fund would have derived from having a detailed plan for the LFA-TP are listed below.

- (a) Planning forces people to think ahead thus making them more proactive and less reactive. As already mentioned, the first LFA SC was reactive to challenges that were met throughout the LFA-TP process;
- (b) Planning helps people identify critical issues that may potentially impact the LFA TP. As a result, Global Fund would have taken preventive and preemptive approaches to identified risks;
- (c) Planning helps build teamwork among those involved. Plans help people that are facing a common obstacle or challenge to draw closer together and look for common solutions. As mentioned already, the relationship between the CPC and CPU teams involved in the LFA-TP process was not collegial;
- (d) Plans provide clear targets and are a key management tool against which performance can be assessed. Another favorite rhetorical question is "How can you hit a target you can't see?" There were delays throughout the LFA-TP processes and these slippages in the timeline were not addressed; and
- (e) Plans ensure that realistic dates are set for the process. Among other things, the lack of plans meant that the timelines set were in most cases unrealistic.

Recommendation 8 (Significant)

- (a) *CSC should prepare a detailed plan for all major procurements detailing how the procurement strategy will be implemented. This plan should cover the following:*
- *Measures (tasks and deliverables) to control the process and ensure it stays on track;*
 - *Identification of milestones and identification of key decision points for tracking success;*
 - *Identification and development of mitigation plans for major risks likely to curtail the success of the LFA TP. Such risks include complexity, scale, the length and rigidity of the timescales for implementation, anticipated number of bidders, impact on Secretariat if most of the LFAs were to change etc.*
 - *Realistic timescales and opportunities for streamlining the process to ensure that the process stays on schedule. There should be a critical path developed.*
 - *A comprehensive complaints handling mechanism for dealing with complaints in an equitable manner;*
 - *Media strategy on the best media to use for desired impact;*
 - *Proper process for sharing information and/ or upward feedback to the Secretariat management;*
 - *Proper review mechanisms for documents and approvals at decision points;*
 - *Analysis of the various options available for running the LFA TP and undertaking a cost benefit analysis determine the best approach.*
- (b) *Planning should include the preparation, review and approval of key documentation such as solicitation documents.*
- (c) *Planning should cover all the stages of the process i.e. solicitation, evaluation, contracting and contract administration. It should also cover the review and approval of methodologies proposed for suitability in the LFA TP.*
- (d) *This plan should be reviewed and approved by management.*

87 Several reviews have been undertaken of the first LFA TP. As part of the LFA TP planning process, it was important to incorporate lessons learned from these reviews into planning for this LFA-TP in order to strengthen the control environment. OIG assessed whether the report findings (details in Appendix D) had informed the LFA-TP and noted that most of the major report recommendations had been implemented. These included having:

- (a) Equal footing provided for health and finance skills;
- (b) Guidelines for LFA handovers, PR handovers and grant closure;
- (c) An LFA performance evaluation system;
- (d) LFA Training;
- (e) Records for the process were well maintained; and

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- (f) Better defined outcomes expected as the SOW now clearly addresses: work performed before program implementation; verification of implementation; work performed at key points in the grant life cycle; and, additional services.

88 However, some recommendations were not implemented. The failure to implement the recommendations detailed below resulted in inefficiencies in the LFA TP:

- (a) The LFA was still run on tight deadlines and there were staff shortages to manage the process.
- (b) The contract requirements for expertise and level of effort were not well structured to ease their management and enforcement.
- (c) The cost evaluation criteria and methodology developed did not ensure that all offers could be measured fairly and objectively. This had to be adjusted part way through the LFA TP.
- (d) The market value of the services to be provided was not determined before the selection process.

The impact of the failure to implement these recommendations is discussed in the following sections of this report.

The LFA-TP Solicitation Process - EOI Stage

The EOI stage was undertaken with the objective of generating an interest in the LFA TP and through this having greater competition and a better chance of achieving best value. The success of this stage could have been affected by the failure to implement the proposed media strategy, failure to hold bidders' conferences etc. This is likely to have impacted the number of proposals received and the diversity of potential service providers sought. The ability to demonstrate best value was undoubtedly reduced by this.

89 The Expression of Interest (EOI) document was posted on the Global Fund website on April 23, 2007. The EOI provided a description of the Global Fund, the General Conditions of the competition (anticipated RFP release date of June 2007), and provided an opportunity for those qualified interested parties to be placed on an "Interested Vendor List" that would be posted on the Global Fund website. The creation of the Interested Vendor List was so that:

- (a) Firms could contact one another for consideration of teaming arrangements and/or subcontracting opportunities in response to the solicitation; and,
- (b) Individual consultants could contact firms listed in the Interested Vendor List.

90 The decision to have this stage was mainly driven by the Board's direction to diversify the LFA base. The EOI stage although time and cost consuming did not realize its intended purpose of attracting sufficient interested parties in order to significantly diversify potential service providers. In other words, the EOI in and of itself was insufficient to raise the level of interest necessary to attract a sufficient

audience of potential LFA service providers to provide a base for further diversification.

91 The Global Fund could have used this stage to create a more effective LFA TP by using the EOI results to create a shortlist of bidders to be invited to the RFP stage. It is a crucial stage at which a large number of possible service providers step forward but whose capability to provide the services may not be entirely known. The EOI would need to be structured in such a way that it provides adequate information to enable the Global Fund to decide which firms are worth short listing for the RFP stage. The Global Fund would then review the firms that submitted EOIs against set criteria such as qualifications, experience, independence etc and draw up a short list for the RFP stage.

92 Best practice around the use of Eois as part of preparing for a LFA TP points to the first consideration when developing a shortlist should be to give priority to those that best meet the criteria for the proposed assignment. When a short list meeting the diversity requirements cannot be drawn up from the EOIs received, the organization may invite qualified organizations that may not have been aware that a request for EOIs was issued, but are known for their good reputation or record of past work. In developing the shortlist, consideration can be given to drop organizations that have had a poor performance record in the past. References provided by the interested organizations can be used in arriving at such a decision.

Recommendation 9 (Significant)

The Global Fund should use the EOI stage to pre-qualify service providers i.e. identify and shortlist organizations that can be invited for the RFP stage in cases where a large number of organizations are expected to bid. This will reduce the volume of work and improve quality of work at the evaluation stage of the LFA TP.

Key Audit Criteria

There should be a media strategy that details the best way to create awareness and attract interest about the LFA-TP.

93 The failure to attract numerous bidders in the LFA-TP may well have resulted from not implementing a more extensive media strategy detailing the best way to create awareness and attract interest about the LFA-TP in the different regions at a minimum cost. The Global Fund advertised in major news media but consideration should have been given to using other forms of advertising to create awareness

e.g. use of the regional meetings, professional associations, specialist websites etc.

94 The Global Fund did however supplement the EOI through publishing information on its own website and those of other “UN-type” organizations. It also contracted an advertising agency to publish newspaper advertisements. However,

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this did not in practice realize the desired result of having greater diversity in service providers expressing interest in working as LFAs.

95 Another way in which awareness may have been built is holding a bidders' conference. Bidders' conferences are typically held to inform potential offerors and incumbents about the nature and timing of a competition. This is good practice especially for complex assignments like the LFA-TP since they provide information, promote interest and encourage more potential suppliers to compete so as to enhance the possibility achieving best value. In this case, the bidders' conference was intended to provide an opportunity for interested parties to learn more about the Global Fund and the role of the LFA. Bidders are generally free to ask specific questions to help them decide on whether or not to compete.

96 CPU staff developed materials and made a plan to conduct a series of 8 regional bidders' conferences and this was included in the budgets. However, these scheduled conferences were cancelled as the first LFA SC felt the expenditure was not justified. The decision not to proceed with the bidders' conferences undoubtedly affected the opportunity for some potential new bidders from gaining the knowledge necessary to compete. This pre-solicitation conference would also have ensured that all prospective suppliers had a clear common understanding of the technical and contractual requirements of the services to be provided.

97 The failure to hold these information sharing sessions contributed to the incumbent LFAs having an advantage over aspiring service providers. Nevertheless, a number of incumbents also mentioned that they were disappointed in not having the opportunity to learn more about the new requirements specified in the RFP. The Global Fund could also have used the information collected from these meetings to provide clarification on the RFPs and amend the RFP to make it more effective if needs be.

Recommendation 10 (Requires attention)

The Global Fund should develop a comprehensive media strategy and put it in practice for major procurements detailing the best way to create awareness and attract interest about the LFA-TP in the different regions at a minimum cost. Bidders' conferences should be held for all complex assignments like the LFA-TP since they provide information, promote interest and encourage more potential suppliers to compete so as to enhance the possibility achieving best value.

The LFA-TP Solicitation Process - Requisition for Proposal Stage

<p>The contents of the RFP document met best practice although the document was somewhat lengthy. The procurement method of selection followed was Quality Cost Based Selection (QCBS) although in practice the process drifted towards Quality Based Selection. Best practice shows that QCBS was probably not the appropriate method to</p>

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follow for the LFA tender. The Global Fund's decision to seek proposals at a country and not regional level had its benefits. It however created a large volume of paper and work for all involved. The large volume of paper work definitely affected the time spent preparing for and evaluating the proposals.

- 98 The decision to employ an RFP commits an organization to a formal process based on fair and open competition and equal access to information. This decision allows the organization to systematically define the acquisition process and the basis on which the proposals will be assessed. The RFP itself provides a standardized framework for service provider proposals and highlights the business, technical, and legal issues that must be included in the final contract.
- Key Audit Criteria
- Solicitation documents should be structured to facilitate accurate and complete responses from prospective contractors.

- 99 A review of the RFP revealed that it met the key best practice principles of
- (a) Stating the performance requirements and the scope of the LFA services that are to be provided;
 - (b) Including a SOW that flowed from the Global Fund business needs, and should present a logical plan to address the stated needs;
 - (c) Identifying constraints, schedules, deadlines, mandatory items;
 - (d) Specifying required deliverables, reporting obligations, and payment terms;
 - (e) Stating pricing requirements and bid submission expectations, including closing time, date, and allocation;
 - (f) Stating the evaluation criteria and weighting factors for scoring proposals;
 - (g) Allowing sufficient time for vendors to prepare good proposals;
 - (h) Avoiding specifications that favor a particular bidder or brand;
 - (i) Specifying the qualifications for the company and/or personnel who would be assigned to the project;
 - (j) Identify the legal requirements that govern the contracting process and the delivery of services; and
 - (k) Outlining all procurement communication devices to ensure all appropriate bidders or potential bidders have access to the same information, i.e. pre-bid conference, questions and answers, whom to contract with questions.

100 The LFA-TP was run on a regional basis i.e. based on the eight regions that the Global Fund operations covered. Bidders however proposed not on a regional basis but on a country basis. The decision to have bidders propose at a country level had its benefits. Proposing at country level also gave bidders the opportunity to demonstrate that they had a good understanding of and had incorporated the different country contexts into their proposals. It also provided bidders with the flexibility to choose what countries they wanted to work in within any region.

- 101 However, as already mentioned, this created a large volume of paper with 451 country proposals of about 50 pages each which were received from 27 different suppliers. The large volume of paper work definitely affected the time spent preparing for and evaluating the proposals. There must have been diminishing returns which must have affected the quality of work done given the large number of proposals received.
- Key Audit Criteria**
- The Global Fund should have an appropriate selection methodology for the LFA-TP.

102 While Global Fund sought diversity in this LFA-TP, it did not reflect an awareness of the distinction between organizations whose core business is exclusively the provision of professional consulting services (that is consulting firms) and other organizations with a different mission or core business and cost structure that occasionally provide consulting services and may enjoy subsidies and other privileges from third parties e.g. UN agencies and NGOs. There was therefore a need to plan for how the differences between organizations would be considered without giving any one an unfair advantage over the others. This could have been addressed in the choice of selection method chosen. Such a plan was not evident.

103 Initially, the Global Fund adopted the Quality Cost Based Selection method for the LFA-TP. However, in essence, the Global Fund started out with QCBS and ended up incorporating elements of the QBS method. OIG assessed the choice of selection method chosen over what is available. The choice of the appropriate method should depend on the nature, size, and complexity of the assignment; the likely downstream impact of the assignment; and technical and financial considerations. The following sections of this report provide OIG's findings about the appropriateness of the choice of method of selection.

104 The table below provides a brief assessment of the appropriateness of the QBCS as the selection method measured against the World Bank's recommendations on when QCBS is appropriate:

World Bank recommendation	Applicability to the LFA-TP
QCBS is appropriate when the type of service required is common and not too complex.	The service required is not common and quite complex.
QCBS is appropriate when the scope of work of the assignment can be precisely defined and the TOR are clear and well specified	The scope of work for the LFAs can be precisely defined to a large extent and clear TORs were developed as a result of this.
QCBS is appropriate when the organization and the consultants can estimate with reasonable precision the staff time, the assignment duration, and the other inputs and costs required of the consultants	While the scope of work can be defined with some relatively good precision, it is difficult to estimate staff time with reasonable precision, the assignment duration, and the other inputs and costs required of the

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World Bank recommendation	Applicability to the LFA-TP consultants.
QCBS is appropriate when the risk of undesired downstream impacts is quantifiable and manageable	The LFA services are a key element of the Global Fund architecture. The risk of downstream impact is not quantifiable.

Table 6: Application of the World Bank recommendations to the LFA -TP in choosing QCBS

105 In addition, the particular circumstances or preferences such as an organization's own degree of risk aversion in terms of not compromising on quality should be considered. Organizations with risk aversion tend to adopt selection methods that promote quality such as Quality Based Selection (QBS) over QCBS and QCBS over Lowest Cost Selection (LCS). While cost remains a consideration for the Global Fund selection processes, the Global Fund has a fairly high quality risk aversion when quality is being considered. Evidence of this is seen when CPC staff expressed concern at the selection of a lower quality and cost service providers as opposed to a higher quality and cost service providers. This makes QBS a more preferred method than QCBS.

106 Because price is a factor of selection under QCBS, when this occurs, competitors tend to propose more-conventional approaches and tested methodologies to keep the cost of their services low. This may ultimately affect the quality of the projects such as the provision of LFA services that are complex and large and call for innovation in approach. It also creates a tendency to propose low financial costs with the anticipation that these can be increased as the work progresses. Because the nature of organizations that were expected to bid were different i.e. private organizations, UN agencies, NGOs etc, have different missions and cost structures, the use of cost in part of the selection criteria was inappropriate as non profit organizations have a different cost structure from consulting firms, and some organizations may enjoy privileges or subsidies that make price comparisons unfair. Therefore in cases where there is a wide mix of bidders as was the case in this process, it may have been appropriate to use a method that gave an even lower score to cost.

107 Another disadvantage of QCBS is its rigidity. With QCBS consultants are required to compete based on quality and price. Ideally under QCBS, no negotiations should be held for sealed bids which is not the case in Global Fund's LFA-TP where negotiations have been a key component of the selection process.

108 QBS would have been a better option than QCBS and was in practice the process finally followed. An over complex and inappropriate QCBS methodology was in OIG's view rightly set to one side at the IQC stage. QBS is based on an evaluation of the proposal quality without any initial consideration of cost. The consultant that submitted the highest-ranked technical proposal is then invited to negotiate their financial proposal and contract. Under QBS, the scope of work is generally more complex and less defined than under QCBS implying that contract negotiations with the winning consultants may be lengthy and complicated as is the case with the

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Global Fund. At the time of this review, the Global Fund was still in the final stages of the process of negotiating WOs. This has been a protracted process. QBS also provides for negotiations where the proposed methodology results in a higher cost than budget. The World Bank recommends that in case of uncertainty or risk for the project, QBS should be adopted, because quality is usually the key element of procurement of consultancy services.

109 Based on the World Bank criteria for selection methods, QBS was a preferred method to QCBS for the LFA-TP because:

- (a) the downstream impact of the assignment can be so large that the quality of the services is of overriding importance for the success of the Global Fund as a whole;
- (b) the scope of work, the duration of the assignment, and the TOR require a degree of flexibility because of the novelty or complexity of the assignment and the need to select from among innovative solutions;
- (c) the assignment itself can be carried out in substantially different ways such that cost proposals may not be easily or necessarily comparable; and
- (d) the introduction of cost as a factor in selection makes competition unfair since it brings together organizations with varying cost structures that are not comparable.

110 At the time of deciding which method to use, LCS was considered since it was the WHO recommended selection method. With LCS, a minimum qualifying mark for quality is established and the consultant that passes the technical mark and has the lowest price is selected. The LCS method is appropriate only for small assignments of a standard or routine nature in which the intellectual component is minor, well-established practices and standards exist, and from which a well defined outcome can be executed at different costs. Because of this, it was inappropriate for the LFA-TP.

111 In the Global Fund's initial use of the QCBS, the Global Fund decided on a 70/30 split between technical and cost elements of the proposal. The minimum technical qualifying mark was set at 70% to reduce the risk of accepting low-quality proposals. The decision to apply a 70/30 split placed a high degree of importance to cost relative to technical factors. However, the LFA-TP deliberations pointed to quality being of even greater importance than cost. The World Bank recommends an 80/20 split for proposals where quality is of considerable importance. If it's more than 20, then costs become predominant in the selection method and if less than 20, then the benefits of price competition would be minimal. In practice an inappropriate methodology was set aside as detailed in paragraph 127.

Recommendation 11 (High)

The Global Fund should develop as part of its policy, criteria for identification of an optimal method of selection. Where QCBS is used, appropriate allocation of marks between technical and cost should be considered. This will usually call for the Global

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Fund to carefully define the assignment, particularly the scope and possible consequences for the services offered, the nature of the project etc, before deciding on the appropriate selection method.

112 Another key element in the procurement of consultant services is the development of specifications for the work done. The process for developing of specifications was undertaken by a WG created by the LFA-TP. All key stakeholders were represented on this WG. The development of specifications took into account the Board directions. Because the Global Fund did not have a performance evaluation framework for LFA work, there was no formal process through which lessons from the past could be identified and incorporated into the LFA-TP specifications. However, some lessons from the past were incorporated through the application of recommendations from reviews undertaken on the LFA model.

113 OIG noted that the RFP-IQC was somewhat lengthy at 90 pages. The interviews held with 4 incumbent LFAs and 2 new LFAs confirmed the view that although the RFP-IQC was lengthy, it needed the detail and was comprehensive enough to allow for effective bid preparation. In some cases, however, it was too prescriptive leaving bidders with very little scope to innovate in their methodology.

Recommendation 12 (High)

Future preparation of LFA-TP solicitations should take into account past lessons from the evaluations of LFAs.

114 The solicitation document provided for the introduction of multipliers as part of the cost criteria. The various reviews of multipliers proposed in the work order proposals revealed a very high degree of non compliance with the multiplier instructions and such a diverse interpretation of the concept by different firms as to make the term virtually meaningless in practice. The solicitation documentation in this regard was not clear and allowed bidders to interpret the multiplier in a way that benefitted them rather than the Global Fund. As a result, the solicitation documents were not structured comprehensively enough and they were not rigorous enough to facilitate accurate and complete responses from prospective contractors. As a result, solicitations resulted in inconsistent, non-comparable responses (see paragraphs 127-128 for further details). There were other flaws in the evaluation criteria (see paragraph 129).

115 The Global Fund provided for the electronic submission of bids. The process for the receipt of tenders in both electronic and paper form was carefully controlled. The addresses provided for submission of proposals included a private address of a Global Fund staff member. The use of a staff member's private mail box was inappropriate in as far as it revealed the identity of the officer in charge of the process and made them susceptible to lobbying/influence peddling. Also having proposals submitted to a staff members' mail box also reduces control over the bids received. Bid opening did

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not happen with representatives of the bidders present as is the case in most procurement best practice for the QCBS method.

Recommendation 13 (Requires attention)

Submission of proposals should only be to a special email account created for the LFA TP. Access to this email account should be controlled.

The Solicitation Process - Evaluation

All TEC members received some training and were provided with an instructions manual on how to undertake the evaluations of proposals received. However, training for TEC members did not focus on what to look for, what to reward and penalize. TEC members did not also understand the interplay between the technical and financial proposals. This resulted in inconsistencies in the evaluations undertaken. The use of the multiplier concept as part of the tender evaluation criteria proved to be overly complex and unsuitable for the wide range of types of LFA competitors.

116 Although evaluation methods vary, the contract award process should ensure that LFA suppliers' proposals are responsive to the Global Fund's needs, are consistently and objectively evaluated, and contracts are awarded fairly to responsible suppliers. Without proper awarding practices, there is little assurance that the Global Fund is selecting the most qualified supplier at the best price.

Key Audit Criteria

Evaluation panels should be formally appointed, constituted with proper ToRs and trained for the task.

117 The CPU provided training to TECs and was on standby for any committee that required guidance throughout the technical evaluations. Further, CPU staff were available to respond to questions posed by TEC members. However, meaningful criteria for the review of proposals were not established. Reviewers training did not focus on what to look for, reward and penalize. They also did not understand the interplay

between the technical and financial proposals. TEC members did not know what their limits were in as far as they felt constrained in sharing concerns about the performance of incumbent LFAs.

118 There were inconsistencies with the evaluations noted and these included:

- (a) Uneven quality of technical teams inputs to the cost evaluation process;
- (b) Few technical reviewers provided high quality analyses and some did not understand their advisory role at all;
- (c) Comments tended to be more conclusory than analytical;
- (d) Some conclusions were contradictory with different results emerging from analysis of similar scenarios.

119 The results of the evaluation sometimes resulted in scores that did not reflect the TEC members' true feelings. Evidence of this was seen where TEC members expressed reservations after an award was made and wanted the decision revoked. Instances where a well performing incumbent LFA was ranked the lowest against competitors showed that the written proposals may not have been ideal in determining true performance capability.

Recommendation 14 (Significant)

Before starting work, all TEC members should receive training and understand (a) their role; (b) the rating and scoring system; (c) how to use the tools provided for evaluation; (d) what were their boundaries i.e. what they can do and can't do during the evaluation process; (e) how to evaluate the proposals; and (f) how to report their results.

120 In an effort to obtain best value the Global Fund introduced the multiplier concept as part of the cost evaluation methodology. The multiplier applies indirect

Key Audit Criteria

The evaluation criteria for selecting contractors, either low cost/technically acceptable, or best value, are tailored to meet the objectives of the procurement plan

costs and profits to the labor costs to give the chargeable rate for services to be provided by a consultant. The intention was to gain insight into the underlying costs and profits of competing firms. In theory, this would provide the Global Fund with the means to compare the proposals from the various suppliers to see which ones were offering the fairest price. It would also help control costs by fixing the costs.

121 While the multipliers were meant to fix costs, it often resulted in higher costs. The Global Fund only defined the content of the calculation of the multiplier. In many cases, the proposed multiplier was stated as being 1 but the salaries were increased thus increasing the total costs. Some suppliers reduced their multipliers and simultaneously increased their salaries thus not having made any change in the rate. In other cases, multipliers were established for almost all the proposed staff making comparison difficult. In some cases, the multiplier proposed was less than 1 and this implied that Global Fund rates were subsidized by the service provider and therefore did not cover the staff's salary.

122 The work order proposals produced variations to multipliers. By way of illustration, one offeror had submitted multipliers of 11.58, 15.03 and 23.49 without providing adequate justification. In another case three firms which proposed the same health expert in a particular country, applied widely ranging multipliers (1.91, 2.15 and 4.60). Another example is where a multiplier of 1 was proposed against a daily rate of US\$ 3,500 per day. This implies that the staff costs amounted to US\$ 840,000 annually.

123 In practice, what happened was a number of suppliers misinterpreted how to construct the multiplier. In cases where information provided was unclear, inconsistent, inaccurate or incomplete, reviewers had the challenge of figuring out what the bidder meant and making necessary adjustments. Some bidders made transparent attempts to subvert the intent of multipliers by revising salaries to include the costs that should be reflected in the multiplier. However, there was no policy on how such matters should be addressed.

124 This created doubt as to the reliability of the multiplier concept as one of the cost evaluation criteria. The Global Fund then decided to halt the process and call for an external review. The external review of the cost evaluation results was conducted by Ernst and Young (E&Y). In their report, E&Y emphasised the deficiencies of the cost evaluation components, namely the average salary rates, multipliers and the illustrative work orders. E&Y stated that the application of cost evaluation components was so complex that it posed the risk of different interpretations and “errors being made throughout the LFA retender”. E&Y recommended that all technically qualified offerors be awarded framework contracts and taken forward to the work order competition phase. This ran counter the two-stage competition process which was widely publicised and was reflected in the provisions of the request for proposals endorsed by the CRC.

125 This review was followed by a limited scope internal review conducted by the OIG. This review revealed two shortcomings in the cost evaluation approach applied:

- (a) Two key criteria used in the cost evaluation related to the provision by offerors of basic salary rates and illustrative work orders. However, the offerors were not required to commit to using the salary rates and other cost related components in the subsequent work order competition phase. Without such a commitment it was not meaningful, in OIG’s view, to use these criteria in the cost evaluation of the proposals submitted at the framework stage.
- (b) Assessment of the multipliers submitted by offerors - the third major criterion used in the cost evaluation - would have been more realistic if measured against benchmarks that should have been established by the Secretariat. Benchmarks are standard acceptable rates or estimates for the cost elements in proposals, namely salaries/consultant fees, levels of effort, multipliers etc, established by an organization to set maximum rates or ceilings which it uses to evaluate/judge the reasonableness of cost submissions. In the absence of benchmarks for the criteria used in the cost evaluation, the Global Fund would appear to donors and stakeholders as not cost-conscious; and it would give the impression that the “sky is the limit” when it comes to paying for LFA services.

126 These reviews revealed that the cost methodology was flawed since there was no commitment to stick to the costs that were proposed. As a result of these reviews, the Global Fund decided to discard the cost evaluation results and progress all competitors forward who had achieved a minimum threshold on their technical scores by awarding them an IQC. This is contrary to procurement best practice as it could be

viewed as “shifting of goal posts” since best practice dictates that once a selection method is selected and specific provisions of the procedures included in the RFP, the evaluation must be carried out strictly in accordance with them. However, the decision to move away from the original method, in OIG’s view, was prudent and demonstrated the Global Fund’s concern that the process be fair, transparent and objective given that the application of the cost evaluation methodology originally envisaged would have produced misleading results. The effect on the timeline of the LFA-TP was a delay of at least four months.

Recommendation 15 (High)

Given the diversity of the cost structures of the LFAs (partnerships, not-for-profits, small closely held firms) the multiplier concept does not provide an objective means of assessment of cost and should not be used as part of any future cost evaluation methodology.

The Solicitation Process - Contracting

127 Contracts for the purchase of services must be formal, written documents. Contracts should (i) protect the interests of the agency, (ii) identify the responsibilities of the parties to the contract, (iii) define what is to be delivered, and (iv) document the mutual agreement, the substance, and parameters of what was agreed upon.

128 As a result of the LFA TP, the Global Fund awarded Indefinite Framework Contracts (IQCs⁶) to 14 successful offerors to perform services in one or more countries in a region. The IQC specified the countries that the offeror was pre-qualified to offer LFA services. The award of the IQC however did not create any obligation on the part of the Global Fund to procure services from the offeror nor did it entitle the offeror an exclusive right to supply services to the Global Fund in the country they were prequalified in. There was a work order competition that was then undertaken among the holders of IQCs for countries to select the LFA for a specific country. 11 Firms were selected at this stage. However, this did not mean that the other offerors could not offer services in the countries that they were pre-qualified for.

129 The IQC stage was delayed due to the concerns raised about the cost methodology. The Secretariat then engaged EY to conduct an independent review of the cost methodology which review concluded that the methodology had the potential of producing misleading results. All offerors that passed the technical stage moved to the work order competition stage which meant that there were more offerors and competition at this stage. The Secretariat developed a revised cost methodology for

⁶ An IQC is a contract with a broad scope of work that provides for an indefinite quantity within stated limits of supplies or services to be furnished during a fixed period with deliverables of performance to be scheduled by placing delivery orders, task orders or work orders with the contractor.

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the work order competition of the LFA TP which process was completed in August 2008. As already mentioned, the decision to move away from the original method, was prudent and demonstrated the Global Fund's concern that the process be fair, transparent and objective.

- 130 The Legal team was instrumental in providing advice to the LFA SC throughout all phases of the LFA-TP. There were numerous inputs to the new LFA contracts which will provide FPMs with better grant-related decision making information, particularly in the programmatic areas. The contracts signed with the LFAs complied with best practice and met all the following criteria:
- Key Audit Criteria**
- The contract should provide adequate protection to the Global Fund including the means to adjust the contract.
- (a) Description of the methods of payment, payment schedules, and escalation factors;
 - (b) Limiting Global Fund's liability for work performed before or after the contract's scope.
 - (c) Containing LFA performance standards, performance incentives and/or clear penalties and corrective actions for non-performance, with a dispute resolution process.
 - (d) Containing inspection and audit provisions.
 - (e) Including provisions for contract termination.
 - (f) Including provisions for contract renegotiation and/or price escalations if applicable.
 - (g) Tying payments to the acceptance of deliverables or the final product, if possible.
 - (h) Containing all standard or required clauses as published in the RFP. The contract may also incorporate the RFP itself.
 - (i) Containing appropriate signatures, approvals, acknowledgements, or witnesses.
 - (j) As necessary, allowing for legal counsel's review of the legal requirements for forming the contract, which may include a review of the contracting process; legal sufficiency of the contract; the contract terms.

131 Once the WO contracts have been awarded, two sets of negotiations take place with the LFA. The first Global Fund negotiation is conducted by the FPM who has responsibility for that particular country. These negotiations concern the level of effort (as measured in number of days) required to perform a specific LFA service under the WO contract. Once the level of effort negotiation has been completed, the related financial negotiation is conducted by the CPU contract specialists. No benchmarks had been established to guide level of effort negotiations. FPMs are expected to know what an appropriate LoE range for any particular service is from their experience and previous dealings with LFAs. Some teams have also developed benchmarks for their regions. The development of systematic LFA cost benchmarks would assist in the negotiation process.

Recommendation 16 (High)

- (a) *The LFA TP process should be better streamlined and simplified so it is less resource intensive for both Global Fund staff and the competitors alike. Consideration should be given to establishing a prequalified bidders' list in order to avoid the resource intensive two-stage competitive process.*
- (b) *The process should be started early enough to avoid the compressed time frame under which the current LFA-TP had to operate.*
- (c) *There should be intensive technical evaluation training provided and consideration should be given to establishing a pool of experienced evaluators to ensure consistency amongst Regional TECs.*

Moving towards Best Value

Global Fund management was unable to determine whether best value was achieved due to the lower than expected response to the LFA TP; lack of information for benchmarking and no past information against which to compare past performance of LFAs.

132 There are numerous factors which affect the probability of whether or not best value will be obtained through a competitive contracting process. Best value is generally defined in contracting terms as the tradeoff between price and performance that provides the greatest overall benefit under the specified selection criteria. It results in the best combination of price and technical qualifications and allows for one to look beyond just price to make sure that the best supplier is awarded the contract based on a number of factors that are not included on a price only comparison.

133 In the Global Fund policy, the factors that are considered for value for money are when (a) the direct and indirect costs of the goods/services over the whole procurement cycle; (b) the quality and fitness for purpose of the goods/services to be procured; (c) the proposed supply time-frame for the goods/services; (d) the performance history of each prospective supplier and the strategic importance and/or risks of engaging particular suppliers; (e) the appropriateness of contracting options (for example, contract extension options); and (f) the potential risks associated with the procurement of the goods/ services. However, there are two main ones - the price paid and how well the contractor performs in terms of satisfying the contract specifications. The paragraphs below highlight the challenges both the Secretariat and OIG faced in determining whether the LFA TP process resulted in best value for the Global Fund.

134 While determining best value for professional services contracts is difficult, it is fair to say that a good response volume to an RFP helps to provide a better base to select from. The higher the number of good technical proposals provides a better base to evaluate the technical and price trade off which in turn leads to best value. Unfortunately, there was an inadequate response to the RFP-IQC as only 27 suppliers including the 6 incumbents submitted proposals for 121 countries. The basic assumption behind the decision to hold an open competition is to attract a sufficient number of competitors to assure that market forces are at play. This was not the case and therefore it is uncertain whether best value was obtained from the price perspective.

135 Another problem in determining whether the Global Fund got best value from the price perspective was the lack of comparative cost information (benchmarking information). Without benchmarking information for similar services in the same countries in which LFAs operate, there is no way to compare the price the Global Fund is paying for LFA services with any service of a similar nature. Again, whether best value is being attained is difficult to discern.

136 One of the reasons for introducing the multiplier concept was to provide cost visibility insight with respect to the underlying costs and profits of competing firms. In theory, this was to provide the Global Fund with an opportunity to gain perspective on the fairness of the prices being charged by various supplies. Having this knowledge would at least provide insight into the price which is half of the best value equation. However, the multiplier submissions by a number of suppliers cast doubt on the reliability of the information and therefore provided little if any useful information for best value determination.

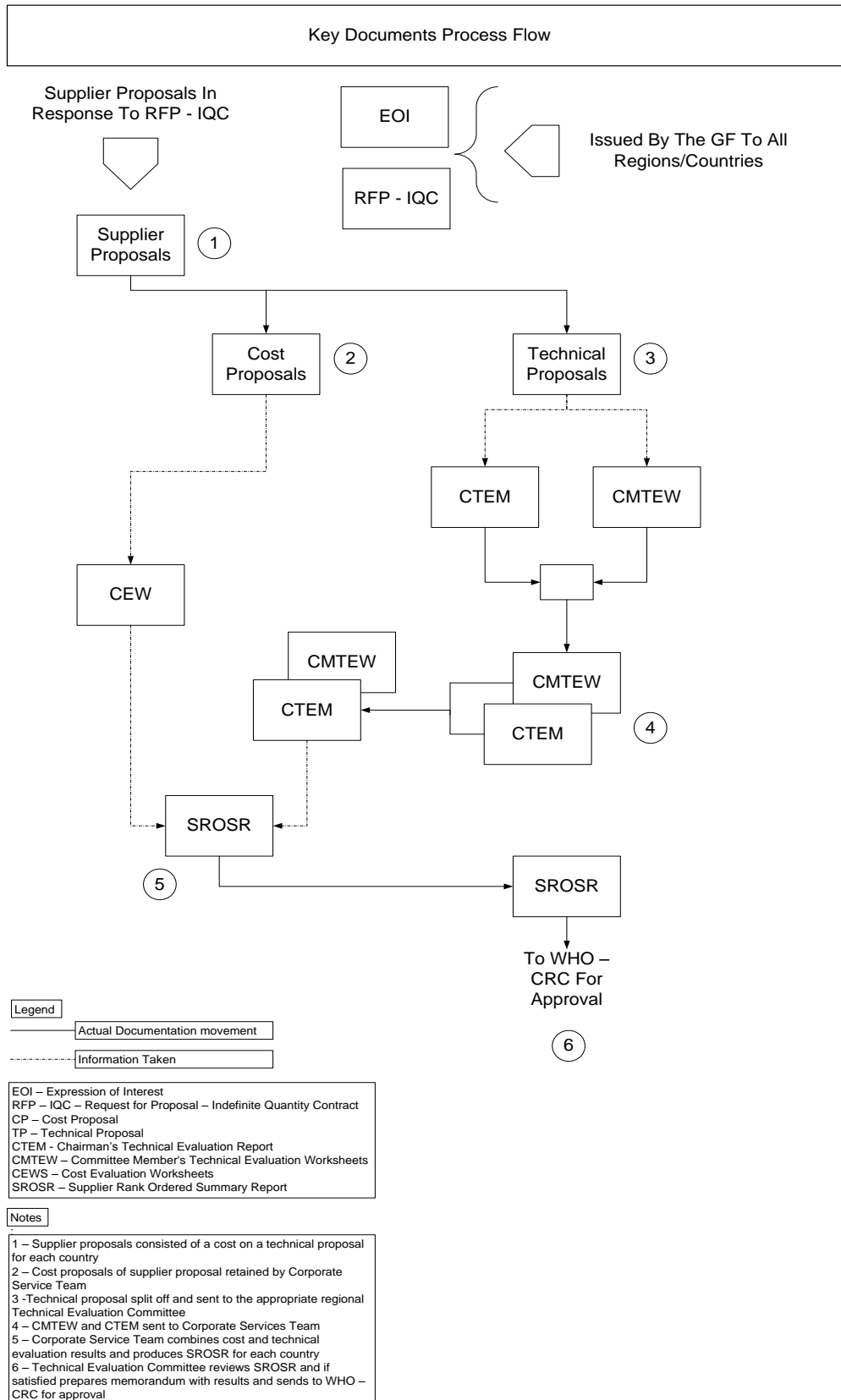
137 The Global Fund values technical capability more than cost. However, assessing satisfaction with the LFA technical performance was not possible because a formal performance evaluation system was only introduced with the new LFA contracts. Therefore, comparing even the technical performance of the incumbent LFAs was not possible without any information from a formal performance measurement system.

Recommendations 17 (High)

Moving towards obtaining best value will more reliably be determined when the Global Fund undertakes the following actions:

- (a) It is essential for the Global Fund to direct greater effort at increasing competition amongst potential LFA service providers to improve the probability of obtaining best value.*
- (b) Benchmarking information must be developed for the same or similar services in the same countries in which the Global Fund operates. There are a number of options to develop this information. It would be advisable to undertake this effort at the same time the Global Fund makes any further decision regarding LFA diversification efforts.*
- (c) The Global Fund should ensure that that the information from the new performance evaluation system is compiled in such a fashion that performance standards can be developed. The performance standards developed should provide the means to effectively evaluate the relative performance of LFAs with due consideration given to the different circumstances in which the LFAs operates. High performing LFAs will clearly be ranked higher in terms of the technical side of the best value equation. Where LFA prices are comparable, the high performing LFA will obviously represent best value.*

Appendix A: Tender Process Flowchart



Appendix B: Chronological order of the process

	Key event
2007	
23 April	Issue Of Expression of Interest (EOI)
27 April	Board Decision - guiding principles for LFA-TP
14 May	LFA-SG meets for the first time
23 May	Closing date for submitting comments on the notice and expressing interest to be included in the “Interested Offeror List”- date later extended to 18 then 29 June
2 July	Manager CPU sends draft RFP-IQC to CRC and gets favorable comments
31 Aug	RFP-IQC Amendment 1- release of RFP-IQCs that had to be translated to Spanish & French
9 Sep	RFP- IQC Amendment 2 - allow all offerors to submit by email or hard copy, extended closing date from 21 Sep to 5 October for some Regions
25 July	RFP-IQC issued
21 Sept	Original closing date for RFP-IQC Submissions
Sep - Nov	Global Fund conducts technical and cost evaluations
15 Nov	LFA WOs due to expire
Dec	Global Fund meets with CRC and Global Fund point out cost and technical methodology to be “best practice”
18 Dec	CRC memo to Global Fund: CRC clears the first four Regional IQC, noting that the good quality of the process
End Dec	Initial schedule completion date of IQCs
2008	
25 Jan	Global Fund (CPU) submits memo to CRC stating it was unable to make awards to certain firms (countries) because they “submitted incomplete and/or totally unreasonable multipliers. Global Fund recommends offerors be given an opportunity to submit revised proposals or the detailed basis on which multipliers were based
Feb -March	E&Y then OIG examine IQC cost evaluation process
23 April	Global Fund sent a memo to CRC seeking the following: <ul style="list-style-type: none"> • Permission to extend existing WOs to 31 Dec 08. Plan to have new IQCs signed by 30 April & handovers by 31 Aug no longer possible; • Approval to request pre-qualified bidders to submit best and final multiplier rates; • Approval to award IQCs to bidders which shall incorporate their best and final multiplier rates, or multiplier rate previously provided, as maximums; • Approval to solicit and evaluate bids for WO from pre-qualified bidders based on methodology provided.
28 April	CRC responded to Global Fund: <ul style="list-style-type: none"> • Granting all approvals requested by Global Fund;

Appendix B: Chronological order of the process

	Key event
	<ul style="list-style-type: none">• Requesting Global Fund to provide for review and approval a randomly selected sample of WOs including a summary of the evaluation process followed to select the preferred bidder.
2 June	RFP -WO issued
7 July	Closing Date for WO Submissions
7August	Global Fund Memo to CRC
20 August	CRC Memo to Global Fund
Aug -Sep	Evaluations Completed
2009	
6 July 2009	125 out of 132 work orders signed

Appendix C: List of people interviewed

	Name	Position
Global Fund Staff		
1.	Orion Yeandel	CSC - Senior Contracts Specialist
2.	Riana Napitupulu	CSC - Senior Contract Specialist
3.	Heather Allan	Director - CSC
4.	Eelco Szabo	Legal Officer
5.	Bill Paton	Director CPC
6.	Oren Ginzberg	CP Policy Manager
7.	Paula Hacopian	Senior CP Policy Officer
8.	Linden Morrison	Regional TL - East Africa
9.	Taufiqur Rahman	Regional TL - S&W Asia
10.	Elmar Vinh-Thomas	Regional TL - East Asia
11.	Andreas Tamberg	FPM -Eastern Europe
12.	Michael Byrne	LFA Manager
13.	Susanne Reichelt	Program Officer
14.	Helen Evans	Deputy Executive Director
15.	Barry Greene	Chief Financial Officer
16.	Ian Carter	Financial Controller
17.	Ruwan de Mel	Director SP& EC
18.	Hind Khatib Othman	CPC - Unit Director
Former Global Fund Staff		
19.	Ines Garcia-Thoumi	Director CSC
20.	Issa Matta	Senior Legal Officer
21.	Bart Migone	Legal Counsel
22.	Katherine Ryan	LFA Manager
23.	Sabine Gabriel	CSC - Contracts Manger
24.	Nosa Orobato	Director Operations (Now Country Programs)

People external to the Global Fund

	Firm Name	Name	Position
LFAs			
25.	PricewaterhouseCoopers	Gil Sivyer	Director
26.	KPMG LLP	Timothy A. Stiles Lori A. McLaughlin	Partner Partner
27.	UNOPS	Bernhard Schlachter Armen Chobanyan	Director LFA Regional Coordinator
28.	Swiss Tropical Institute	Kasper Wyss	Project Manager
29.	FJP Management Engineering	Alieu Secka	Resident Director

Appendix C: List of people interviewed

30.	Finconsult	Firouz Afrouz	
Others			
31.	WHO CRC	Gian Luca Burci	Legal Counsel
		Nick Jefferies	Comptroller
		George Axmann	Secretary CRC
32.	World Bank	Peter Easley	CEG Team
33.	US Government Contract Specialist	John Taber	Consultant

1. **European Health Group Report** - There were three recommendations that directly related to the LFA-TP:

1. ***“Upcoming competitive tendering process should provide equal footing for ‘health-plus’ and ‘finance-plus’ LFA types and Global Fund must ensure strong management focus on programmatic issues and emphasize health skills”:***

- The Secretariat agreed with both parts of this recommendation and complied by emphasizing all aspects of the recommendation the LFA-TP documents.

We found that the solicitation documents focused intensely on the programmatic and health skills in its solicitation and evaluation processes.

2. ***“Guidelines in the areas of LFA Handover; PR Handover, and Grant Closure should be developed as soon as possible. In view of the upcoming competitive tender a clear hand over policy will be vital.”***

- The Secretariat again agreed and noted that the policy/guideline on grant closure had been developed and was expected to be approved in May 2007.

OIG found that WG-D in support of the LFS-SC was charged with the responsibility of developing the policy. The product from the WG was a checklist for FPMs and Program Officers (Pos) to allow them to successfully manage the 41 handovers that were expected to be completed between September and December 2008. Included with the check list were a number of pre-prepared planning documents including an SOW for the Out-going LFAs. We found that checklist was prepared using a risk-based approach. The RFP-IQC does include a section that clearly spells out the LFA's responsibilities with respect to handovers on the termination of the contract.

3. ***“The Global Fund should develop a consistent over all approach to quality management of the LFA contracts. This effort should build on, expand and bridge the performance evaluation system developed by PSP; the system in Finance for scoring of PUDRs based upon errors and level at which it occurs; and assessments of LFA in-country method (of both programmatic and financial review) for incorporation into the performance evaluation process.”***

- The Secretariat acknowledged the need for a more systematic and standardized performance evaluation process of LFAs. It further stated that priority had been given to the development and implementation of this process. It went on to say that the TORs for LFAs that will apply when services are retendered are being revised to better define the outcomes expected. This will also extend to clearly defining the methods to be used by LFAs when providing the services.

Further, as part of the Overarching performance Evaluation Framework the Secretariat will make systematic standardized assessments of the quality of LFAs' services as matter of policy. As a purchaser of performance-based services, the Global Fund will ensure that the new LFA framework contracts (IQCs) will include quality standards as well as incentives for LFAs to ensure services meet those standards.

2. The OIG found that there has been an effort to better define the outcomes expected. The detailed SOW in the LFA contracts now clearly addresses:

- i) Work performed before Program Implementation
- ii) Verification of Implementation;
- iii) Work Performed at key points during the grant lifecycle; and,
- iv) Additional Services.

Each of these activities is defined in-depth in the SOW by providing a description as to Background and Purpose, Timeframe, Scope of Work, Expected Outputs, and a reference to Tools and Guidelines.

The OIG found that the requirement for performance evaluation has been introduced in the LFA contracts. Through the contract, LFAs are made aware that their performance will be monitored and evaluated on an on-going basis and a mid-term performance review is to be done in accordance with a set of quality standards set out in the contract.

3. **The GAO Report** - The GAO report made two recommendations as follows:

1. *Establish standard expectations for LFA performance; and*
2. *Require systematic assessments of LFA performance and the collection and analysis of LFA performance data to improve the management and oversight of LFAs.*

4. The Secretariat's published response indicated that it agreed with the report's findings and recommendations on the need to:

- a. To establish standardized expectations for LFAS' performance and to require the systematic assessment of LFA performance. It stated that the quality of the LFA's work products and performance is periodically reviewed by individual FPMs, and the Secretariat provides feedback to LFAs. However, it agreed that this assessment needs to be more systematic and transparent. The Secretariat stated that it had already commenced work on developing performance standards and measuring and that the

GAO report reinforced the importance of the initiative and that these standards would form part of the retendering of LFA services due to commence in 2007; and,

b. To ensure all future LFAs have access to high quality procurement and programmatic skills, to enable them to better deliver on the oversight of grants performance.

This review found that the GAO recommendations were addressed throughout the various stages of the LFA-TP and have been imbedded in the framework contracts.

5. Internal Review of the LFA Model - The overall conclusions of the survey that were most closely related to the tendering process included:

- The majority of staff perceive the LFA Model as appropriate;
- Health , M&E and programmatic expertise of LFAs do not meet expectations of Global Fund staff;
- Financial, reporting, and M&E, procurement and analytical skills are evaluated as most critical skills;
- Deficiencies in LFA skills appear to be smallest in the domain of finance, and largest in health and management;
- Communications, conflict resolution, performance appraisal and feedback are perceived as critical skills for collaboration with LFAs;
- Training needs on LFA roles and tools, as well as management of outsourced relationships.

The OIG acknowledges progress in most areas identified in the survey.

The OIG Report

6. This OIG report on the “Internal Audit of the Local Fund Agent Services” was issued on 30 May 2007. The key findings of this report with respect to the LFA-TP are similar to others yet there were two to which the Secretariat agreed, that were not implemented in IQC contracts:

- The Secretariat agreed “that the new contract arrangements will favour a fixed fee approach. However, this will only apply to the more predictable and standardized services. Other services will need to be contracted on and LoE basis.” The OIG found there were no fixed fee rates in the current IQC contracts.
- The OIG report stated that “Some of the information sought during this audit was not provided by the contractors. The Contractor referred OIG staff to the Secretariat for information or refused to share information on the premise that the information was “internal” and not a formal part of the delivery to the

client.” The Secretariat agreed there was a problem and stated that “The responsibility for LFAs to respond to audit and related requests needs to be clarified in the new framework Contracts.” This may have been overlooked as the OIG has recently discovered that one LFA firm will not allow OIG to photocopy LFA working papers. The matter has been referred to the GLOBAL FUND Legal Staff.

7. There was also the review of the Limited Scope review of the LFA Tender Process. This review was undertaken after the EY review. This report was issued to the Secretariat. The findings of this report were to be included in the more detailed review that was to be undertaken later. The findings in this report have been involved in the work of this assignment.

MANAGEMENT RESPONSE

INTRODUCTION

The Office of the Inspector General issued its final draft review of the Local Fund Agents Tendering Process (the Review) to the Secretariat on 30 July 2009.

This document is Management's response to the OIG's 17 recommendations as detailed in the Review.

Management would like to thank the OIG for its thorough review of the LFA tendering process that was carried out during 2008. In addition, Management was pleased that it had the opportunity to provide detailed comments on an earlier draft and appreciates the fact that it felt able to accommodate many of them.

The OIG's Review will enable Corporate Procurement in particular to build upon what it did during the 2008 LFA-TP and using the lessons learned, improve future large scale complex procurements.

RESPONSE

For ease of reference, Management has structured its response to each of the recommendations in tabulated form. The table shows the main section from the OIG report, the recommendation, Management's response, the accountable owner, and when the actions can be expected to be implemented.

Should there be further questions concerning the response or if there is any feedback from OIG, Management would be delighted to have the opportunity of discussing further.

OVERVIEW OF THE RECOMMENDATIONS

Management feels that many of the recommendations put forward by the OIG are valid. Indeed many of the recommendations are in-line with Management's evolving thinking and will help in developing an improved LFA tendering process in the future.

In particular, Management would like to comment upon a number of themes raised which will be actioned as described in the more detailed comments in the Response and Action Plan:

The Secretariat's management response to the Office of the Inspector General, based upon its Review of the Local Fund Agents Tendering Process

a) Procurement Strategy

The OIG recommends that the Global Fund should develop a procurement strategy for all its major and / or complex procurements. Management felt it particularly useful that the OIG outlined a number of criteria it would expect from such a strategy, and this list will be used and built upon in future procurements;

b) Diversity

The OIG identified the Board's wishes to diversify the LFA base, whilst acknowledging the fact there should be an expression of interest stage to pre-qualify service providers, thus improving the efficiency of the work at the evaluation stage.

The 2008 LFA tender attracted 27 bids from organizations as diverse as traditional audit companies to in-country service providers which given the scope of services is considered diverse by Management. The final selection of 14 LFAs was more diverse from the 6 LFAs active before the tender, with 41 countries changing LFA. Management recognizes the difficulties that the OIG is highlighting and will continue to balance the management of risk and best value against the desire to have a more diversified LFA base;

c) Value for Money

The OIG gives a number of suggestions that the Secretariat should undertake in order to move towards best value, including increasing competition, benchmarking, and performance evaluation. Management will use these criteria and more to develop recommendations based upon Total Cost of Ownership, so that The Global Fund LFA contracts fulfill our requirements at lowest risk to us, whilst at the same time being commercially competitive.

In addition, it is clear from the OIG report that processes need to improve, including efficiency and increasing capacity to undertake complex tendering exercises such as the LFA tendering process.

Management would also like to acknowledge 3 other points raised by the OIG concerning the 2008 LFA-TP when compared to previous arrangements:

- (d) The current contracts are much more robust in meeting the Global Fund's needs in relation to programmatic issues when compared to the narrow scope of LFA services in the previous contracts;

The Secretariat's management response to the Office of the Inspector General, based upon its Review of the Local Fund Agents Tendering Process

- (e) The LFA-TP attracted a greater diversity in potential service providers that showed an interest in undertaking the LFA role than was in the case in the past LFA TP process;
- (f) The 2003 rates used as the basis for payment over the past 5 years have been changed from what was either a "complex rate" or a "routine rate". Since there was no definition of which services qualified for complex or routine rates in the 2003 contracts, a serious problem existed over the life of these contracts. This was rectified by the 2008 LFA tendering process

Finally, in its conclusion the OIG states that "the LFA-TP process followed best practice that promotes fairness, transparency and objectivity.... This decision was prudent and demonstrated the Global Fund's concern to maintain the integrity of the LFA-TP. Further improvement needs to be made to make the process more efficient, economic and effective in future."

Management is pleased with this statement and recognizes it can make improvements. We look forward to developing and expanding on many of the recommendations made by the OIG in order to achieve excellence in the procurement of LFA services.

Heather Allan

Corporate Services Cluster Director

31st August 2009

Management Response and Action plan to the recommendations made within the Office of the Inspector General's Review of Local Fund Agent Tendering Process

Annex 2

Contents Section	Recommendation	Response and action	Responsible official	Completion date
<p>Procurement Strategy</p> <p>A procurement strategy should be developed that identifies the best way of obtaining LFA services. It should also incorporate the Board's strategic guidance in regard to the LFA TP.</p>	<p><i>Recommendation 1 (High)</i></p> <p>(a) <i>The Global Fund should develop a procurement strategy for all its major and/or complex procurements. Criteria for procurements that require procurement strategies should be included in the Global Fund procurement regulations. Such a strategy should address the procurement objective, an analysis of the market capability to meet the procurement objectives, communication and reporting, oversight and quality assurance of the process, analysis of risks inherent to the process, options for tendering and contracting, Secretariat capability to handle the process etc.</i></p>	<p>Management agrees with this recommendation.</p> <p>Whilst a procurement strategy was in place, improvements can be made</p> <p>Where the procurement is not deemed complex, we would still expect a strategy, although the level of detail would be less. Guidelines for a procurement strategy will be published on the Corporate Procurement website.</p> <p>In addition to those points identified in 1 (a) by the OIG, Corporate Procurement would expect to include sections on understanding the business needs, the mechanism for how any tender or other exercise will be carried</p>	<p>Corporate Procurement Unit Director (CPUD) in consultation with the LFA team within Country Programmes and where relevant an LFA Steering Group</p>	<p>On-going with publication of the guidelines by 31/12/2009</p>

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	<p>(b) <i>In the event that the Secretariat sets up a steering committee to manage future LFA TPs, consideration should be given to:</i></p> <ul style="list-style-type: none"> • <i>Elevating the chairmanship of this important committee to an appropriately senior level;</i> • <i>Defining clearly the roles and responsibilities for all key stakeholders;</i> • <i>Development of checks and balances for the process including reporting to the EMT;</i> • <i>Communication between Secretariat stakeholders etc.</i> 	<p>out, the agreed evaluation criteria, a project plan detailing the timings and who would be accountable and responsible for carrying out various procurement activities.</p> <p>A Steering Group would be established from relevant clusters under sufficiently senior leadership, eg DED.</p> <p>The day to day process of LFA tendering will be led by the Corporate Procurement Unit Director (CPUD).</p> <p>As part of best procurement practice, clearly defined roles & responsibilities, reporting and a communication plan will be included in the procurement strategy.</p>		
Procurement Strategy	<p>Recommendation 2 (Significant)</p> <p>(a) <i>In order to satisfy the Board's wishes to diversify the LFA base, the Global Fund should conduct a risk based</i></p>	<p>Management agrees with this recommendation.</p>	<p>CPUD in consultation with the LFA team</p>	<p>On-going with completion by 31/12/2009</p>

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	<p><i>analysis before the next LFA TP to determine:</i></p> <ul style="list-style-type: none"> • <i>Whether the costs and benefits of the diversifying the LFA base makes sense;</i> • <i>Whether diversification should be pursued or not based on the risk situation in specific countries(the status quo may be the preferred option);</i> • <i>Where the best probability exists to diversify the LFA base;</i> • <i>What development efforts and costs would be incurred to develop the markets in both the high and lower probability countries;</i> • <i>What are reasonable targets in terms of LFA diversification; and</i> • <i>What options are there are as to how to develop greater diversity in the LFA</i> 	<p>This detail will be included in the Procurement Strategy document.</p> <p>Management agrees that to reach a conclusion on an acceptable level of diversity of suppliers a review of the supply market and a risk/benefit analysis must be undertaken.</p>	within Country Programmes	
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	<p><i>base.</i></p> <p><i>(b) Diversification of the LFA base can only be justified if it results in a better quality of LFA services and lower costs. As part of the subsequent procurement strategy, a cost benefit analysis should be undertaken to determine whether it is worthwhile to invest the time and money to diversify the LFA base and whether it is likely to have the desired impact on the quality of the LFA services and costs. This will help inform decision making related to this matter in the future</i></p>			
<p>Risk Management</p> <p>Management should identify major risks likely to compromise the success of the tender process and development of mitigation plans to address such risk.</p>	<p>Recommendation 3 (High)</p> <p><i>A risk management plan should be developed as part of the procurement strategy for all major and/or complex procurements undertaken by the Global Fund. While risk mitigation strategies may not fully address the risks, they reduce the negative impact of</i></p>	<p>Management agrees with this recommendation.</p> <p>Many of the risks were identified and documented during the LFA tender.</p> <p>However a formal risk plan would as per the answers above be a part of any complex procurement</p>	<p>CPUD in consultation with the relevant Secretariat stakeholders</p>	<p>On-going with completion by 31/12/2009</p>

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	<i>such risks. Further, identifying risks at the beginning of the process forces management to think carefully about how such risks can be partially, if not fully mitigated, through improved process design</i>	strategy to be developed.		
Definition of Roles There should be clearly defined roles, authorities, accountabilities and interfaces between the various entities/committees/individuals involved in directing and managing the LFA process.	Recommendation 4 (Significant) <i>The effectiveness of the different players in the governance structure of a complex procurement should be strengthened by a comprehensive definition of ToRs and roles, responsibilities and authorities of the committees involved in the procurement process. The interfaces between the different stakeholders should be defined. These should be communicated to all stakeholders. The leadership and membership of screening committees should be carefully considered by senior management. Management should also ensure that oversight and quality assurance measures of the process are put</i>	Management agrees with this recommendation. It is acknowledged that there was a level of ambiguity at the outset of the project, but this was rectified at the second stage when formal roles were defined. When defining roles & responsibilities a Project Management tool known as a RACI, well known within Procurement and which defines who is Responsible, Accountable, Consulted and Informed during a project, may be used to describe the participation of all individuals involved in the process.	CPUD, guiding the Steering Committee where relevant; implemented by Corporate Procurement and Country Programmes	Defining roles & responsibilities within the Secretariat has started for major procurements and is on-going.

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	<i>in place to detect and resolve issues that can hold up or compromise the process.</i>	During the project initiation phase, the RACI model would be fully explained with all roles defined and documented.		
<p>Communication Strategy</p> <p>A communication strategy should be developed to ensure that all participants within the governance structure are clear as to their responsibilities for both internal and external communications</p>	<p>Recommendation 5 (Requires attention)</p> <p><i>Any complex procurement project should be supported by a clearly enunciated and comprehensive communication strategy which is applied in practice. Authority to engage in external communications should be clearly stated in the strategy. Regular internal communications should be maintained with all senior management and all steering committee members particularly with high risk aspects of the process and where sharing of information is necessary to promote the efficiency and effectiveness of the process. Open communications should be encouraged wherever possible so that members are made aware of any issues which could</i></p>	<p>Management agrees with this recommendation.</p> <p>As acknowledged by the OIG there was a communication strategy in place, however it was not comprehensive.</p> <p>For future major procurements a media & communication strategy will be used and incorporated into the Procurement Strategy, taking into account the recommendations made by the OIG that key information needs to be shared with appropriate stakeholders at specific times.</p>	CPUD guiding different senior stakeholders identified within the procurement process	On-going with completion by 31/12/2009

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	<i>jeopardize the integrity or effectiveness of the process.</i>			
Procurement Policies There should be comprehensive policies to guide LFA retender process.	Recommendation 6 (Significant) <i>The Global Fund should in its new procurement policy take cognizance of and make provisions for the different types of services that require different sourcing, procurement and contracting practices and procedures. The procurement policy should provide general direction, detail all mandatory actions and should designate approval authorities and dollar limits for various procurement actions and should specifically address the acquisition of professional service contracts.</i>	Management partly agrees with this recommendation. Corporate Procurement takes account of different types of services that are procured dependent upon risk, complexity & value. However this does not lend itself to be formalized in the procurement policy or regulations. New delegation of authority approval limits have been implemented.	CPUD	Some actions already implemented. Strategy and guidelines to be published by 31/12/2009
Capacity to manage the LFA-TP All units and /or committees should have adequate capacity (numbers and skills) to direct and manage the tender work. All committees should	Recommendation 7 (Significant) (d) <i>All non contracts personnel involved in large/ complex procurement processes should be trained on their respective roles.</i> (e) <i>The CSC capacity should also be increased when</i>	Management agrees with this recommendation. In addition, this should not be limited to those outside of Corporate Procurement, but should include all those identified as having a role	(a) CPUD in conjunction with other relevant Secretariat functions (b) CPUD with	On-going with completion by 31/12/2009

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plan to acquire any additional support they may require e.g. technical, procurement, legal etc	<p><i>there are highly voluminous, complex and/or major procurements.</i></p> <p>(f) The Global Fund should consider dividing the LFA-TP process into batches and staggering the LFA TP of the batches over time. It would ensure quality of the process as more time can be dedicated to working with the details of proposals.</p>	<p>to play in the tendering exercise.</p> <p>Management recognizes that there is a capacity issue and is actively rectifying through recruitment.</p> <p>Management thanks the OIG for this idea and will consider the details of how there can be a staged approach to the LFA retendering exercise.</p>	<p>the CSC Director</p> <p>(c) CPUD on consultation with different Secretariat senior stakeholders</p>	
<p>Planning for the LFA-TP</p> <p>There should be a plan that spans all process stages from project initiation through solicitation to contract management.</p>	<p>Recommendation 8 (Significant)</p> <p>(a) CSC should prepare a detailed plan for all major procurements detailing how the procurement strategy will be implemented. This plan should cover the following:</p> <ul style="list-style-type: none"> Measures (tasks and deliverables) to control the process and ensure it stays on track; Identification of milestones and identification of key 	<p>Management agrees with this recommendation.</p> <p>Corporate Procurement believes that this recommendation is aligned to Recommendations 1 & 2 and thus the actions to be addressed have already been identified.</p>	<p>CPUD in consultation with the LFA team within Country Programmes and where relevant an LFA Steering Group</p>	<p>On-going with completion by 31/12/2009</p>

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	<p><i>decision points for tracking success;</i></p> <ul style="list-style-type: none"> • <i>Identification and development of mitigation plans for major risks likely to curtail the success of the LFA TP. Such risks include complexity, scale, the length and rigidity of the timescales for implementation, anticipated number of bidders, impact on Secretariat if most of the LFAs were to change etc.</i> • <i>Realistic timescales and opportunities for streamlining the process to ensure that the process stays on schedule. There should be a critical path developed.</i> • <i>A comprehensive complaints handling mechanism for dealing with complaints in an equitable manner;</i> • <i>Media strategy on the best media to use for</i> 			
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	<p><i>desired impact;</i></p> <ul style="list-style-type: none"> • <i>Proper process for sharing information and/ or upward feedback to the Secretariat management;</i> • <i>Proper review mechanisms for documents and approvals at decision points;</i> • <i>Analysis of the various options available for running the LFA TP and undertaking a cost benefit analysis determine the best approach.</i> <p><i>(e) Planning should include the preparation, review and approval of key documentation such as solicitation documents.</i></p> <p><i>(f) Planning should cover all the stages of the process i.e. solicitation, evaluation, contracting and contract administration. It should also cover the review and approval of methodologies proposed for suitability in</i></p>			
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Management Response and Action plan to the recommendations made within the Office of the Inspector General's Review of Local Fund Agent Tendering Process

	<p><i>the LFA TP.</i></p> <p><i>This plan should be reviewed and approved by management.</i></p>			
<p>The LFA-TP solicitation process - EOI stage</p>	<p>Recommendation 9 (Significant)</p> <p><i>The Global Fund should use the EOI stage to pre-qualify service providers i.e. identify and shortlist organizations that can be invited for the RFP stage in cases where a large number of organizations are expected to bid. This will reduce the volume of work and improve quality of work at the evaluation stage of the LFA TP</i></p>	<p>Management partly agrees with this recommendation.</p> <p>It is important to ensure that all pre-selection criteria allow for a balance between a smaller supplier base for evaluation purposes and the requirement to demonstrate openness and transparency.</p> <p>The procurement regulations contain a definition of when an EOI stage should be used [3.6.3.(d)]. Procurement is a strong advocate of pre-selection when appropriate.</p> <p>It also recognizes that the Board wishes to create a more diverse LFA supplier base [decision point</p>	<p>CPUD in consultation with the LFA team within Country Programmes</p>	<p>Completed</p>

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		GF/B15/DP50].		
<p>The LFA-TP solicitation process - EOI stage</p> <p>There should be a media strategy that details the best way to create awareness and attract interest about the LFA-TP</p>	<p><i>Recommendation 10 (Requires attention)</i></p> <p><i>The Global Fund should develop a comprehensive media strategy and put it in practice for major procurements detailing the best way to create awareness and attract interest about the LFA-TP in the different regions at a minimum cost. Bidders' conferences should be held for all complex assignments like the LFA-TP since they provide information, promote interest and encourage more potential suppliers to compete so as to enhance the possibility achieving best value</i></p>	<p>Management partly agrees with this recommendation.</p> <p>Creating awareness will be part of the procurement strategy.</p> <p>Management wishes to register its caution over bidders' conferences as they can be burdensome on all parties. There are alternatives to disseminating all the necessary information in a transparent and efficient manner.</p> <p>Management does recognize the need to detail awareness and attract interest, and believes that in attracting 27 bids it did so effectively. Exactly how this will be done in the future will be a part of the overall Procurement Strategy but will certainly</p>	<p>CPUD and other relevant stakeholders</p>	<p>On-going with completion by 31/12/2009</p>

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		involve utilising Global Fund knowledge of the local markets.		
<p>The LFA-TP solicitation process - requisition for proposal stage</p> <p>The Global Fund should have an appropriate selection methodology for the LFA-TP</p>	<p><i>Recommendation 11 (High)</i></p> <p><i>The Global Fund should develop as part of its policy, criteria for identification of an optimal method of selection. Where QCBS is used, appropriate allocation of marks between technical and cost should be considered. This will usually call for the Global Fund to carefully define the assignment, particularly the scope and possible consequences for the services offered, the nature of the project etc, before deciding on the appropriate selection method.</i></p>	<p>Management partly agrees with this recommendation.</p> <p>At the last LFA-TP, The Global Fund was constrained by WHO rules governing its procurement process. The 2008 LFA-TP was approved by the WHO Contract Review Committee.</p> <p>In future, Management believes that the first stage selection criteria should be technically based. All LFAs that meet the necessary criteria based upon quality and service can then be put forward for negotiation.</p> <p>The selection team should then use its judgment taking into consideration the risks/benefits of awarding a contract to a LFA.</p>	CPUD in consultation with the LFA team within Country Programmes	On-going with completion by 31/12/2009
The LFA-TP	<i>Recommendation 12 (High)</i>			

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solicitation process - requisition for proposal stage	<i>Future preparation of LFA-TP solicitations should take into account past lessons from the evaluations of LFAs.</i>	Management agrees with this recommendation.	CPUD in consultation with the LFA team within Country Programmes and senior management	Completed
The LFA-TP solicitation process - requisition for proposal stage	<p>Recommendation 13 (Requires attention)</p> <p><i>Submission of proposals should only be to a special email account created for the LFA TP. Access to this email account should be controlled.</i></p>	<p>Management disagrees with this recommendation.</p> <p>Management does not consider that this recommendation reflects best practice.</p> <p>One of the concerns raised by the OIG was that Corporate Procurement may be susceptible to lobbying/influencing if the individual is named. However relationships exist between LFAs and Corporate Procurement (and other key stakeholders). We have adequate safeguards in place to ensure that the named individual cannot have a deciding affect on</p>	CPUD	Not Applicable.

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		<p>the outcome.</p> <p>This is the same whether for LFA negotiations as it is for other vendor relationships.</p> <p>Best practice within the procurement profession identifies an individual to be the contact point within each solicitation, examples being World Bank, Thomson Reuters.</p> <p>OIG's response Good internal control stipulates that there should be segregation of duties where no person should be given responsibility for more than one related function. The recommendation does not question having a contact person by mitigates the risk associated with using the contact person's personal email where control over the opening of bid cannot be as well controlled.</p>		
The Solicitation Process - Evaluation	<i>Recommendation 14 (Significant)</i>			

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<p>Evaluation panels should be formally appointed, constituted with proper ToRs and trained for the task.</p>	<p><i>Before starting work, all TEC members should receive training and understand (a) their role; (b) the rating and scoring system; (c) how to use the tools provided for evaluation; (d) what were their boundaries i.e. what they can do and can't do during the evaluation process; (e) how to evaluate the proposals; and (f) how to report their results</i></p>	<p>Management agrees with this recommendation.</p> <p>Currently when evaluation panels are appointed, roles are clarified and training is given by Corporate Procurement to ensure consistency of scoring during the evaluation process.</p>	<p>CPUD in consultation with the LFA team within Country Programmes</p>	<p>Completed</p>
<p>The Solicitation Process - Evaluation</p> <p>The evaluation criteria for selecting contractors, either low cost/technically acceptable, or best value, are tailored to meet the objectives of the procurement plan</p>	<p>Recommendation 15 (High)</p> <p><i>Given the diversity of the cost structures of the LFAs (partnerships, not-for-profits, small closely held firms) the multiplier concept does not provide an objective means of assessment of cost and should not be used as part of any future cost evaluation methodology</i></p>	<p>Management partially agrees with this recommendation.</p> <p>The multiplier concept was used to ascertain the true costs to different organizations and was an established approach taken from other organisations.</p> <p>Corporate Procurement accepts that this complicated the tender process whereby neither the LFAs nor the evaluators fully understood the purpose of the multiplier.</p>	<p>CPUD in consultation with the LFA team within Country Programmes and other stakeholders</p>	<p>Completed</p>

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		It is not Management's intent to use the multiplier in future tenders. However it is always ill-advised to rule out such an approach at any time.		
<p>The Solicitation Process - Contracting</p> <p>The contract should provide adequate protection to the Global Fund including the means to adjust the contract.</p>	<p>Recommendation 16 (High)</p> <p>(a) <i>The LFA TP process should be better streamlined and simplified so it is less resource intensive for both Global Fund staff and the competitors alike. Consideration should be given to establishing a prequalified bidders' list in order to avoid the resource intensive two-stage competitive process.</i></p> <p>(b) <i>The process should be started early enough to avoid the compressed time frame under which the current LFA-TP had to operate.</i></p> <p>(c) <i>There should be intensive</i></p>	<p>Management agrees with this recommendation.</p> <p>Management agrees with the OIG that the LFA TP process should be simplified and starts with adequate timing to complete the tender process.</p> <p>The pre-qualified suppliers list has been discussed in particular under Recommendations 9 & 11, and is in itself part of a 3-stage selection process: pre-qualify, short list, negotiate, as is best practice.</p> <p>The intensive technical evaluation training has been dealt with under</p>	<p>Senior representation from CSC, Country Programmes and other relevant parties</p>	<p>On-going</p>

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	<i>technical evaluation training provided and consideration should be given to establishing a pool of experienced evaluators to ensure consistency amongst Regional TECs.</i>	Recommendation 14.		
Moving towards best value	<p>Recommendations 17 (High)</p> <p><i>Moving towards obtaining best value will more reliably be determined when the Global Fund undertakes the following actions:</i></p> <p>(d) It is essential for the Global Fund to direct greater effort at increasing competition amongst potential LFA service providers to improve the probability of obtaining best value.</p> <p>(e) Benchmarking information must be developed for the same or similar services in the same countries in which the Global Fund</p>	<p>Management agrees with this recommendation.</p> <p>Management feels that optimizing value for The Global Fund is at the heart of what it is trying to achieve, ie considering the Total Cost of Ownership (all direct and indirect costs of the goods/services over the whole procurement cycle) as per the Procurement Principles section of the Procurement Policy.</p> <p>There is always a trade-off between attracting greater competition and maintaining the necessary quality & service standards.</p>	CPUD in conjunction with the Steering Committee where appropriate and in conjunction with Country Programmes' senior management	On-going.

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	<p><i>operates. There are a number of options to develop this information. It would be advisable to undertake this effort at the same time the Global Fund makes any further decision regarding LFA diversification efforts.</i></p> <p><i>(f) The Global Fund should ensure that that the information from the new performance evaluation system is compiled in such a fashion that performance standards can be developed. The performance standards developed should provide the means to effectively evaluate the relative performance of LFAs with due consideration given to the different circumstances in which the LFAs operates. High performing LFAs will clearly be ranked higher in terms of the technical side of the best value equation.</i></p>	<p>Benchmarking is carried out by Corporate Procurement in conjunction with Country Programmes through reporting and at negotiation stages of the tender evaluation.</p> <p>Working in partnership with Country Programs on shared responsibility for quality delivered by the LFAs will ensure that information is shared and decisions can be made based upon agreed performance measures.</p>		
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	<i>Where LFA prices are comparable, the high performing LFA will obviously represent best value.</i>			
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