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The Global Fund

To Fight AIDS, Tuberculosis and Malaria

Electronic Report to the Board

B22/ER/05

**REPORT OF THE INDEPENDENT APPEALS PANEL FOR ROUND 10 PROPOSALS
9 MARCH 2011**

PURPOSE:

This report sets out the recommendations of the independent Appeals Panel following its review of the appeals received by the Secretariat for the funding decision on Round 10. It also proposes one (1) decision point as follows:

B22/EDP/12:

- 1. The Board approves funding for the Round 10 Ethiopia Tuberculosis proposal for the Phase 1 Period of up to USD 21,107,334, as a 'Category 2' proposal recommended by the Independent Appeals Panel, with the clear understanding that the amount approved is an upper ceiling rather than a final funding amount and subject to satisfactory completion by the applicant of the requirements set out in paragraph 2 below:***
- 2. The applicant shall:***
 - a) Provide an initial detailed written response to the clarifications and adjustments requested by the Independent Appeals Panel not later than six weeks after the receipt of the notification in writing by the Secretariat to the applicant of this Board decision; and***
 - b) Complete any further clarifications or adjustments, as required by the Chair or Vice-Chair of the Technical Review Panel, not later than three months from the Secretariat's receipt of the applicant's initial detailed response to the issues raised for clarifications or adjustments.***

This decision does not have material budgetary implications for the 2011 Operating Expenses Budget.

Part 1: Background

1.1. During its Twenty-Second meeting, the Board approved for funding 79 of the 150 eligible disease proposals and 11 of the 28 attached cross-cutting Health Systems Strengthening (HSS) requests (Section 4B/5B) that were reviewed by the Technical Review Panel (TRP) in Round 10¹. Of the 71 disease components and 17 cross-cutting HSS requests not recommended for funding, 21 disease components and six cross-cutting HSS requests had applied to but not been recommended for funding in Round 9². According to the Rules Governing the Global Fund's Appeal mechanism for Applications Not Approved for Funding (Appeal Rules)³, having not been recommended for funding in two consecutive Rounds, these 21 components and six cross-cutting HSS requests were eligible for appeal.

1.2. The applicants for all 21 disease components and six cross-cutting HSS requests were informed of the Board's funding decision and their right to appeal. The TRP comments regarding their application ("TRP Review Form"), the rules governing the appeal mechanism and the standard form "Appeals Form" for completion by the applicant were enclosed with the notification letter.

1.3. According to the Appeal rules, an appeal can only be made on the grounds that the TRP made a **significant and obvious error** regarding the information contained in the proposal not approved for funding. Applicants must demonstrate this error based on the proposal that was reviewed by the TRP, and no new information or new justification may be introduced in an appeal.

1.4. The Secretariat received six appeals, of which one was for malaria, one for tuberculosis, and four for HIV/AIDS. Details of the appeals submitted and the Appeals Panel recommendations are set out in Annex 1 to this report.

Part 2: Eligibility Review

2.1. The Secretariat's Screening Review Panel reviewed all six appeals received for compliance with the eligibility criteria set by the Board. Accordingly, appeals must be for the same disease component which has been rejected by the Board in two consecutive Rounds of proposals; an appeal must be received by the Secretariat within a specific deadline; applicants must provide grounds for the appeal, and applicants must provide a written endorsement of the appeal by the Country Coordinating Mechanism (CCM) (where applicable).

2.2. The Screening Review Panel determined that all Round 10 appeals received were eligible for review by the Independent Appeals Panel:

- **Peru, Malaria**
- **Ethiopia, Tuberculosis**
- **Moldova, HIV/AIDS (dedicated reserve for HIV/AIDS most-at-risk populations)**
- **Sub-CCM Sudan (Southern Sector), HIV/AIDS**
- **Uganda, HIV/AIDS (disease part only)**
- **Yemen, HIV/AIDS**

¹ The Board decision "Approval of Round 10 Proposals" (GF/B22/DP27).

² In the case of one applicant (CCM Madagascar), the cross-cutting HSS request was not recommended in the First Learning Wave (FLW) of National Strategy Applications (NSA).

³ Please refer to the Rules Governing the Global Fund's Appeal Mechanism available at: <http://www.theglobalfund.org/en/trp/appeals/>

Part 3: Appeals Panel Composition and Appeal Review Process

3.1. In line with Global Fund policy, the Appeals Panel was comprised of three experts nominated by Roll Back Malaria, the Stop TB Partnership and UNAIDS in close collaboration with the respective WHO HIV/AIDS, Tuberculosis and Malaria departments, and two members (one cross-cutter and one disease expert) of the TRP. The experts designated by the technical partners did not represent these organizations in any capacity, but served in their personal capacities as experts in reviewing proposals. The TRP members were neither primary nor secondary reviewers of the proposals under appeal. Given the importance of the credibility of the Appeals Panel (and its decision), the Panel and Secretariat ensured there were no real or perceived conflict of interest.

3.2. The Appeals Panel met in Geneva on 4 March 2011 to review the six eligible appeals.

3.3. To facilitate the review process, Appeals Panel members were provided with the following documentation prior to the meeting: appeal papers received from applicants, the relevant TRP Review Form, and all relevant Round 10 Proposal documentation.

3.4. For each of the Round 10 appeals, the Appeals Panel reviewed and deliberated on each of the major and minor weaknesses identified in the “TRP Review Form” in conjunction with the grounds enumerated in the Appeals Form to determine whether the TRP had made a significant and obvious error in its judgment of the relevant information contained in Round 10 proposal as that proposal was comprised at the time of proposal review by the TRP.

3.5. In line with Global Fund policy, the Appeals Panel did not consider any new information or justification provided by an applicant. Only explanatory material (detailed reasons justifying the Appeal) referring to an original proposal for Round 10 was considered by the Appeals Panel.

3.6. All decisions by the Appeals Panel were reached by consensus.

Part 4: Summary of Deliberations on Round 10 Appeals

Moldova - HIV/AIDS (dedicated reserve for HIV/AIDS most-at-risk populations)

4.1. Given that the Global Fund Board strongly recommended that proposals from ‘lower-middle’ and ‘upper-middle’ income applicants should clearly demonstrate increasing government contribution when applying through the dedicated reserve for HIV/AIDS most-at-risk populations (GF/B21/DP18), and noting that the TRP was to take this into consideration when recommending a proposal for funding, the Appeals Panel found that the TRP correctly identified the decreasing Government contribution over the proposal lifetime as a major weakness.

4.2. In addition, the Appeals Panel found that the TRP had correctly identified the other major weaknesses and issues in the proposal. The Appeals Panel found that, based on the information provided to the TRP, the complementarity or additionality of the Round 10 proposal to existing grants was not adequately described. The Panel also agreed with the TRP’s comment that the ARV procurement and ART screening for initiation and adherence monitoring were not clearly articulated. The Appeals Panel further found that the description of the strategies to address the legal and enabling environment which can affect the implementation of the proposed activities was insufficient.

4.3. In summary, the Appeals Panel did not identify any significant or obvious error on the part of the TRP in its review. The Panel therefore endorsed the TRP's findings and concurred with the classification of the proposal as a "Category 3 Proposal".

Sub-CCM Sudan (Southern Sector) - HIV/AIDS

4.4. The Appeals Panel found that the TRP had correctly identified major weaknesses and issues in the proposal. In particular, the Appeals Panel agreed that:

- The proposal lacked a clear, logical or coherent strategy for project implementation, but instead presented a non-cohesive, long list of interventions for a complex setting;
- Concerns expressed with regards to the feasibility of implementing the large number of proposed activities in a weakened health system environment were justified; and
- The proposal depended heavily on external consultants and offered limited opportunities for building sustainable local capacity.

4.5. The Appeals Panel did not identify any significant or obvious error on the part of the TRP in its review and therefore endorsed the TRP's findings and concurred with the classification of the proposal as a "Category 4 Proposal".

4.6. In view of the fundamental nature of the weaknesses identified by the TRP, and given the particular health systems context, the Panel encourages the appellant to address the TRP's comments and follow the TRP's recommendation to submit an HIV/AIDS proposal only after there is sufficient implementation experience and lessons learned from the Round 9 HSS grant.

Uganda - HIV/AIDS part only

4.7. The Appeals Panel found that the TRP correctly identified the key strengths of this proposal and also agreed with the major weaknesses and issues identified by the TRP. In particular, the Appeals Panel noted the following:

4.8. For the first Major Weakness, the Appeals Panel acknowledged that the appellant correctly pointed out an error with regards to the definition of under-spending. However, the Panel found that the concerns expressed by the TRP in relation to the lack of demonstration of the country's absorptive capacity were fully justified, particularly taking into account the considerable amount of funds remaining for the lifetime of the Round 7 grant.

4.9. The Panel supported the TRP's finding that the commodities gap analysis was inadequate and agreed with the TRP that, given that commodities represented 94% of the budget, any inaccuracy in the commodities projections would have a major impact on the proposal budget. The Panel also noted differences in the versions of the commodities gap analysis provided as an annex to the Appeals Form and the version that was available at the time of TRP review.

4.10. Lastly, the Panel found that the TRP's concerns regarding enhancing social and gender equity and human rights and their implications on the soundness of approach as determined by the TRP were well founded.

4.11. Although the Appeals Panel found one error in the TRP's definition of under-spending, the Panel concluded that, on balance, this was not significant enough to overturn the classification of the proposal from a "Category 3 Proposal". The Appeals Panel therefore upholds the TRP's recommendation.

Yemen - HIV/AIDS

4.12. The Appeals Panel agreed with the appellant that the TRP made an error in pointing out that there was insufficient epidemiological data and found that the TRP made a contradictory statement in the TRP Review Form on this issue. However, the Panel agreed with all other major weaknesses identified by the TRP. In particular:

4.13. The Appeals Panel agreed with the TRP that there was a considerable lack of detail in the proposal in relation to the objectives, service delivery areas, main activities and strategies. The Panel also agreed that the links between the epidemiological data and the proposed strategies were unclear, which led the Panel to question whether the available data were appropriately used in the development of proposal activities.

4.14. While the Panel agreed with Major Weakness 6, it acknowledged that the TRP could have formulated its comment more clearly to emphasize that what was missing was not a justification of the appropriateness of the interventions proposed, but rather the details on how and where these would be operationalized and implemented.

4.15. The Panel acknowledged that the TRP made an error in including Technical Assistance costs in the calculation of the salary for 66 staff. However, the Appeals Panel found that the TRP was right to point out that the combination of Human Resources and Technical Assistance costs constituted a large portion of the budget, and to question whether this was the most appropriate use of resources.

4.16. Although the Appeals Panel found one contradiction in the TRP's comments, as noted in paragraph 4.12 above, the Panel concluded that, on balance, this was not significant enough to overturn the classification of the proposal from a "Category 3 Proposal". The Appeals Panel therefore upholds the TRP's recommendation.

Peru - Malaria

4.17. The Appeals Panel concurred with all the major weaknesses identified by the TRP. The Panel found that the appellant failed to demonstrate that the TRP had made a significant or obvious error, and did not present any valid grounds for appeal.

4.18. The Panel further noted that there will be a window to submit a stand-alone HSS proposal for eligible countries under Round 11, and emphasized the importance of demonstrating clear links between disease programs and HSS interventions.

4.19. The Panel therefore endorsed the TRP's findings and concurred that this proposal should not be recommended for funding as a "Category 3 Proposal".

Ethiopia - Tuberculosis

4.20. The Appeals Panel found that there were a number of inaccuracies concerning the major weaknesses (part of 1, 2, part of 3) identified in the "TRP Review Form" and that the TRP had misclassified the remaining weaknesses (4 and 5); taken together, these constituted a significant and obvious error by the TRP:

- While the TRP was right to express concern about the feasibility of the proposed scale-up in light of the current capacity constraints and system weaknesses, the Appeals Panel found that the TRP made an error in interpreting the information provided in the proposal regarding the number of patients that were expected to be diagnosed and treated, and the projected number of MDR-TB cases detected.
- The Panel concurred with the appellant that the proposal did not include a request to fund warehouses and health centers.

- The Panel agreed with the appellant that the TRP misunderstood the nature of the expansion of activities of health extension workers (HEW), but the Panel found that the TRP was right to express concern about the pace of the scale-up. In addition, the Panel also agreed with the TRP that the proposal did not include sufficient evidence - based on lessons learned from the implementation of Round 6 - to support the scale-up of HEW activities and the other proposed interventions.
- The Panel concluded that issues related to the level of support to the Private Sector could be addressed through clarifications and therefore did not constitute a major weakness.
- The Panel found that the arguments presented by the applicant in response to Major Weaknesses 5 a) and b) were justified and found that Major Weaknesses 5 c) and d) were also issues that could have been addressed through clarifications.

4.21. Recognizing that a number of issues and concerns raised by the TRP need to be addressed prior to funding, the Appeals Panel found that this proposal had two major weaknesses and some minor weaknesses, and considered that these did not justify the TRP's classification of this proposal as a 'Category 3'.

4.22. The Appeals Panel therefore recommends that the appeal be upheld, and that the proposal be reclassified as a "Recommended Category 2 Proposal", subject to successful completion of the following clarifications to the satisfaction of the TRP:

- 1) Evidence of the feasibility of the scale-up of all proposed interventions must be provided, based on the experience from Round 6, and the expansion plan, including targets and costs, must be revised as appropriate based on this evidence.
- 2) Indicators should be added in the Performance Framework to monitor effective management of MDR-TB (correct diagnosis, appropriate treatment, cure rate).
- 3) A detailed review of the budget must be undertaken, including all unit costs, lump sums, international consultant costs. The applicant must also respond to the points raised under Major Weakness 5.

Part 5: Lessons Learned

TRP Review Forms

5.1. The Appeals Panel commended the heightened drafting and quality assurance efforts undertaken by the TRP with regards to the TRP Review Forms. The Panel believes that this may have contributed to the fact that fewer appeals were submitted in Round 10.

5.2. The Panel encourages the TRP to continue using clear and precise wording and consistent definitions for major and minor weaknesses in the TRP Review Forms.

Space and page limits in the Proposal Form

5.3. The Appeals Panel noted instances where the appellants argued that the space allotted and page number limits in the Proposal Form did not allow for them to describe interventions and activities in detail. In general, the Panel did not find this argument well founded but nevertheless recommends that countries be given clearer guidance as to the appropriate length, level of detail and focus of the narrative sections of the Proposal Form.

Appeal documentation

5.4. The Appeals Panel reminds applicants that, according to the Global Fund's Appeal Rules, "no new information or new justification to what was contained in the proposal may be introduced in an Appeal". In this regard, the Appeals Panel recommends that appellants only refer to proposal documents and refrain from attaching new annexes to the Appeals Form.

5.5. If an annex is provided or cited within the Appeals Form, appellants must make sure that it is the same version of the document that was provided to the TRP during its initial review of the proposal.

Appeals Panel deliberations

5.6. The Appeals Panel notes that the Appeals review process would be further strengthened were Appeals Panel members to individually prepare their recommendations on each appeal in written form ahead of the in-person meeting.

5.7. The Appeals Panel requests that the Board takes this into account in the allocation of time and resources to the Appeals review process and requests Secretariat support in elaborating a template form to capture the Appeals Panel members' written feedback.

TRP Clarifications Process for successful appeals

5.8. Given that the "TRP Review Forms" for proposals rated "Category 3" or "Category 4" do not include specific clarifications or adjustments, the Appeals Panel recommends that the TRP reviewers responsible for the TRP clarifications process for successful appeals be given the possibility to identify additional issues for clarification or adjustment prior to the start of the process.

Part 6: Recommendation of Appeals Panel

6.1. The Appeals Panel recommends that the Board accept the Ethiopia Tuberculosis appeal and approve this Round 10 proposal for funding as a "Recommended Category 2 Proposal", subject to the completion of the clarification process within the same Board-established timeframes applied to all Round 10 "Recommended Category 2 Proposals", with the clear understanding that amounts requested is an upper-ceiling rather than the final Phase 1 grant amounts.

6.2. The Board's approval is sought for the amount of **US\$ 21,107,334**, as indicated under "Two-year upper-ceiling recommended by the Appeals Panel" in Annex 1 to this report.

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Annex 1

List of Round 10 Eligible Appeals Submitted and Recommendations of the Appeals Panel

APPEALS RECOMMENDED FOR FUNDING BY THE APPEAL PANEL								
No.	Applicant type	Applicant	Disease	Income level (from Annex 1 in Round 10 Guidelines)	WHO Region	Global Fund Regional Team	Two-year upper ceiling recommended by the Appeal Panel	Lifetime upper ceiling (up to 5 years) recommended by the Appeal Panel
CATEGORY 2								
1	CCM	Ethiopia	Tuberculosis	Low	AFRO	EAIO	\$21,107,334	\$82,169,387
Total: Category 2 (Appeal recommended for funding)							\$ 21,107,334	\$ 82,169,387
APPEALS NOT RECOMMENDED FOR FUNDING BY THE APPEAL PANEL								
No.	Applicant type	Applicant	Disease	Income level (from Annex 1 in Round 10 Guidelines)	WHO Region	Global Fund Regional Team	Two-year upper ceiling funding requested	Lifetime upper ceiling (up to 5 years) funding requested
CATEGORY 3								
2	CCM	Moldova (Republic)	HIV MARPs	Low er-middle	EURO	EECA	\$3,849,298	\$12,491,713
3	CCM	Peru	Malaria	Low er-middle	AMRO	LAC	\$2,835,863	\$7,741,937
4	CCM	Uganda	HIV part	Low	AFRO	EAIO	\$55,834,292	\$217,300,859
5	CCM	Yemen	HIV part	Low	EMRO	MENA	\$9,788,930	\$25,654,893
CATEGORY 4								
6	Sub-CCM	Sudan South	HIV	Low er-middle	EMRO	MENA	\$65,528,320	\$135,697,425
Total: Category 3 and 4 (Appeals not recommended for funding)							\$ 137,836,703	\$ 398,886,827
Total: Eligible appeals funding request							\$158,944,037	\$481,056,214

Global Fund Regional Teams

EAP	East Asia and Pacific
EA	East Africa & Indian Ocean
EECA	Eastern Europe & Central Asia
LAC	Latin America & The Caribbean
MENA	Middle East & North Africa
SA	Southern Africa
SWA	South West Asia
WCA	West and Central Africa

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