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Report No: 34002-KE

PROJECT APPRAISAL DOCUMENT

ON A

PROPOSED CREDIT

IN THE AMOUNT OF SDR 52.9 MILLION
(US$80 MILLION EQUIVALENT)

TO THE

REPUBLIC OF KENYA

FOR A

TOTAL WAR AGAINST HIV AND AIDS PROJECT

MAY 9, 2007

Human Development 1
Eastern Africa 2
Africa Region

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CURRENCY EQUIVALENTS

Currency Unit = Kenya Shilling
Ksh 70 = US$1

FISCAL YEAR

July 1 – June 30

ABBREVIATIONS AND ACRONYMS

ACTAfrica	AIDS Campaign Team for Africa
ACU	AIDS Control Unit
AIDS	Acquired Immune Deficiency Syndrome
AMREF	African Medical and Research Foundation
ANC	Antenatal Clinic
ATG	ARCAN Training Of Trainers (TOT) Graduates
ARCAN	African Regional Capacity Building Project for HIV and AIDS Prevention, Care & Treatment
ARV	Anti-retroviral Therapy
BCC	Behavior Change Communication
CACC	Constituency AIDS Control Committee
CAS	Country Assistance Strategy
CBO	Community-Based Organization
CBK	Central Bank of Kenya
CCT	Conditional Cash Transfer
CDC	Center for Disease Control
CIDA	Canadian International Development Agency
COBPAR	Community-Based Program Activity Reporting System
CSA	Country Social Analysis
CfP	Call-for-Proposal
CSO	Civil Society Organizations
CSW	Commercial Sex Worker
CVA	Compliance Verification Agent
DARE	Decentralised Reproductive Health and HIV and AIDS Project
DFID	U. K. Department for International Development
DIR	Detailed Implementation Review
DOT	Directly Observed Treatment
DTC	District Technical Committee
EMU	Efficiency Monitoring Unit (Office of the President)
EoI	Expression of Interest
ERS	Economic Recovery Strategy
ESEP	Economic and Social Empowerment Project
FBO	Faith-Based Organization
FMA	Financial Management Agent
FMR	Financial Monitoring Report

FPE	Free Primary Education
FPESP	Free Primary Education Support Project
FY	Fiscal Year
GAC	Governance and Anti-Corruption
GAMET	Global Monitoring and Evaluation Team
GAP	Governance Action Plan
GDF	Global Drug Facility
GFATM	Global Fund to Fight HIV and AIDS, TB and Malaria
GJLOS	Governance Justice Law, Order and Security
GLIA	Great Lakes Initiative on HIV and AIDS
GOK	Government of Kenya
GSPK	Governance Strategy for Building a Prosperous Kenya
HAPAC	HIV and AIDS Prevention and Care Project
HBC	Home-Based Care
HIV	Human Immuno-Deficiency Virus
ICB	International Competitive Bidding
ICC	Inter-agency Coordinating Committee
ICR	Implementation Completion Report
ICT	Information and Communication Technologies
IDU	Intravenous Drug Users
IEG	Independent Evaluation Group
IFC	International Finance Corporation
IFMIS	Integrated Financial Management Information System
IMF	International Monetary Fund
INT	Department of Institutional Integrity
IP	Investment Program
IRCB	Institutional Reform and Capacity Building Project
ITN	Insecticide Treated Net
JAPR	Joint HIV and AIDS Program Review
JFA	Joint Financing Agreement
JIR	Joint Institutional Review
KACC	Kenya Anti-Corruption Commission
KDHS	Kenya Demographic and Health Survey
KEMSA	Kenya Medical Supplies Agency
KfW	Kreditanstalt für Wiederaufbau
KHADREP	Kenya HIV and AIDS Disaster Response Project
KNAO	Kenya National Audit Office
KNASP	Kenya National HIV and AIDS Strategic Plan
LLITN	Long Lasting Insecticide Treated Nets
LQAS	Lot Quality Assurance Sampling
MAM	Management Action Matrix
MAP	Multi-Country AIDS Program
MCG	Monitoring and Coordination Group
MDA	Ministry, Department and Agency
MDG	Millennium Development Goal

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M&E	Monitoring and Evaluation
MIGA	Multilateral Investment Guarantee Agency
MIS	Management Information System
MOE	Ministry of Education
MOF	Ministry of Finance
MOH	Ministry of Health
MOHA	Ministry of Home Affairs
MOPND	Ministry of Planning and National Development
MOST	Ministry of Science and Technology
MOT	Ministry of Transport
MP	Member of Parliament
MSM	Men Having Sex With Men
MTCT	Mother-To-Child-Transmission
MTEF	Medium-Term Expenditure Framework
NACC	National AIDS Control Council
NASCOP	National AIDS and STD Control Program (Ministry of Health)
NBK	National Bank of Kenya
NCB	National Competitive Bidding
NCTIP	Northern Corridor Transport Improvement Project
NGO	Non-Governmental Organization
OP	Office of the President
OVC	Orphans and Vulnerable Children
PCN	Project Concept Note
PEPFAR	President's Emergency Plan for AIDS Relief
PLWA	People Living With HIV/AIDS
PMA	Procurement Monitoring Agent
PMI	Presidential Malaria Initiative
PMTCT	Prevention of Mother-to-Child Transmission
PPR	Procurement Post Reviews
PRGF	Poverty Reduction and Growth Facility
PSO	Private Sector Organizations
PWC	Price Waterhouse Coopers
QAG	Quality Assurance Group
QK	Africa Operational Quality and Knowledge Unit
RBM	Results Based Management
RfP	Request for Proposals
SBD	Standard Bidding Documents
SIDA	Swedish International Development Agency
SOE	Statement of Expenditure
STD	Sexually Transmitted Disease
STI	Sexually Transmitted Infection
SWAp	Sector Wide Approach
TB	Tuberculosis
ToR	Terms Of Reference
TOWA	Total War Against HIV and AIDS

UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNFPA	United Nations Fund for Population Activities
UNGASS	United Nations General Assembly 26th Special Session Document
UNICEF	United Nations Children's Emergency Fund
USAID	United States Agency for International Development
VCT	Voluntary Counseling and Testing
WB	World Bank
WDI	World Development Indicators
WHO	World Health Organization

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Sector Manager:	Dzingai B. Mutumbuka
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KENYA
Total War Against HIV and AIDS Project

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KENYA

TOTAL WAR AGAINST HIV AND AIDS PROJECT

PROJECT APPRAISAL DOCUMENT

AFRICA REGIONAL OFFICE

AFTH1

Date: May 9, 2007	Team Leader: Michael Mills
Country Director: Colin Bruce	Sectors: Health (100%)
Sector Manager: Dzingai B. Mutumbuka	Themes: HIV/AIDS (P);Health system performance (S);Decentralization (S);Public expenditure, financial management and procurement (S)
Project ID: P081712	Environmental screening category: B - Partial Assessment
Lending Instrument: Specific Investment Loan	

Project Financing Data

[ ] Loan [X] Credit [ ] Grant [ ] Guarantee [ ] Other:

For Loans/Credits/Others:
Total Bank financing (US$m.): 80.00
Proposed terms: Standard IDA terms; 40 years maturity

Financing Plan (US$m)

Source	Local	Foreign	Total
BORROWER/RECIPIENT	2.00	0.00	2.00
International Development Association (IDA)	72.00	8.00	80.00
UK: British Department for International Development (DFID)	30.00	3.00	33.00
Total:	104.00	11.00	115.00

Borrower:
Government of Kenya
Ministry of Finance, The Treasury
P.O. Box 30007-00100
Nairobi, Kenya
Tel: 252299 Fax: 240045

Responsible Agency:
National AIDS Control Council
The Chancery Building, 6th Floor
P.O. Box 61307-00200
Nairobi, Kenya
Tel: 254-20-2715109 Fax: 254-20-2711231

Estimated disbursements (Bank FY/US$m)									
FY	7	8	9	10	11				
Annual	0.00	20.00	30.00	34.00	29.00				
Cumulative	0.00	20.00	50.00	84.00	113.00				

Does the project depart from the CAS in content or other significant respects? ***Ref. PAD A.3***	[ ]Yes [X] No
Does the project require any exceptions from Bank policies? ***Ref. PAD D.7*** Have these been approved by Bank management? Is approval for any policy exception sought from the Board?	 [ ]Yes [X] No [ ]Yes [ ] No [ ]Yes [X] No
Does the project include any critical risks rated "substantial" or "high"? ***Ref. PAD C.5***	[X]Yes [ ] No
Does the project meet the Regional criteria for readiness for implementation? ***Ref. PAD D.7***	[X]Yes [ ] No

Project development objective ***Ref. PAD B.2, Technical Annex 3***
The Project development objective is to assist Kenya to expand the coverage of targeted HIV and AIDS prevention and mitigation interventions. This would be done through: (i) sustaining the improved institutional performance of the National AIDS Control Council (NACC); and (ii) supporting the implementation of the Kenya National AIDS Strategic Plan (KNASP).

Project description ***Ref. PAD B.3, Technical Annex 7***
The Project will be an integral part of the implementation of the KNASP. The priorities will be set within the strategic objectives of the KNASP, strategically detailed each year through the Joint HIV and AIDS Program Review (JAPR) process. The Project comprises the following two Components:

Component I: Strengthening Governance and Coordination Capacity, which would support the continued development of the coordinating function of the NACC and the monitoring and evaluation framework of the KNASP; and capacity building of beneficiaries in the use of grant funds.

Component II: Support for Program Implementation: This component would make financial resources available to civil society, public sector, private sector, and research institutions, focusing on initiatives in line with the KNASP, responding to priorities identified by the JAPR. The component would include sub-components and essential commodities.

Which safeguard policies are triggered, if any? ***Ref. PAD D.6***
Environmental Assessment (OP/BP/GP 4.01)
The proposed Project has been classified as "Category B" for environmental screening purposes. As a repeater Project, the Total War Against HIV and AIDS (TOWA) Project would make use of the existing arrangements for safeguard issues which have been successfully implemented under the Kenya HIV and AIDS Disaster Response (KHADREP) Project. In addition, a National Medical Waste Management Action Plan has been developed and disclosed by the Borrower, and will be implemented as recommended.

Significant, non-standard conditions, **if any**, for:
Ref. PAD D.7

The Project does not require exceptions from Bank policies. The Project meets the Regional criteria for readiness for implementation. In particular, the NACC structure is in place; all of the key staff are in position; the Operations Manual has been prepared and is acceptable to the Bank; the NACC is used to doing Financial Monitoring Reports; and the first Call for Proposal is already under preparation. Moreover, all conditions and covenants have been discussed and agreed upon with the Client to ensure timely launch of the Project.

Credit effectiveness:
1. The Contract with an independent Financial Management Agent (FMA) would have been signed.
2. The Contract with an independent Compliance Verification Agent (CVA) would have been signed.
3. The Contract with an independent Procurement Monitoring Agent (PMA) would have been signed.
4. The prioritization and approval of the first Call for Proposals (CfP) for FY07/08.
5. The Government and the NACC would have executed and delivered the Subsidiary Agreement.
6. The NACC would have opened a Project Account in an amount of Ksh 20 million.

Disbursement condition:
1. The Kenya National Audit Office (KNAO) would have confirmed that it accepts responsibility for ensuring the audit of the grant awards.

Covenants applicable to Project Implementation:
1. The Co-financing Agreement between the Government and DFID would have been executed and delivered by December 31, 2007.
2. Appoint a Performance Auditor with qualifications and experience, and under terms of reference (ToR) and executed contract satisfactory to the Association by December 31, 2007.
3. The CfP for the following fiscal year would have been prioritized and approved by April 30 of each year.
4. A draft NACC Budget for the following fiscal year would have been submitted to the Association by April 30 of each year.
5. The NACC Consolidated Annual Workplan would have been submitted to the Association by April 30 of each year.
6. The Annual National Monitoring and Evaluation (ME&) Report would have been submitted by September 30 of each year, summarizing progress made up to June 30 of each year.
7. An Institutional Assessment of the NACC would have been carried out, under ToRs acceptable to the Association, by September 30, 2009.
8. A Mid-term Review of the Project would have been carried out by September 30, 2009.

A. STRATEGIC CONTEXT AND RATIONALE

1. Country and Sector Issues

Economic Development and Poverty

1. **The Kenyan economy is now growing at around 6 percent annually, with macro-economic reforms being carried out, but with structural reforms remaining incomplete.** During the 1990's, Kenya's economic performance was weak and real per capita income contracted by an average of 0.5 percent annually. The current Government was elected in December 2002, which soon prepared an Economic Recovery Strategy (ERS) for Wealth and Employment Creation, reached agreement with the International Monetary Fund (IMF) on a Poverty Reduction and Growth Facility (PRGF) program, moved to improve relationships with donors, and developed new strategies for socioeconomic development. Since then, Kenya's macroeconomic environment has improved, with a decline in public debt, more stable prices and enhanced growth (4.9 percent in 2004, 5.8 percent in 2005 and an estimated rate of over 6 percent in 2006). Significant reforms are taking place in several sectors, including education, water, electricity, urban transport and the railways. One of the greatest achievements of the current Government was the declaration of Free Primary Education (FPE) in early 2003, since when about 1.5 million additional children have been enrolled in school (and the numbers continue to rise). However, financial sector reform has faced serious setbacks, and most public enterprises are still not privatized, despite an enabling Privatization Act of 2005. Sustained high growth will require accelerated implementation of the promised reforms.

2. **Inequality and poverty continue to be major concerns.** About 56 percent of households were estimated to be below the poverty line in 2003 (new estimates will be available soon when the results of the recent household survey are analyzed). Income inequality in Kenya is likewise high: in 1998-2002, the Gini index was 43 and the poorest 20 percent of the population received only 6 percent of national income, while the richest 20 percent took nearly 50 percent. Income disparities mirror regional differences. Regionally, poverty incidence is highest in the densely populated Western and Nyanza Provinces, which flank Lake Victoria, and in the Coast Province. And as discussed in more detail later, the HIV and AIDS epidemic has also contributed significantly to the poverty and desperation of many Kenyans, with over 1.2 million people now infected (including 156,000 children), about 200 new infections daily among adults and slightly over 100,000 deaths annually. Particularly affected are the youth and especially girls, with HIV infection in young women aged 15 to 19 years being about five times higher than in men of the same age group.

Governance and Anti-Corruption

3. **The Government has set ambitious goals for governance improvement**. Since 2003, the Government has adopted some important measures to improve governance.

Initial steps focused heavily on re-staffing the judicial and procurement cadres, developing a legal framework, and setting up or strengthening institutions devoted to fighting corruption. New laws required civil servants to file annual declarations of income, assets, and liabilities; established the Kenya Anti-Corruption Commission (KACC); and provided for stronger public financial management and audit. Laws to modernize procurement (including for security-related contracts) and to set up a new privatization commission were passed. In addition, all Ministers, Permanent Secretaries, heads of parastatals and senior officials have signed performance contracts that include monitorable indicators of accomplishment. These contracts are publicly available. The Government is also strengthening capacity for monitoring and evaluation (M&E), including mechanisms to monitor the performance contracts; adopting accounting oversight bodies; and introducing risk-based accounting techniques.

4. **However, there has been mixed progress so far in implementing the governance strengthening program and in achieving results**. The available evidence suggests that corruption, which was rife under the previous regime, declined somewhat during 2003-2004 (after the new government came to power), but subsequently stagnated. The evidence also suggests deterioration in the judiciary and in the administration of government procurement (although not to very low pre-2003 levels), while high levels of corruption are still apparent in the process of obtaining permits and tax evasion. KACC's failure so far to secure prosecution for 'big graft' has created doubts about its overall efficacy, as well as that of the Attorney General's Office and the judiciary, which has a major backlog of cases numbering about one million. Nevertheless, the Government has made some significant progress in the reform of public resources and administration. The legal and institutional reforms implemented since 2003 include: (i) the introduction of a Results-Based Management (RBM) system as a tool for helping public sector institutions to focus their work and plan strategically to ensure efficient and accountable use of public resources; (ii) the rolling out of an Integrated Financial Management Information System (IFMIS) in a number of ministries; (iii) the establishment of an autonomous Kenya National Audit Office (KNAO); (iv) the enactment of The Public Procurement and Disposal Act and the development of regulations for public procurement; (v) the introduction of tax administration reforms; and (vi) the overhaul of the business licensing regime.

5. **Parts of the World Bank portfolio, including the HIV and AIDS Program, have faced significant governance problems.** Since 2004, a series of reviews and special audits, conducted with the full cooperation of the Government, have identified a range of problems. These include weaknesses in financial management systems, lack of fraud risk management, weak oversight by senior Government officials, inconsistent application of the World Bank's Procurement Guidelines, and failure to share lessons learned and best practices. In 2006, the Detailed Implementation Reviews (DIRs) by the World Bank's Department of Institutional Integrity (INT) also confirmed corruption risks in Bank-funded operations. These risks, however, differed across sectors. For example, while the DIR found serious indicators of corruption in Bank-financed projects in the road, health and HIV sectors, it concluded that the Bank-funded Free Primary Education Support Project (FPESP) had a low risk of corruption. In particular, the DIR for the

Kenya HIV and AIDS Disaster Response (KHADREP) Project confirmed the findings of an earlier forensic audit by identifying significant indications of fraud and corruption, including misuse of fund administered by the National AIDS Control Council (NACC) (see section titled "The Governance of the HIV Program", p. 14, for more details).

6. **The Government has committed itself to intensifying its focus on governance strengthening.** The Government has recently produced an updated "Governance Strategy for Building a Prosperous Kenya" with a time-bound Governance Action Plan (GAP) that covers the period through December 2007. This Plan sets out specific and prioritized anti-corruption interventions and initiatives in the broad areas of: (i) prevention; (ii) investigation and recovery of corruptly acquired assets; and (iii) strengthening prosecutorial capacity. It is planned for top priority to be given to administrative and preventive initiatives where measurable improvements in the fight against corruption could be obtained in the short-term. Emphasis is being placed by the Government on trying to get all systems to address governance and corruption issues, rather than just focusing on special measures to protect programs funded by development partners, particularly as external assistance is only about 5 percent of the budget resources.

7. **The Government is seeking increased support from the World Bank in the recently approved Country Assistance Strategy (CAS).** To assist the Government to implement the program, the World Bank has been asked to focus support on four priorities in the GAP, consistent with the Bank's comparative advantage: (i) transparency initiatives; (ii) broadening stakeholder involvement; (iii) improving public financial management; and (iv) improving governance in high priority sectors, such as education, HIV and AIDS, health and roads. This approach has been set out in the recent Country Assistance Strategy Progress Report for Kenya, which is based on five guiding principles: (i) reinforce the focus on poverty reduction; (ii) prevent theft or misuse of Bank funds; (iii) use Bank leverage to support progress in governance; (iv) support reform processes and work with champions of governance reforms; and (v) avoid the reputational risk of either turning a blind eye to corruption or walking away from the poor.

8. **Specific measures are being introduced to protect Bank-financed projects against corruption.** The Bank is working with the Government to establish better risk management controls at the system-wide, sectoral and project levels, and to encourage the enforcement of applicable laws and administrative remedies. Several measures have been introduced to protect the Bank's portfolio against corruption: (i) all project activities have been integrated into the central Government general ledger system; (ii) all new projects include control elements recommended by the auditors and risk management activities; (iii) ministerial and project-level audit committees have been established, the Government's internal audit function has been redefined to effectively deal with institutional risks, and all projects are now required to present quarterly financial monitoring reports; and (iv) side letters have been used in project agreements to reinforce compliance by staff in implementing agencies with Kenyan anti-corruption laws (such as

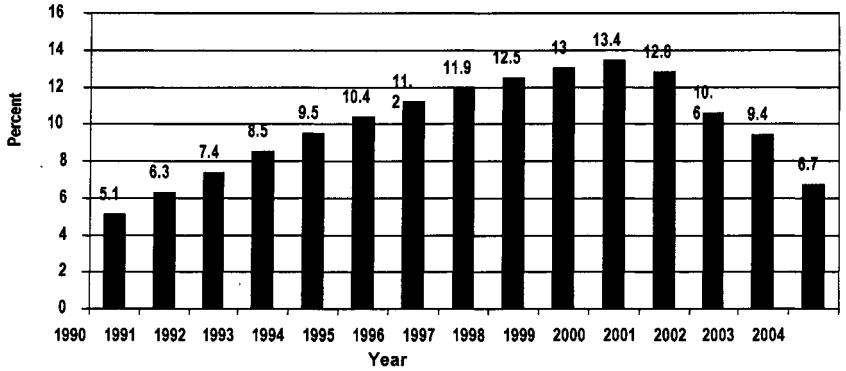
asset declaration), and to promote other transparency measures (such as disclosure of financial statements, and audit reports).

9. **Efforts have already been made by the National AIDS Control Council (NACC) to address the particular problems experienced in the HIV and AIDS program, and to renew and enhance its public image and credibility.** The NACC is the coordinating agency for the HIV and AIDS program, located in the Office of the President, and it has made considerable progress in addressing governance issues. In response to problems identified in various reviews in the period 2003-05, the NACC has compiled and is implementing an Action Plan. This Plan was later enhanced with recommendations from the DIR and the associated Management Action Plan for the KHADREP (see Annex 4), with a significant emphasis on transparency. Since mid-2005, the NACC has reported regularly on a monthly basis and in detail to the World Bank on the progress being made, as part of a "staff monitored program". The NACC has recently further opened up this reporting to a wide range of stakeholders, in a spirit of full transparency (see the section "The Governance of the HIV and AIDS Program", p. 14 for more details).

The HIV and AIDS Epidemic

10. **The prevalence of HIV and AIDS in Kenya is still high, but has been on the decline since the late 1990s.** Figure 1 shows the declining HIV prevalence among pregnant women in Kenya, with the extrapolated national adult HIV prevalence falling from over 10 percent in the late 1990s to 5.9 percent in 2005. Figure 2 compares the prevalence of HIV and AIDS in Kenya with some other countries, especially in Africa.

Figure 1: Declining HIV Prevalence in Pregnant Women in Kenya

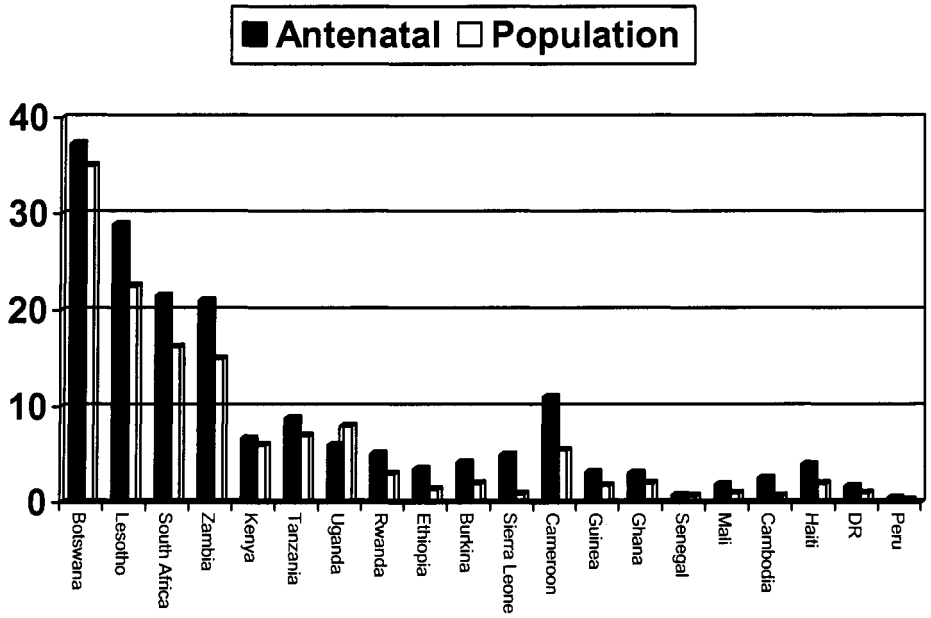


Source: Joint United Nations Team on AIDS, Kenya

11. **New infections also seem to be on the decline, although the true extent of the apparent steep and consistent drop in incidence is not entirely clear.** The estimated HIV incidence based on the modeling of the prevalence data (UNAIDS, KDHS, John Stover) also show a decline between 2001 and 2003. These data, together with the mortality data shown in Figure 3, indicate that the decline in prevalence is due not only to

deaths of infected persons, but also to an underlying decrease in new infections. However, the causes of the decline are complicated, particularly when it is noted that new HIV infections peaked in the mid-to-late 1990s prior to major preventive efforts being mounted nationwide from 2000 onwards. Other than a decline in the overall incidence, there is very little information on the reduction in new infections per age group, in which geographic areas and among which at-risk groups.

Figure 2: Antenatal and Population HIV Prevalence Estimates, 2001 to 2003

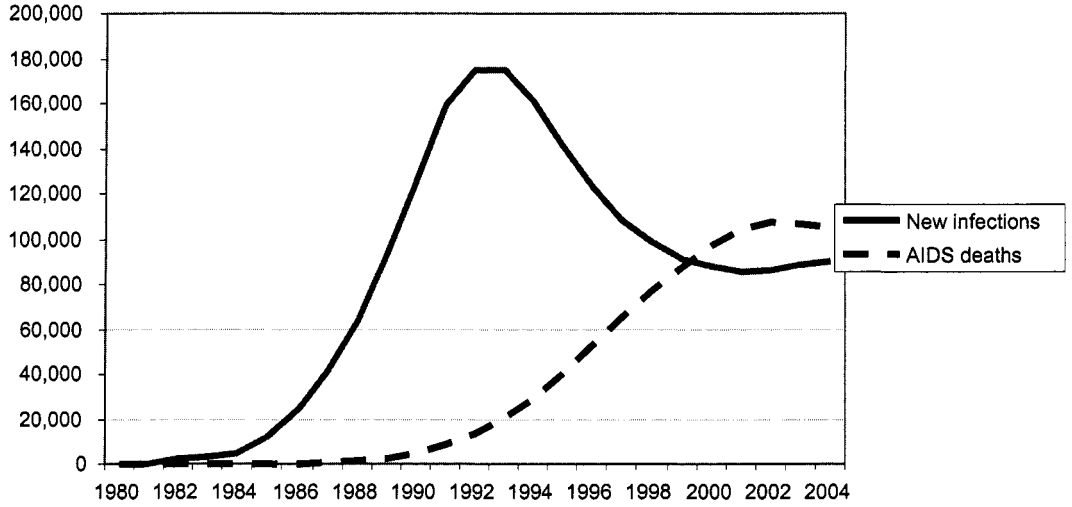


Source: Global HIV and AIDS Monitoring and Evaluation Team

12. **Nevertheless, it is clear that HIV and AIDS is still a massive threat in Kenya.** While Kenya is considered by UNAIDS as a recent success story in the fight against HIV, the country is still facing a serious HIV epidemic. There are over 1.2 million Kenyans currently living with HIV, including 156,000 children. Among adults aged15 to 49, the prevalence rate is around 5.9 percent (7.7 percent for women and 4.0 percent for men). Figure 2 compares HIV prevalence in Kenya to that in other countries. The number of new HIV infections in the country is about 200 daily among adults. Despite rapidly expanded access to treatment in recent years, around slightly over 100,000 adults still die annually due to AIDS-related illnesses. By the end of 2005, the cumulative number of AIDS deaths was 1.5 million. Mostly due to HIV and AIDS, mortality in the most socially and economically productive age cohort (15 to 49 years) has already increased by about 30 percent since 1998, and life expectancy at birth has now fallen to about 47 years from 58 years in 1990. Out of an estimated 2.4 million orphans and vulnerable children (OVC) in need of care and support, about 1.2 million are believed to be due to rising AIDS related mortality.

13. **The threat is especially serious for the young and for girls, in particular.** There are very high infection rates among young people. The majority of new infections are among young people - young women (aged 15 to 24 years) and young men (under 30 years) are particularly vulnerable. Since few HIV infected children survive into their teenage years, infected youth represent relatively recent cases of HIV infection, and consequently serve as an important indicator for detecting trends in both prevalence and incidence. Also, the HIV and AIDS epidemic in Kenya is increasingly feminized. The national adult prevalence female-to-male ratio of 1.9 to 1 is higher than that found in most population-based studies in Africa. The HIV infection rate in young women aged 15 to 19 years is six times higher than in men of the same age group, as the prevalence rate among young women peaks at 25 to 29 years of age, while that of men peaks in the 40 to 44 year old group. The HIV and AIDS prevalence among women 20 to 24 years is over three times that of men in the same age group (9 and 2 percent, respectively). There are strong linkages between gender inequities and inequalities, resultant power relations, vulnerability to gender-based and sexual violence, and consequently HIV infection.

Figure 3: New Adult Infections and AIDS Deaths



Source: Joint United Nations Team on AIDS, Kenya

14. **There is also plenty of evidence about the devastating impact of the disease on the economy.** It has been estimated that by 2005, GDP may have been 14.5 percent lower with AIDS than it would have been without AIDS. In the education sector, HIV and AIDS has particularly affected the supply of teachers. The negative effect of HIV and AIDS on food production and commercial agriculture in Kenya is also marked. Some areas where traditionally food production has been high have recently experienced major shortfalls, even with favourable weather conditions. A well-developed human resource base has been one of Kenya's economic mainstays, but there has been a striking effect from the pandemic on the labour force. This is caused by absenteeism, frequent sick leave and funeral attendance. This marked detrimental effect from HIV and AIDS

on the workforce and productivity has led to reduced profit margins. The impact of HIV and AIDS is also profound at the household level. For example, according to a recent study, 36 percent of children from HIV-affected households drop out of school, compared to 25 percent from non-HIV-affected households; 73 percent of care-givers are women, adding significantly to their household burdens; and health expenditure are 75 percent higher for households with HIV-related illnesses.

15. **Fortunately, knowledge in Kenya about the disease and prevention is growing.** The results of the 2003 KDHS also confirm that knowledge of HIV prevention methods is now widespread. For example, over 80 percent of KDHS respondents correctly indicated that the risk of "getting AIDS" could be reduced by limiting sex to one faithful partner. Overall, accurate knowledge of HIV prevention methods were found to be lower among women (as compared to men in the same age cohort), individuals aged 15 to19 years (as compared to older age cohorts), rural residents (as compared to urban dwellers), and among those with no education (as compared to those with some level of educational attainment). With respect to stigma or discrimination towards people living with HIV and AIDS, higher education and economic status were found to be positively correlated to more accepting attitudes in Kenya.

16. **And some behavioral change is also taking place, although there is still much room for improvement.** The reported age at sexual debut for women increased from 16.8 years in 1993 to 17.8 in 2003. Around 14 percent of young women and 29 percent of young men reported having had sex by age 15. Significantly, while one-quarter of women (15 to 24 years) with no education reported having sex by age 15, this proportion declined to only 4 percent (over an 80 percent decline) among those with at least some level of secondary education. There has also been a significant reduction in the number of sex partners before marriage. The percentage of unmarried women aged 15 to 49 with more than one sexual partner during the 12 months prior to survey was reduced from 4.9 percent in 1998 to 0.9 percent in 2003. For men, it was 29.4 percent in 1993 and 10.3 percent in 2003. However, the 2003 KDHS results indicated that almost 20 percent of sexually active women and 40 percent of sexually active men reported engaging in higher-risk sex in the 12 months preceding the survey, with only one-quarter of these women and about half of the men reporting condom use at the most recent occurrence of high-risk sex. Significantly, about one-third of both women and men stated that they had "no chance" of getting AIDS. Although knowledge of VCT was found to be widespread, only 15 percent of women and 16 percent of men reported having ever been tested for HIV infection (almost identical to levels reported in the 1998 KDHS).

17. **Knowledge of the causes of the decline in prevalence and of the factors affecting HIV transmission is limited but increasing.** The progression of AIDS–related deaths, combined with the saturation of infection among people most at risk, contribute to the declining national HIV prevalence in Kenya. In addition, however, there is strong evidence that the decline is also significantly due to: (i) increased knowledge of HIV and AIDS (sero) status; (ii) a reduction in the number of sexual partners; (iii) delayed sexual debut among young people; and (iv) increased condom utilization. Conversely, emerging evidence from the Region generally suggests that the

effectiveness of some prevention interventions may be limited, especially in the short-term: these interventions include the treatment of bacterial sexually transmitted infections, peer education, women's empowerment, anti-stigma campaigns, establishment of youth clubs and general awareness-raising.

18. **Overall, the available data suggests a mixed picture, in which close attention needs to be paid to several key drivers of the HIV and AIDS epidemic, and targeting of priority activities increased.** The HIV epidemic in Kenya is heterogenous and close attention must still continue to be paid to several key drivers of the epidemic, particularly those affecting the youth, young girls in particular, and women. Often underlying the immediate causal factors are also issues of poverty, gender inequality, gender-based and sexual violence, and stigma. The data also emphasize the critical need for an increasingly information-based approach to programming preventive activities in order to maximize their impact. The emerging evidence also suggests that higher priority should be given to addressing: (i) sex work, both commercial and transactional in nature; (ii) the significantly higher risk of HIV transmission within marriages or 'regular/stable' partnerships; (iii) intergenerational sex involving younger women and older men (in a non-marital situation), along with casual sex and concurrent sexual partnerships; (iv) the recent emergence of injecting drug use, combined with effects of other traditional types of substance abuse, alcohol in particular; (v) the need to ensure injection safety in health care settings; and (vi) men-having-sex-with-men (MSM), especially as an estimated 400,000 Kenyans pass through the correctional system annually. This targeted approach should go hand in hand with the continuation of HIV interventions for the general population at large.

19. **There has been a substantial improvement in HIV preventive and diagnostic services in recent years, although programs have been undermined by intermittent stock-outs of essential commodities.** Joint efforts by the Government, international donors and partners, non- Government organisations (NGOs) and faith-based organizations (FBOs) have resulted in a rapid increase in voluntary counselling and testing (VCT) sites from three in year 2000 to 650 sites in year 2005. Over the same period, annual VCT service uptake increased from about 1,000 to 500,000. Prevention of Mother to Child Transmission (PMTCT) services have also increased: they were introduced on a pilot basis in 2000, and presently there are now about 800 facilities countrywide. It is estimated that 60 percent of pregnant mothers visiting ANCs are now counselled and tested for HIV. The use of condoms has increased rapidly in recent years. Free distribution has been supported by Government under the World Bank-funded Decentralized AIDS and Reproductive Health (DARE) Project of the Ministry of Health (MOH). Condom distribution has increased from 8.5 million in July 2004 to about 11 million monthly now[1]. For 2006/08, Kenya is estimated to require around 132 million male and 3 million female condoms annually. These are expected to rise to 160 million male and 6 million female condoms in 2009/10. On average, the estimated cost of condoms is around US$3.5 million per year. Currently there is no major source of funding for condoms.

[1] This number includes condoms under the social marketing program and condoms which are distributed free through Government channels.

20. **In preventing the disease, the challenge now is to sustain the progress made, avoid complacency, and improve the targeting of program activities.** This is for several reasons:

- **The epidemic varies in different parts of the country.** The KDHS indicated that Nyanza Province has the highest overall prevalence of 15 percent, followed by Nairobi with 10 percent. All other provinces have levels between 4 and 6 percent overall, except in the North Eastern where prevalence is much lower. Urban prevalence is significantly higher (10 percent) than rural (6 percent). Since 80 percent of Kenya's population is categorized as rural, however, the greatest burden of HIV infection falls among the rural population.

- **Relevant cultural practices also vary.** For example, 80 percent of men in Kenya are circumcised, and this is associated with a lower risk of STI transmission. It is also associated with a lower risk of HIV, as shown by the results of the recent trials in Kisumu. Indeed, in Nyanza Province, which has the highest provincial adult HIV prevalence (15.1 percent) in Kenya, the rate of male circumcision is only 46 percent.

- **There are some groups at particularly high risk of contracting and transmitting HIV, for whom preventive services are currently very limited.** These include commercial sex workers (CSWs), MSM, intravenous drug users (IDUs), the disabled, prisoners and highly mobile populations such as truck drivers. While there have been some impressive pilot-programs addressing the needs of all of these groups, there are particular constraints to the expansion of such programs partly due to ethical issues and the sensitivities and policies of some funding organizations.

- **Sero-discordant couples are another especially challenging group.** The 2003 KDHS results indicate that about 4 percent of cohabitating couples are sero-concordant (both HIV-positive), and about 7 percent of cohabitating couples are sero-discordant (one partner is HIV-positive and the other HIV-negative). The surprisingly high level of sero-discordance indicates a large population of adults at very high risk of HIV infection, given that they are cohabitating with a sero-positive partner either knowingly or unknowingly.

- **New information is continuously appearing that needs to be taken into account in the strategy for the prevention of HIV and AIDS preventive.** For example, it has now been discovered that malaria is more severe and frequent in People Living with HIV and AIDS (PLWHA). Malaria may also increase mother-to-child, as well as adult-to-adult, transmission of HIV. It is, therefore, clear that there is need to provide long-lasting insecticide treated nets (ITN) to PLWHA as part of the comprehensive care package. However, there is not yet a systematic and nationwide effort to implement this strategy.

21. **Programs for the provision of care and treatment for PLWHA are now being scaled up substantially, although Kenya's health care system is being severely challenged.** Over the last three years, critical HIV services have been scaled up substantially. Kenya has developed a national anti-retroviral therapy (ARV) Program which aims to progressively deliver effective ARV, reaching 75 percent of those eligible by 2010, so as to improve the quality of life and survival of people infected and affected by HIV and AIDS. Currently all provincial hospitals and 70 district hospitals under the National AIDS and STI Control Program (NASCOP) of the MOH are providing comprehensive HIV care, including core components of counselling services, prevention and treatment of opportunistic infections, and ARV. In order to standardise care, standard treatment guidelines have been developed. Because of reduced costs, mobilisation of resources, and the development of guidelines and systems, there has been a massive increase in the number of patients on ARV therapy from 3,000 patients in 2002 to 110,000 now. This is about 35 percent of those in need of treatment. About 40 percent of pregnant women attending antenatal clinics in 2004 benefited from PMTCT services. However, these statistics also show that despite recent scaling-up, treatment and care services have still not reached the majority of PLWHA.

22. **The dual TB/HIV epidemic is another challenge to the health services.** In recent times, tuberculosis (TB) cases have more than doubled, mainly due to the impact of the HIV and AIDS pandemic. Around 30 percent of TB patients are HIV-positive. The threat of Multi-Drug Resistant and Extremely-Drug Resistant TB, especially among PLWHA, is a growing concern. Addressing the TB/HIV linkage is therefore critical in the fight against HIV and AIDS. The national TB control program is based on a solid five-year strategic plan, with the directly observed treatment (DOT) strategy as the cornerstone for TB control. As part of this effort, it is critical to ensure an adequate supply of TB drugs for which there is need for funding[2].

23. **The most essential challenge for the health sector is the strengthening of its capacity and the performance, in terms of broad systems strengthening across sub-sectors, programs and facilities.** It is true that there is a need to mainstream HIV and AIDS interventions into many of those activities that are not specifically concerned with HIV and AIDS, like the development of specific management tools for planning and budgeting. However, the success in meeting the challenges posed by HIV and AIDS will largely depend on how well the health care system in its totality can be made to perform. Making effective use of the increased financial resources for HIV treatment requires a significant increase in the overall performance of the Kenyan health system.

24. **Mitigation of the disease is also critically important, especially as AIDS-related adult mortality has tragically resulted in a massive increase in orphanhood.** About 1.2 million children have lost either one or both parents, to date, which constitutes nearly 13 percent of all Kenyan children under the age of 15 years (Table 1). Another

[2] Although Kenya is a recipient of the Global Drug Facility (GDF) Grant which provides the country with free first-line TB drugs, the Grant Agreement will expire by the end of 2007. Another grant under Round 5 of the Global Fund against HIV and AIDS, TB and Malaria (GFATM) will support the procurement of second-line TB drugs. Therefore, first-line TB drugs is an area which needs further support.

600,000 or so are also considered to be equally vulnerable. The number of orphans and vulnerable children (OVC) will continue to rise unless adult mortality rates are reduced, which would require a significant improvement in both coverage and quality of HIV and AIDS prevention, care, and treatment services. Providing care and support to this large and increasing number of OVC is a huge challenge for the Kenyan society.

Table 1: Orphanhood in Kenya (1998-2003)

Percentage of all children under 15 years who have:		
	1998	**2003**
Lost their father (paternal orphan)	8	9
Lost their mother (maternal orphan)	3	4
Lost both parents (double orphan)	1	2
Lost either one or both parents	11	13

Source: Kenya Demographic and Health Survey (KHDS), 1998 - 2003

25. **In summary, the extent and changing nature of the HIV and AIDS epidemic is still one of the greatest development challenges that Kenya faces.** As a result, the national HIV and AIDS response needs to be considerably more focused and precise in the design and implementation of interventions. This also points to the need to know more about the sources of new infections which occur and their trends. In addition, there is the need to go beyond general, one-size-fits-all strategies to information-based, cost-effective interventions which are carefully-tailored to respond to local situations and target populations. Such interventions should be implemented with a robust M&E system to strengthen the evidence base for decision making.

26. **To respond to the HIV and AIDS epidemic, the Government, together with a wide range of stakeholders, has already developed the second Kenya National HIV and AIDS Strategic Plan (KNASP) for the period 2005/06 to 2009/10.** The KNASP provides a common framework for all HIV and AIDS interventions in Kenya. Its objective is to reduce the spread of HIV, improve the quality of life of those infected/affected and mitigate the socio-economic impact of the epidemic. It is not intended for the KNASP to replace or duplicate sectoral HIV and AIDS strategies, nor does it include detailed operational or implementation plans and detailed budgets for specific interventions. Rather, the KNASP provides the framework and context for such strategies, plans and budgets to be formulated, monitored and coordinated.

27. **The KNASP is underpinned by some core strategic principles**. These include: (i) a multi-sectoral approach, which enhances advocacy, builds strategic partnerships and mainstreams HIV and AIDS within key sectors; (ii) targeted interventions for those groups most vulnerable to infection and to the impact of HIV and AIDS; (iii) recognition of the special needs of women and youth; (iv) maximum engagement of people living with HIV and AIDS in the implementation of the strategy; (v) empowerment of all

stakeholders to participate effectively in the national response; and (vi) interventions which are information-based.

Table 2: KNASP Pillars and Strategic Objectives

Response Pillars	Strategic Objectives	Total Estimated Cost (US$ million)
1. Prevention of new infections.	Reduce the number of new infections in both vulnerable groups and the general populations.	577 (24%)
2. Improving the quality of life of people infected and affected by HIV and AIDS.	Improve the treatment and care, protection of rights and access to effective services for infected and affected people.	697 (29%)
3. Mitigation of socio-economic impact of HIV and AIDS.	Adapt existing programs and develop innovative responses to reduce the impact of the epidemic on communities, social services and economic productivity.	721 (30%)
4. Support services to the NACC.	A NACC equipped with a wide range of support services necessary for effective delivery of a multi-sectoral response to the epidemic.	405 (17%)
Total		2,400 (100%)

28. **The five-year cost of the KNASP is estimated at US$2.4 billion, with the annual requirements rising.** In the KNASP, the annual HIV funding requirement was estimated at US$315 million in 2005/06, US$400 million in 2006/07, US$470 million in 2007/08, and US$525 million in 2008/09. The annual increases are partly due to the increasing numbers of people needing treatment, and also the rising numbers of OVC needing support.

29. **Kenya is now receiving considerable support for the financing of the KNASP.** Kenya currently receives support through the US Government's President's Emergency Plan for AIDS Relief (PEPFAR), the Global Fund for AIDS, TB and Malaria (GFATM), the UK Department for International Development (DFID), and a number of other bilateral donors and foundations. The commitment of the PEPFAR was about US$186 million in 2005/06 and is about US$320 million for 2006/07. In the case of the GFATM, there are commitments of approximately US$130 million for HIV and AIDS. The contributions from other partners (including the United Nations, other bilateral donors, and the National Business Council) amounted to about US$19 million in 2005/06. The existing DFID HIV and AIDS Prevention and Care (HAPAC) Project has provided GBP12.4 million (US$24.8 million) between 2004 and 2007, and DFID plans to provide a further GBP40 million (US$80 million) for the next five years.

Table 3: Approximate Resource Allocations for the HIV Response in Kenya By International Development Partners

Development Partners	2005/06 US$ million		2006/07 US$ million	
U.S. Government (PEPFAR, USAID, CDC)	208.0	(76%)	323.0	(75.8%)
United Nations System (incl. World Bank)*	23.6	(8.6%)	33.8	(8.0%)
GFATM	18.1	(6.6%)	30.0	(7.0%)
DFID	11.6	(4.2%)	4.2	(1.0%)
Clinton Foundation	7.3	(2.7%)	10.9	(2.6%)
KFW		--	4.2	(1.0%)
Others		--	8.6	(2.0%)
Government of Kenya**	5.4	(2.0%)	11.3	(2.7%)
Total	274.0	(100.1%)	426.0	(100.2%)

*There is an element of double-counting regarding the UN system contribution due to funds received in-country from DFID, US Govt. and SIDA. In 2006, this amount is estimated at about US$2.3 million.
**Approximately 80 to 90 percent of this allocation amount is for recurrent or fixed expenditures.

30. **However, the external support to the HIV and AIDS program in Kenya does not correspond well to the KNASP priorities.** The various projects have not been synchronized and harmonized to ensure that all priority areas are addressed efficiently. For example, impact mitigation is meant to receive the largest share of funding under the KNASP at 30 percent, followed closely by treatment and care (29 percent) and then prevention (24 percent). In contrast, out of the US Government's approved 2006 budget of US$208 million, close to two-thirds were earmarked for treatment, care and support. A similar bias in allocation is observed in grants from the GFATM. The impact mitigation strategy appears to be the worst affected by the funding gap, even though there has been some improvement of late through allocations from the MTEF. It is also clear that increased priority needs to be given to the funding of preventive activities.

31. **Funds for the HIV and AIDS program also currently fall short of estimated requirements, and there are concerns about the future financing of the program.** At first sight, the funding for the HIV and AIDS Program in the last two years seems to have been reasonably adequate. Compared to the estimated need of US$315 million in 2005/06, pledges amounted to US$274 million. In 2006/07, the pledges rose to about US$426 million, compared to the estimated need of US$400 million. However, the funding available for the HIV and AIDS Program is still problematic for several reasons.

- First, the real value of much of the external assistance is considerably reduced by large purchases of branded ARV drugs, rather than generics (the prices of which were used for the KNASP cost estimates), and also by the overhead costs of contractors.

- Second, the estimated annual need is rising considerably, with US$470 million estimated to be required in 2007/08, compared to US$400 million in 2006/07.

- Third, over 98 percent of the HIV and AIDS Program funding now comes from external sources, most of which is off budget and of uncertain timing and predictability. Of the total external funding, the US Government contributes by far the largest amount (76 percent), followed by the UN system (8.6 percent) and the GFATM (7 percent). Most of the external support is through the "project mode", rather than SWAp or basket funding approaches, although increased efforts are being made to coordinate support programs.

- Fourth, there is a real concern that some projects may come to an end before alternative sources of funds are secured. For instance, any interruption in the financing of ARVs could have severe negative impact on those already under treatment. Programs such as ARVs must be sustained to ensure long term benefits.

32. **Although the financing challenges are very worrying, there are several initiatives now underway to address them.** First, the "Three Ones" Principle has been widely endorsed by the Government, development partners and other stakeholders, and serves as the guiding framework for harmonization of activities. Second, the NACC has also established a "Harmonization Task Force" to promote increased coordination and alignment among the development partners. Third, the NACC and partners have also operationalized a Task Force that seeks to mainstream HIV and AIDS into ministerial and sector budgets and workplans. This Task Force is aiming to increase the financial contribution of each ministry to the HIV and AIDS response. Fourth, the major issue of sustainability of funding of commodities is currently being reviewed by the Government and a consortium of stakeholders. In total the cost of the commodities is estimated to increase from US$81 million in the financial year 2007/08 to US$113 million in 2008/09 and US$143 million in 2009/10. Finally, the design work for the planned SWAp in the health sector is also examining in detail how the wider issues of sustainability could be addressed, as part of analytical work being carried out on health financing strategies.

The Governance of the HIV and AIDS Program

33. **The importance of a comprehensive multi-sectoral response was well recognized in Kenya by the end of the 1990's with the establishment of the NACC.** The NACC was established in 1999 with the mandate to coordinate and manage the multi-sectoral approach to the national HIV and AIDS Program, providing policy direction, and mobilizing resources in support of implementation. The NACC was one of the first two recipients of the first IDA-supported Multi-Country AIDS Program for Africa (MAP), with the approval of US$50 million under the Kenya HIV and AIDS Disaster Response (KHADREP) Project (Credit 3415). In its early years, the NACC made progress in a number of areas: (i) it promoted greater inter-sectoral coordination of the HIV and AIDS response; (ii) it oversaw the development of policies in key areas, including OVC and mainstreaming gender issues; and (iii) it played an instrumental role

in attracting new sources of funding and in distributing grants to a variety of community and other organizations.

34. **However, the NACC soon faced significant criticism.** In the early 2000s, various challenges soon became evident. These included various weaknesses in the operational structure of NACC (especially with the dissolution of the Provincial AIDS Control Committees and District AIDS Control Committees) which affected its ability to review and supervise the actual allocation of grants and their use. In 2002 and 2003, other serious problems emerged, including: (i) corruption charges leveled against senior officials; (ii) political interference in the grant-making procedures; (iii) a general failure by the NACC management to address fiduciary risks in the organization; and (iv) a perceived unwillingness to allow and enable the Constituency AIDS Control Committees (CACCs) to function effectively at the peripheral level. The NACC became the target of sustained criticism in the press, amidst accusations of lack of transparency and inefficiency. There was a growing sense that the NACC needed to be restructured to increase its effectiveness.

35. **In response to the initial wave of criticism, the Government started to recognize and address the governance issues in the NACC in the period 2003-04.** First, the Government commissioned a Joint Institutional Review (JIR) of the NACC structure and organization. The JIR made recommendations for: (i) strengthening the NACC governance environment, primarily through improved effectiveness of the Council; (ii) reforming the NACC Secretariat, with greater functional focus, appropriate and transparent recruitment of staff, the development of a performance management system, and protection from political interference; (iii) strengthening and mainstreaming public sector programs, primarily through the Government Medium Term Expenditure Framework (MTEF) process; (iv) making the CACCs more effective; and (v) improving stakeholder coordination. These recommendations were accepted by the Government and the NACC, and led to a fundamental restructuring of the organization.

36. **Second, the Efficiency Monitoring Unit (EMU) of the Office of the President conducted an investigative review of the NACC.** The EMU report noted serious irregularities in the implementation of the KHADREP, including instances of both negligence and clearly fraudulent practices in financial management, procurement, payment of allowances to staff and consultants, and in the award and management of grants, to both CBOs and to public sector ministries. In particular, significant levels of fraud were found at national level, where grants in excess of US$100,000 were awarded. The EMU Report made a series of recommendations, covering: (i) review and revision of policies, structures and legal frameworks for the HIV and AIDS Program; (ii) disciplinary actions to be taken against various senior staff; (iii) investigations to be taken up by the Kenya Anti-Corruption Commission (KACC); (iv) steps to strengthen management and oversight; and (v) strict compliance by NACC with public and donor procurement procedures. There was also an investigation into the performance of the first NACC Director. She was subsequently prosecuted for fraud, and then jailed after being found guilty.

37. **However, governance concerns continued, and the Government itself commissioned an independent Forensic Audit of the KHADREP in April 2005 to verify the situation.** The report of this Forensic Audit identified evidence of malfeasance and serious shortcomings in the governance and control environment in the KHADREP. It pointed out that the distribution of the EMU Report had been delayed, and that the NACC had therefore been making insufficient progress in addressing the EMU findings. In particular, the Forensic Audit noted the following as key contributors to a high risk of fraud: (i) lack of adequate financial controls; (ii) lack of recognition of fraud risk and the need for fraud risk management; (iii) weak oversight by senior officials; (iv) poor understanding of World Bank procurement procedures; and (v) weak monitoring and reporting. It also pointed out that the high fraud risks identified were not in major procurements (which were closely supervised by the World Bank), but in the management of small grants and the operations of the NACC itself.

38. **From the middle of 2005 the NACC developed and progressively started to implement an Action Plan, based upon the findings of the Forensic Audit.** The Action Plan includes: (i) full recovery of inappropriate payments to staff, and legal action against staff found to have committed fraudulent activities; (ii) suspension of the second NACC Director (in position from 2004 to early 2006), following the earlier prosecution and jailing of the first Director of the NACC; (iii) ongoing investigation of 128 (out of about 6,000 or about 2 percent of the total) NGOs suspected of possible fraudulent activities; (iv) the establishment of anti-corruption hotlines, and protection for whistleblowers in suspected corruption cases; (v) improving the effectiveness of the Council in oversight matters; (vi) introducing fraud risk management for both the Council and the senior staff of NACC; (vii) re-defining responsibilities and establishing clear mandates for the Audit Committee and the Finance and Administration Committee of the Council; (viii) development of codes of conduct for NACC and the Council, and declaration of assets; (ix) competitive recruitment of staff; (x) the signing, public disclosure, monitoring and satisfactory implementation of performance contracts; (xi) strengthened financial management expertise in the NACC; (xii) the development of a communications strategy to ensure increased social accountability (with specific measures relating to the flow of information to all stakeholders, especially at the local level); (xiii) institution of independent and effective internal audit capacity with the Unit staffed by a Senior Internal Auditor and another Internal Auditor; (xiv) strengthened governance mechanisms for CACCs and AIDS control units (ACUs); and (xv) a strengthened M&E system, with emphasis on results-based performance.

39. **In early 2006, the Government requested the World Bank INT Department to conduct a DIR of the KHADREP, the report of which was delivered to the Government in September 2006.** The DIR confirmed the earlier findings of the Government's own investigations and the Forensic Audit, concluding that the KHADREP Project had "strong indicators.... that were consistent with potential fraud, corruption and collusion". The review of the NACC's internal procurement found indicators of collusive practices, biased bid evaluation and fraud. The DIR Team's financial management review also found severe weaknesses in the NACC's internal control environment, accounting procedures, staff capacity and record keeping. In

addition, the DIR Team found strong indicators of irregularities within the small number of KHADREP's grant-financed activities that it reviewed. The main recommendation was that all risk mitigation measures in planned HIV and AIDS (and health) projects should be planned and reviewed carefully. For example, it was recommended that future grants to implementing organizations should be more carefully targeted, including to those with a track record of success and inefficiency.

40. **The pace of implementation of the Action Plan picked up significantly throughout 2006, with a new management team appointed in the NACC.** With the stimulus of the DIR work, a new NACC Director and senior managers were appointed, with a clear mandate from the Government and NACC Board to intensify and accelerate the implementation of the Action Plan. This Action Plan is now part of the overall Governance Action Plan (GAP) of the Government for the period July 2006 to June 2007, and it is being monitored and reviewed on a monthly basis. Steps taken included the following:

- The NACC Council, with international technical assistance, has developed a comprehensive risk management policy to manage fraud and corruption risks. This policy stipulates among other things: (i) the strengthening of the Internal Audit Division with the hiring of staff; (ii) the establishment of anti-corruption hotlines; and (iii) the institutionalization of whistle-blowers for suspected corruption cases. It also emphasizes increased transparency in the procurement system and improved social accountability. The implementation of the risk management policy is now being rolled out, again with international technical assistance.

- The external recruitment of staff for the re-structured NACC has been completed for senior and mid-level managers. All vacancies in the NACC Procurement Unit have been filled, following a competitive recruitment process, enabling the Unit to execute the NACC procurement plan efficiently.

- The KNASP M&E system has been developed in spite of resource constraints, and the NACC has established itself as the center for coordination of M&E for HIV and AIDS. However, this position is highly vulnerable without immediate financial support. In particular, the M&E framework and implementation manuals have been completed and disseminated; there is a well-functioning M&E Technical Working Group as the forum for discussion of M&E issues; the NACC has recruited and hired additional technical staff necessary for the M&E and MIS divisions according to the plan; the Joint HIV and AIDS Program Review (JAPR) process has continued annually; and the NACC has completed its first Client Satisfaction Survey, with broad sampling from development partners, and the public at all levels.

- At the local level, there has been the successful launch of the Community-Based Activity Reporting System (COBPAR). The COBPAR is now starting to be used for reporting on all community-based HIV and AIDS activities by all donor partners, as well as by those CBOs not funded by the large donor partners. PEPFAR has expressed its commitment to abandon its parallel reporting system once COBPAR has

proven itself, and a significant amount of technical assistance is now being provided to the NACC for COBPAR system implementation.

- A single unique registry of all CBOs working in the sector is also being compiled. Over 5,000 have already been registered. This up-to-date inventory of community-based initiatives was created at the request of the Donor Harmonization Committee, and will allow harmonization of donor partner funding, improve targeting of donor resources and reduce duplicate funding.

- A wide range of stakeholders are now involved in strategic decision-making and social accountability for the NACC Program, through such mechanisms as the Inter-agency Coordinating Committee (ICC).

- Work is starting on the compilation of a formal Governance Charter for the NACC, and it is scheduled for approval by the NACC Board in July 2007

41. **The substantial improvement in the institutional performance of the NACC has been confirmed by an external evaluation.** According to the NACC Governance Plan and in compliance with the State Corporations Regulations of 2004, the NACC introduced performance contracts and assurance management in 2005. Senior staff and mid-level managers now sign performance contracts against which they are periodically evaluated. In addition, the NACC is subject to an external performance evaluation annually carried out by the Inspectorate of State Corporations in conjunction with an ad hoc Evaluation Task Force. These evaluations utilize a standardized methodology and instruments that are the same across all ministries, directorates and parastatal entities. The performance evaluations assess indicators in the following domains: financial, service delivery, non-financial, dynamic and operations. The annual external performance evaluation produces a composite score based on weighted averages of performance on these indicators from the five domains. This overall score may be interpreted as follows according to Government guidelines: (i) 1.00- 1.49 (Excellent); (ii) 1.50- 2.49 (Very Good); (iii) 2.50- 3.49 (Good); (iv) 3.50- 4.49 (Fair); and (v) 4.50- 5.00 (Poor). The NACC has shown significant improvement over the past year (2005/06) in governance and capacity, with the NACC assessed at a high level in 2006 (a score of 2.4, rating "very good").

42. **These steps have been complemented by planning for further governance strengthening measures, as part of the design work for the Total War Against HIV and AIDS (TOWA) Project.** These additional measures include: (i) a results-oriented and performance-based award mechanism for grants; (ii) limitation on the participation of community-based organisations (CBOs) to those with established track records of performance; (iii) the introduction of transparent decision-making processes with full dissemination of information; and (iv) the forthcoming recruitment of: (a) a new financial management agent (FMA), with revised terms of reference (ToRs); (b) an independent compliance verification agent (CVA) to check compliance at all levels with the laid down rules in the approval of proposals; (c) an independent performance auditor to assess and compare the results verifiably achieved with the results claimed; and (d) an independent

procurement monitoring agency (to verify that procurement is carried out in accordance with agreed regulations and procedures).

43. **The further progress of the institutional strengthening of the NACC will be monitored closely.** Under the TOWA Project, in addition to the comprehensive measures already being taken to strengthen governance, it has been agreed that an institutional assessment of the NACC would be carried out by September 2009. This institutional assessment would be useful to maintain and enhance the effectiveness of the NACC as the coordinating body for the implementation of the KNASP, taking into account the development of the epidemic, the evolving roles of different stakeholders, and the preparations for the next strategic plan. The focus of the assessment would include the NACC and its instructional structures, its core business processes, and management and coordination functions. The precise timing of the institutional assessment would be demand driven, based on consultations with all stakeholders. This broader assessment would also build on annual performance assessments completed toward the end of each calendar year, explicitly linked with the JAPR process and within the context of the KNASP. The assessment would also be supported by the Government performance assessment of the NACC, which is done annually according to procedures for assessment of performance contracts, and which is being used as a progress indicator in the results framework. These assessments would be in addition to intensive supervision of the Project by the regular implementation support missions.

44. **Besides the work of the NACC in the fight against HIV and AIDS, there has recently been an important initiative led by the Ministry of Home Affairs to address the needs of the OVC.** The Children's Department of the Ministry of Home Affairs (MOHA) is now implementing a cash transfer program. The objective of the cash transfer Program is to strengthen the ability of families to protect and care for OVC, ensuring that orphans stay within their communities and are cared for effectively. Transfers are currently directed to vulnerable and poor households committed to meeting specific conditions aimed at promoting improved health and education outcomes for OVC. The Government's long-run objective is to continue a process of phased expansion of the cash transfer Program with the goal of achieving nationwide coverage reaching at least 30 percent of the poorest and most vulnerable OVC. Implementation of the full-scale program is planned to run until 2015.

45. **Some important lessons were learned from Phase 1 ("pre-pilot") of the Program, which began in December 2004 in three districts and supported 500 OVC.** The objective was to generate lessons on program targeting, selection procedures, and implementation costs, in order to guide the design of the pilot project that could be scaled-up nationwide. The main lessons learned from Phase 1 were that: (i) cash transfer delivery mechanisms are particularly challenging in remote areas of the country without financial institutions; (ii) some errors of exclusion and inclusion cannot be avoided; (iii) targeting is hard where poverty levels are high; (iv) increasing the number of OVC to be supported may stretch the capacity of existing interventions; (v) the cash transfer Program needs to be closely linked with other existing programs; and (vi) additional challenges arise in trying to support nomadic way communities.

46. **Phase 2, launched in June 2006 and currently supported by UNICEF, DFID and SIDA, is based on the initial lessons learned from Phase 1.** Changes have been made to the Project design, particularly in terms of selection criteria, the use of conditionalities and the system of cash disbursement. Phase 2 is now underway, and aims to deliver transfers to 10,500 OVC in 17 districts. Within this, seven districts have been identified to participate in a pilot that seeks to evaluate the differences in impact by varying program penalty rules. Two separate treatment groups are subject either to penalties for not meeting program conditionalities or are not subject to these penalties, thus allowing an independent evaluation of the impact of this aspect of the program. Phase 3 aims to reach 30,000 OVC and is scheduled for implementation in 2007/08, after the Phase 2 evaluation results are available. During Phase 3, program procedures will be standardized based on the results from the pilot in Phase 2. While the Government intends to scale up the program significantly, it is looking for additional support particularly to ensure that the governance of the program is strengthened to ensure maximum efficiency, accountability and transparency.

2. Rationale for Bank Involvement

a) Related Sector Operations

47. **The World Bank has been a major supporter of Kenya's national response to the HIV and AIDS epidemic through several projects.** The Bank's past support has been primarily through: (i) the now-closed Sexually Transmitted Infections Project (Credit 2686, US$50 million, approved December 1995); (ii) the recently extended DARE Project (Credit 3440, US$54 million, approved December 2000); and particularly (iii) the KHADREP (Credit 3415, US$50 million, approved December 2000). Kenya was one of the first countries to access funds under the MAP, and the KHADREP design served as a model for many subsequent projects in other countries in the region. The DARE Project (supporting the health sector response) was implemented in parallel with the KHADREP, with the latter focusing more on the multi-sectoral approach. In addition, there have been HIV and AIDS related activities included in other IDA-supported projects, including in the transport and education sectors.

48. **Stakeholders (Government, civil society and development partners) believe that the KHADREP contributed substantially to declining HIV and AIDS incidence and prevalence over the past five years, despite the governance problems that it faced.** For example, they note that the KHADREP provided the framework and initially most of the financing for the HIV and AIDS Program. With KHADREP support, NACC was able to: (i) break the silence about HIV and AIDS at all levels; (ii) fund some 6,000 community-level initiatives, which mobilized many communities all around the country and opened new channels for HIV and AIDS-related activities; (iii) support civil society and many non-traditional partners with easy-to-access, fast and flexible resources for community-based HIV activities; (iv) strengthen the core coordination mechanisms for the national HIV and AIDS Program; (v) initiate major innovations such as the JAPR

process; and (vi) with other stakeholders, learn important lessons regarding means of strengthening and accelerating the national response. There is, however, little quantified evidence available about the discrete impact of specific interventions funded through the Project, with the exception of some data resulting from the piloting of the lot quality assurance sampling (LQAS) methodology in two provinces. This demonstrated significant improvement in coverage for school and nutritional support for OVC in project areas compared to control areas, as well as some impact in condom use in men and improved knowledge about HIV among youth. The LQAS has been rolled out nationally in 2007/08, once additional resources become available.

49. **The World Bank has contributed to supporting the HIV and AIDS Program in Kenya in other ways too.** Apart from its role in mobilizing financial resources, the World Bank has helped to provide a platform for strengthening the national program through its emphasis on country alignment, a broad multi-sectoral scope, implementation focus, and government-led processes. It has contributed significantly to the national strategic planning process through comprehensive economic and sectoral impact analyses. Its policy dialogue has assisted in the definition and further understanding of HIV and AIDS as a core development issue, and in safeguarding the status of the NACC as a credible multi-sectoral entity. The World Bank has also served as a lead advocate to support a more information-based approach to targeting specific populations and geographic sub-groups, particularly in the context of the vastly improving epidemiological data and understanding. As the Co-Sponsor with UNAIDS of the Global Monitoring and Evaluation Team (GAMET), the World Bank has also helped to strengthen the national M&E system, and in helping it to be used as a program management tool.

50. **Through the TOWA Project, IDA would continue to support efforts to sustain governance improvements in the NACC.** IDA is currently playing a lead role in supporting anti-corruption and governance issues in Kenya, and the TOWA Project would support further institutional strengthening in HIV and AIDS. These governance strengthening needs include: further building up capacity in the NACC Secretariat in key areas such as financial management, internal oversight and audit, and the implementation of a fiduciary risk management policy; strengthening local decision-making, with empowered and informed CACCs which can operate effectively and as planned; improving monitoring and accountability at both the central and constituency levels, especially with more involvement of local communities and also through the use of independent monitors; and increasing public disclosure, both to inform all stakeholders about the transparency of processes, successes achieved and the challenges faced, and to improve the public perception and credibility of the NACC and the national HIV and AIDS Program.

51. **The TOWA Project would also respond to some important gaps in the financing of the KNASP.** As noted earlier, even though Kenya receives significant amounts of money for HIV and AIDS from other external sources, there are still some significant gaps in the resourcing of the Program. This is because the real value of the support received by Kenya is less than the nominal amounts; the estimated annual

financing need is rising considerably; the various projects do not ensure that all priority areas are addressed efficiently; and, with the closure of the KHADREP, there is an enormous demand for further support for enhanced HIV and AIDS activities at the local level. IDA has considerable experience in supporting and financing small CBOs, its financing is relatively flexible, and it is willing to take focus on hard-to-reach and other vulnerable groups, such as CSWs, which may not be receiving adequate coverage under some of the other partner-financed programs. There is also a need for additional funding for commodities, especially condoms, for which there are only limited funds available from other external sources.

52. **The Project would also maintain the "two-prong approach" of addressing the preventative and health sector issues in Kenya in parallel.** HIV and AIDS will continue to exert a heavy burden on the health infrastructure in Kenya. Health sector-specific support for the national HIV and AIDS Program, including the procurement of condoms and essential drugs, is already being provided under the DARE Project (which has been carried out in parallel with the KHADREP to ensure complementarity between the IDA's multi-sectoral and health sector investments). The DARE is due to close at the end of June 2007. The design of the planned new Health SWAp (which would address some of the infrastructure and capacity issues, in addition to the procurement of medical supplies and commodities through the MOH) is now underway, and Board consideration is scheduled for FY08. This will enable a continuation of the "twinning" approach initiated by the KHADREP and the DARE, through the TOWA Project and the health sector SWAp.

53. **The Project would complement other IDA-supported operations.** The TOWA Project will also be implemented in parallel with the new Education SWAp, which includes an investment program for HIV and AIDS education in schools, among other key non-health sector operations (such as the Western Kenya Community Driven Development Program and the Roads Project). Sub-regional HIV and AIDS projects supported by IDA that will serve a complementary function to TOWA Project, include the African Regional Capacity Building Project for HIV and AIDS Prevention, Care, and Treatment Project (ARCAN), the Great Lakes Initiative on HIV and AIDS Support Project (GLIA), and the Inter-Governmental Authority on Development Regional HIV and AIDS Partnership Program (to be financed under the Africa Catalytic Growth Fund). TOWA Project will also link to the planned new social protection project, as it is planned for the proposed Economic and Social Empowerment Project (ESEP) to include a component for governance strengthening and scale up of the OVC conditional cash transfer (CCT) program.

54. **The TOWA Project will contribute considerably to the harmonization and alignment agenda in Kenya.** The co-funding of the TOWA Project with DFID, and the closer links to the UN System plan to be supported by DFID, will align the Bank closely behind a major harmonization and alignment initiative. The new DFID support for HIV and AIDS in Kenya will provide some GBP 40 million (US$80 million) over the next five years. Of this amount: (i) about US$33 million will be managed by the World Bank through pooled-funding for the TOWA Project; (ii) about US$20 million will support a

Joint UN System Action Plan for HIV and AIDS in Kenya, to provide technical assistance to the implementation of the KNASP and the TOWA Project through the UN system; and (iii) about US$20 million will be provided through a delegated partnership with the Swedish International Development Agency (SIDA) to strengthen the coordination between civil society and the Government for the implementation of the KNASP through capacity building, grant-making, networking, documentation of lessons learned, and active collaboration, through AMREF. This DFID support will be coordinated by NACC, based upon annual workplans. This will bring the World Bank, DFID and the UN System into an enhanced partnership, supporting the KNASP, and explicitly coordinated and managed by NACC. In addition, TOWA Project will coordinate with other HIV and AIDS stakeholders in Kenya in the framework of KNASP and annual JAPR process.

b) Strategic Alignment with Related Investments and Policies

55. **The proposed Project is supportive of the Bank's broader development assistance strategies for Kenya**. Kenya's new strategy for economic growth with poverty reduction is defined in its Investment Program for the Economic Recovery Strategy (IP-ERS) for Wealth and Employment Creation, its Poverty Reduction Strategy Paper (PRSP) which was presented to the Bank and the IMF Boards in May 2004. The IP-ERS was developed through a participatory process. The strategy is based on three interlinked pillars: (i) economic growth, supported by reforms of financial services and an expansion of investments in infrastructure; (ii) equity and poverty reduction, which would be aided by actions to improve the access of the poor to basic services (education, health, and HIV and AIDS), and the revival of agricultural growth; and (iii) governance, including strengthening public safety, law, and order. Human development indicators, including HIV and AIDS, figure prominently in the Kenya ERS policy matrix.

56. **The TOWA Project also reflects the focus of the CAS and the CAS Progress Report.** The Kenya CAS approved in May 2004, is designed to help Kenya achieve its development objectives as set out in the results framework of the ERS. There are four main areas of support: (i) investing in people (including support for the national fight against HIV and AIDS); (ii) strengthening public sector management and accountability; (iii) improving the investment climate; and (iv) reducing vulnerability and strengthening communities. The CAS notes that addressing HIV and AIDS is a top priority for the Government. The Bank is explicitly committed to assisting the Government, the Kenyan public and the donor community to fight corruption and strengthen governance, in line with the third pillar of the ERS. The CAS Progress Report of March 2007 reaffirms the Bank's commitment to support the fight against HIV and AIDS, and makes the case for the delivery of the TOWA Project in FY06/07 in view of: (i) the pressing needs for continued support in this area; (ii) the significant reforms that have been made at NACC; and (iii) the delayed Board consideration of the TOWA Project since the closure of the KHADREP in December 2005. As noted earlier, the strategy for the design of the TOWA Project is entirely consistent with the principles of: (i) preventing misuse of World Bank funds; (ii) using World Bank leverage to support further progress in

governance; (iii) supporting champions of governance reforms; and (iv) enhancing targeted assistance for the poor and needy.

c) Compliance with Repeater Requirements

57. **The TOWA is a repeater project under the new Africa MAPs, which have evolved to be more prioritized than the original MAPs.** The predecessor, KHADREP, was approved by the World Bank's Board of Executive Directors on September 12, 2000, as part of the first package submitted under the MAP. During the Project Concept Note (PCN) review for the TOWA Project on February 8, 2005, the World Bank management concurred that the proposed Project design follows the requirements and criteria established for "repeaters" under the MAP for Africa (see Annex 11). The enhanced processes, systems and control measures in the TOWA are reflective of the Bank's experience with KHADREP.

3. Higher Level Objectives to which the Project Contributes

58. **Kenya is already meeting the millennium development goal (MDG) for HIV and AIDS, but the outlook for other MDG indicators in the country is mixed.** The MDGs envision that, by 2015, the world would have halted and begun to reverse the HIV and AIDS epidemic. In Kenya, as earlier noted, the prevalence of HIV and AIDS is already on the decline. The picture is also encouraging in the education sector, especially with the declaration of FPE. However, Kenya is not expected to meet MDG indicators for health, poverty, gender equality, and water safety at the current rates of public financing. Nevertheless, the inclusion of a strong gender focus and greater emphasis on vulnerable groups in TOWA Project provides the opportunity to address two additional MDGs: Goal 4 (promote gender equality and empowerment of women) and Goal 6 (improve maternal health, particularly with respect to reducing the risk of mother-to-child transmission). Given the linkages between health, poverty and economic development, the TOWA Project would ultimately contribute toward achieving Kenya's poverty alleviation and economic growth objectives.

B. PROJECT DESCRIPTION

1. Project Concept

59. **The design of the TOWA Project is framed within three primary challenges now facing the HIV and AIDS epidemic in Kenya**. These include the need for: (i) further governance strengthening and enhanced strategic leadership by the NACC; (ii) an increased focus on targeting and results; and (iii) improved harmonization and alignment among development partners.

60. **The Project would contribute further to the governance and anti-corruption program of the Government.** While policy-level work in the fight against corruption is

ongoing, several critical risk-management measures are being taken by the Government, working with the Bank, in response to the various audits. As noted earlier, these include the following: (i) all project activities have been integrated into the central Government general ledger system; (ii) all new projects are integrating control elements recommended by the auditors, including risk management functions and risk-based audit procedures; (iii) ministerial and project-level audit committees have been established and the Government's internal audit function has been redefined; (iv) the Government is deepening the focus on results as an integral part of good governance; and (v) various transparency measures are being introduced (including public access to information, public education and public disclosure). The NACC is now in the forefront of these initiatives, as illustrated by the progress achieved in the implementation of its Action Plan. They will be taken further with support from the TOWA Project.

61. **The Project will have an increased focus on targeting, results and performance.** This will be achieved through a series of measures.

- The Project will make a special effort to map groups at high risk of contracting HIV and provide them with targeted interventions. It will also focus explicitly on activities being funded insufficiently by other development partners.

- Increasing use is already being made of the JAPR, which involves the participation of all stakeholders to identify annual program priorities and allocations. This will be continued under the TOWA Project. In addition, a Steering Committee has been established with representation of donors and stakeholders to review work plans and recommended annual funding allocations through NACC.

- A new grant award mechanism has been designed for implementation under the TOWA Project, utilizing Calls for Proposals (CfP). The CfP will prioritize its support to: (i) interventions which are known to be effective and have the largest impact on the epidemic; and (ii) implementers who have comparative advantages in implementing such interventions and can deliver results. The CfP will also introduce clearly defined budgets for grantees and transparent decision-making processes (that involve the full and timely dissemination of information, and possibly the introduction of publicly available transcripts of decision meetings or video records). The CfP will limit CBO/NGO participation to those with established track records of delivery and performance, and exclude and/or black-list non-performing previous grantees). Networks of national-level NGOs are being established as 'facilitating agencies' to strengthen CBO applications for and use of grants. Such measures will reduce the scope for any possible fraud. **The prioritization and approval of the first CfP for FY07/08 will be a condition of effectiveness of the Project.**

- There will be: (i) a new, independent, externally-recruited Financial Management Agent (FMA), with an explicit, timebound and monitorable obligation to strengthen NACC capacity; (ii) an independent Compliance Verification Agent (CVA) to monitor the compliance of decisions on grant proposals against the CfPs; and (iii) an independent Procurement Monitoring Agent (PMA) to monitor procurement by the

NACC. All of these will be subject to their own transparency and accountability requirements. **The recruitment of all of these will also be a condition of effectiveness of the Project.** There will be an independent Performance Auditor for a programmatic and technical audit to assess and compare the results verifiably achieved with the results claimed. **This auditor will be procured by December 31, 2007.**

62. **The TOWA Project would also help to strengthen coordination and harmonization of external support for HIV and AIDS in Kenya.** There are presently a multiplicity of partners and a multiplicity of programs in the HIV and AIDS sector in Kenya, with 80 percent of support for the program off-budget. The epidemiological imperatives of the epidemic are requiring greater and greater emphasis on community-specific responses. This is leading to a multiplicity of outcomes and fragmentation of processes at all levels, which presents a great challenge for coordination by NACC. There is, however, broad support for the national HIV and AIDS Program and the KNASP. The coordination of efforts under NACC has significantly improved, especially with the annual JAPRs. The number of supportive partners has also increased substantially, and external partners have been actively engaged in discussions about ways to harmonize and align their support, including with the creation of a joint database for civil society organizations (CSOs), and the highly coordinated assistance for the strengthening of the M&E Program. The TOWA Project would build upon these positive developments, especially with the DFID co-funding. Finally, the TOWA Project will also focus on prevention and mitigation interventions, as support from other sources (e.g. PEPFAR, GFATM) is focused more towards treatment.

2. Project Development Objectives and Key Indicators

63. **The project development objective is to assist Kenya to expand the coverage of targeted HIV and AIDS prevention and mitigation interventions.** This would be done through: (i) sustaining the improved institutional performance of the NACC; and (ii) supporting the implementation of the KNASP. The following table shows the key monitoring indicators. In short, if the TOWA Project is successful, then after four years of the project, the NACC will be consistently scoring in the range of 1.00- 1.49 (Excellent) or 1.50- 2.49 (Very Good); according to Government guidelines. In addition, at least 80 percent of the programs being funded by the NACC will be achieving their targets. In terms of the "scorecard", then there would have been major progress in selected, key outcome indicators, as shown in Annex 6[3].

64. **Annual priority-setting derived from the JAPR will guide the Project.** This is a key development in the implementation of the KNASP, which will apply not only to the TOWA Project, but also to other donors' support, such as the DFID support to the UN

[3] Most of the ACTAfrica Scorecard indicators are included in the TOWA Results Framework. Those Scorecard indicators that are not in the Results were omitted because the project will not directly support activities that depend on those indicators.

system and the SIDA support to AMREF. The annual JAPR is the starting point in setting the annual priorities for implementing the KNASP. The JAPR is a broad based forum where all stakeholders are involved, and which from 2006 has included decentralized input from district and community levels. The results of the JAPR are used to select the priority areas for all HIV and AIDS interventions for the coming year, based on the experience from implementation during the previous year.

Table 4: Project Development Objectives and Key Indicators

Project Development Objectives	Project Outcome Indicators	Use of Project Outcome Information
The Project development **objective** is to assist Kenya to expand the coverage of targeted HIV and AIDS prevention and mitigation interventions through: (i) sustaining the improved institutional performance of the NACC; and (ii) supporting the implementation of the KNASP.	1) NACC composite score on the annual independent performance evaluation.	Assess overall NACC performance and needs for further institutional strengthening and technical assistance.
	2) Proportion of overall targets met for NACC-funded programs in: • civil society/private sector (beneficiaries); and • public sector (beneficiaries).	Assess the effectiveness of the NACC in directly funding and implementing programs and identify areas for further strengthening and technical assistance.
	3) Key outcome indicators for prevention and mitigation: • Proportion of youth aged 15 to 24 years reporting condom use in the last sexual encounter with a non-regular partner. • Proportion of sexually active youth 15 to 24 years who report having had sex with a non-spousal, non-regular partner in the past 12 months. • Number of persons who undergo testing and counseling. • OVC receiving care/support in the past 12 months. • Number of male and female condoms distributed.	Assess impact of NACCs performance in implementation of the KNASP in the areas of prevention and mitigation. Most of the ACTAfrica Scorecard indicators are included in the TOWA Project Results Framework. Those Scorecard indicators that are not in the Results were omitted because the Project will not directly support activities that depend on those indicators.

3. Policy and Governance Framework

65. **The Project supports the implementation of the KNASP. In addition, the Government has issued a Letter of Policy Support for the TOWA Project** (see Annex 3). This letter explains the situation of HIV and AIDS activities in Kenya since the onset of the KHADREP which ended in December 2005. The letter highlights the sector issues and the strategies aimed at addressing them. These have been developed as a result of lessons learned from the KHADREP, the new challenges of institutional arrangements, and the implementation of HIV and AIDS programs/projects in Kenya. The issues in this letter include: (i) emerging challenges owing to the characteristics and stage of the HIV and AIDS epidemic in Kenya; (ii) challenges pertaining to institutional management; (iii)

the Government's commitment to good governance and dealing with corruption issues; and (iv) the national response to HIV and AIDS to be guided by the KNASP. The letter outlines the weaknesses identified in various areas and gives account of the measures put in place to address them before and during the implementation of the TOWA Project.

66. **The NACC governance strengthening program has been developed within the framework of the Government's Governance Action Plan, and responds to the findings of the DIR.** The NACC is already implementing the governance action plan robustly; and with a growing range of donor partner support, the NACC is committed to developing even stronger governance systems for the future. A series of independent compliance and verification agencies are being contracted and mechanisms put in place: (i) an independent CVA to check compliance of proposals from CBOs, etc with the terms of CfPs; (ii) an independent agency to assess and compare the results verifiably achieved with the results claimed; (iii) the establishment of networks of national-level NGOs as 'facilitating agencies' to strengthen CBO applications for, and use of grants; (iv) an independent procurement monitor to ensure that NACC procurement is in line with agreed procedures; (v) a Steering Committee with representation of donors and stakeholders to review annual funding allocations through NACC, including those to the UN; (vi) more explicit, effective and focused use of the JAPR, which involves the participation of all stakeholders, to identify and recommend annual program priorities; and (vii) the further development of the M&E system, following the successful launch of the COBPAR. Reports on implementation of the Action Plan are already prepared monthly on a regular basis, and are being reviewed by all concerned donors and stakeholders.

4. Project Components

67. **With a total credit of US$80 million, plus a further US$33 million in joint funding (to be administered by the Bank) from DFID, and a planned implementation period of four years, the TOWA Project is structured round two key pillars and components:**

- **strengthening NACC's role in governance and coordination; and**
- **continuing support for program implementation.**

68. **Component One: Strengthening Governance and Coordination Capacity (US$29.8 million; US$19.7 million)[4].** This component provides support for the strategic leadership function of the NACC, as the Kenyan institution charged with leading, guiding and coordinating the implementation of the KNASP. It further focuses on the institutional strengthening of NACC and its decentralized structures and on activities by these institutions to coordinate the national program and project activities. The role of NACC would be emphasized as primarily a program coordinator and service component

[4] The cost figures relate to: (i) the combined IDA, DFID and Government financing, excluding the unallocated contingency amount; and (ii) the IDA allocation alone, again excluding the unallocated contingency amount. See Annex 8 for more details.

and would also support the further strengthening of the implementation of the national M&E framework, as well as capacity building for the implementing partners. This component therefore will help strengthen the national institution for managing and implementing the long-run response to HIV in Kenya, and enhance the country's capacity to use effectively resources from all sources for results. It will include four sub-components:

Sub-component (a): Strategic Leadership (US$13.4 million; US$8.1 million)
For the strategic leadership sub-component, the Project will support:

- regular strategic reviews of the KNASP: primarily the JAPR, but also a mid-term review of the Program;
- sustaining Program operations: mainly the operating costs of Constituency AIDS Control Committees (CACCs), District Technical Committees (DTCs) and NACC Field Officers;
- limited minor works to ensure an efficient operating environment;
- institutional capacity building of NACC: this is mainly training for NACC and its structures;
- advisory support and technical assistance for NACC to prioritize, strengthen and focus Program targeting to be more strategic and selective; and
- strategic communications (IEC, mass media, etc) that support the NACC Program.

Sub-component (b): Accountability and Verification (US$8.5 million; US$6.0 million)
For accountability and verification sub-component, the Project will support:

- contracting an independent FMA, to be responsible for managing the financial aspects of the main grant-making element of the Project;
- contracting an independent CVA, which will be charged with checking compliance of proposals with the terms and conditions of the CfP for grants;
- contracting an independent Performance (value for money) Auditor, which will verify that grants are being used for the purpose intended, combining a technical audit with a financial one;
- contracting an independent Procurement Management Agency (PMA), to monitor procurement by the NACC itself; and
- contracting independent external financial auditors.

Sub-component (c): Information-based Management (US$4.9 million; US$3.5 million)
To improve the local evidence base for decision making, the Project will support:

- the development of the Management Information System (MIS);
- the further strengthening of the M&E system and reporting; and
- the operational research agenda.

Sub-component (d): Capacity Building of Implementing Partners (US$3 million; US$2.1 million)
For the capacity building of implementing partners, it will support strengthening grant performance by:

- the provision of technical support to community-level grantees (capacity building and facilitation);
- networking and facilitation at the regional level for needs assessment, coordination, and the public-private sector interface; and
- networking and facilitation at regional level for coordination of processes, such as responding to CfPs, participating in the JAPR, strengthening monitoring and reporting, social accountability, and public disclosure.

69. **Component Two: Support for Program Implementation (US$81 million; US$57.3 million).** This component would make financial resources available to civil society, public sector, private sector, and research institutions, focusing on initiatives in line with the KNASP, responding to priorities identified by the JAPR. It would also support the procurement of essential commodities.

Sub-component (a): Grant Awards (US$53 million; US$37.5 million)

70. **This sub-component focuses primarily on the civil society and private sector, with result-based proposals and activities.** Proposals from the private sector, civil society organizations, research institutions and universities would be invited in a focused and structured manner through the mechanism of CfP. The focus will be on results, not on inputs. The prioritized result areas will be determined annually within the framework of the KNASP and based on areas identified as priorities in the JAPR. Proposals will be assessed and selected on the basis of their expected results, using a set of clear rules and criteria. Target populations and interventions are selected within the framework of the KNASP, according to priorities set by the JAPR. Priorities will be given to: (i) interventions with the largest impact in preventing further spread of HIV; and (ii) target populations who are most susceptible to infection or most affected already. Such populations include, but are not necessarily limited to: (i) CSWs; (ii) OVC; (iii) highly mobile populations (truck drivers, migrant workers); (iv) women (including widows); (v) the youth (including young girls); (vi) workers in small and medium-sized enterprises, micro-enterprises, and the informal sector; (vii) people with disabilities; (vii) people exposed to sexual violence; (viii) Men Having Sex With Men (MSM); and (ix) Intravenous Drug Users (IDU). While CfP rules and criteria prioritize information-based interventions and implementers with a history of good performance, they will also: (a) allow for innovations; as well as (b) give new, inexperienced, but legitimate organizations with potential, a chance to prove themselves.

Sub-component (b): Mainstreaming Public Sector Programs (US$8 million; US$5.7 million)

71. **This sub-component will provide support to mainstreaming HIV and AIDS within the public sector**. The focus would be on programming and activities in the priority areas reflected in the KNASP 2005/06 to 2009/10. The support will emphasize external rather than internal mainstreaming by the public sector. Funds will be used to amplify interventions planned by the targeted ministries in their own MTEFs, Budgets and Annual Plans of Operations and not to fund separate projects or work-plans.

Through the mainstreaming advocacy process supported through the UN organizations (with parallel DFID funding); key sectors will identify appropriate responses to priorities in the JAPR. Key sectors important in the fight against HIV and AIDS will be targeted for support. As indicated in the KNASP, the initial sectors that would be targeted are: (i) transport (including roads); (ii) agriculture (including co-operatives, livestock and fisheries); (iii) health; (iv) education (including Teachers Service Commission, Commission for Higher Education and Ministry of Science and Technology); (v) governance (including Judiciary, Ministry of Justice and Constitutional Affairs, Attorney General, the Kenya Police and Administration Police); and (vi) the Directorate of Personnel Management. The list of priority key sectors will be re-examined during each JAPR, and will be determined for the following year, depending on the epidemiological information and implementation progress during the past year, including quality of reporting.

72. **ARCAN follow-up activities could be supported through the TOWA Project.** The ARCAN Project has started picking up and is programmed to train 813 ARCAN Trainer Graduates (ATGs) between 2006 and 2009. The ATGs who have successfully completed training under ARCAN are expected, upon their return to their countries, to undertake the training of associated staff to enhance their capacities and expand the range of their skills. The ATGs are expected to conduct training for health service providers in the public sector, civil society organizations and private sector in five thematic areas of nursing, counseling, physicians, program managers and laboratory technicians. To facilitate this process, TOWA Project funds could be used to conduct some of the training and assist in achieving the cascading effect of the training, as planned by the ARCAN Project. However, the possibility of supporting the roll-out of ARCAN-initiated training activities would need to be considered within the JAPR process, and would be subject to the procedures for the sub-component for mainstreaming public sector programs.

Sub-component (c): Essential Commodities (US$20 million; US$14.2 million)

73. **The TOWA Project will support the procurement and distribution of some commodities that are essential to the fight against HIV and AIDS.** In principle, commodities related to the response to HIV and AIDS and its linkages with the malaria and TB programs will be eligible for financing under the Project and include condoms, drugs, test kits and laboratory equipment and supplies. TOWA Project will respond to priority needs for these commodities in a flexible manner. However, the Project plans to focus on some key commodities for which there is a funding gap by contributing: (i) US$12 million to condom procurement; (ii) US$4 million toward the procurement of first line TB drugs; and (iii) US$4 million toward the procurement of ITN for free distribution among PLWHA who live in malaria zones. Although ARV drugs are also an important HIV and AIDS commodity, they are already being funded by other sources (especially GFATM and PEPFAR). TOWA Project will therefore focus its commodity support primarily on the above-mentioned areas. If necessary, however, small amounts of other commodities (such as test kits, laboratory equipment and reagents) could also be procured on a highly limited basis.

74. **Adjustments to the procurement of HIV commodities under the Project may be made during Project implementation, taking into account available funding from other sources.** They will be responsive to the development of the national condom program being supported by the Joint UN Plan with DFID support. This will allow for flexibility and enable the Project to respond to emerging commodity priorities. HIV commodity procurement under TOWA Project will be conducted according to the Project procurement plan, which will be linked with the national HIV commodities procurement plan. HIV commodity procurement under TOWA Project will also be conducted in close coordination with the procurement of HIV commodities financed by the Government, the GFATM as well as other development partners such as PEPFAR, the Presidential Malaria Initiative (PMI) and DFID, etc. The commodity procurement under TOWA Project is expected to take place in the first three years of the Project. All of the commodities will be procured though non-Government procurement agencies. Possible arrangements include: (i) UNICEF for Long Lasting Insecticide Treated Nets (LLITN); (ii) UNFPA for condoms; and (iii) Global Drug Facility (GDF) for TB drugs. From the fourth year onwards, the Government's procurement system, which is expected to be strengthened under the Kenya Health SWAp, will take over.

Table 5: Project Costs

Expenditure Categories	TOWA (US$ '000)	Financing		DFID (US$ '000)
		GoK	World Bank	
Component A: Governance and Coordination Capacity Strengthening				
Strategic Leadership	13,402	2,000	8,076	3,326
Accountability and verification	8,506		6,022	2,484
Evidence-Based Management	4,900		3,469	1,431
Capacity building of implementing partners	2,950		2,088	862
Component A - Total	*29,758*	*2,000*	*19,655*	*8,103*
Component B: Program Implementation				
Grant Awards	53,000		37,522	15,478
Mainstreaming Public Sector Programs	8,000		5,664	2,336
Essential Commodities	20,000		14,159	5,841
Component B - Total	*81,000*		*57,345*	*23,655*
Unallocated	*4,242*		*3,000*	*1,242*
GRAND TOTAL	115,000	2,000	80,000	33,000

75. **Summary of Project costs and funding.** Total funding of the TOWA Project by the IDA (US$80 million) and DFID (US$33 million) is US$113 million. The Government will contribute US$2 million in direct support to the NACC; although its financial support to the entire HIV and AIDS Program is considerably more (see Annex 8). The allocation by component is as reflected in the Table 5.

5. Lessons Learned and Reflected in the Project Design

76. **The TOWA Project seeks to strengthen "learning-by-doing," and maintain the participatory and community-focused approach of the World Bank's response to the HIV and AIDS challenge in Africa.** The TOWA Project will support a more prioritized and information-based approach to Kenya's national response to the epidemic. Lessons from the implementation of KHADREP, as well as other IDA-supported HIV and AIDS projects, have been integrated into the TOWA Project design. In addition, the process of increased coordination and harmonization between partners, both external and internal, has enabled a wider range of perspectives to be fed into the design of the Project.

(a) Lessons from KHADREP

77. **The early initiation of the KHADREP Implementation Completion Report (ICR) provided important lessons.** The first phase of the ICR was initiated during the TOWA Project Identification Mission. The key lessons identified in Phase I of the ICR process, which are of particular relevance to the TOWA Project design and which have been addressed, fall in the areas of: (i) program coordination; (ii) the public sector programs; (iii) the civil society programs; (iv) M&E; and (v) management and governance. These are as follows:

78. **Program coordination: the KHADREP support to the NACC was essential for the progress achieved and needs to be continued.** The ICR recommended that: (i) future support to the HIV and AIDS Program should also be linked to the full implementation of NACC's Governance Action Plan, and to the NACC's delivery of the specific results outlined in the KNASP results framework; and (ii) support for NACC's decentralized entities (specifically the CACCs) should be better defined, and there should be a more limited role for Members of Parliament (MPs) in influencing CACC decisions, particularly those relating to CACC membership and resource allocation. The design of the TOWA Project has responded to these recommendations, and new guidelines have been issued by the NACC for the functioning of the CACCs.

79. **Public sector programs: the emphasis of the work of the ACUs was initially on the "internal domain" and needs to be broadened.** Under the KHADREP, there was some success in raising the general awareness of HIV and AIDS within the public sector, and in expanding access to VCT and related services for public workers. However, with a few exceptions (such as the Ministries of Education, Science and Technology), the ACUs have had limited impact in the critical "external" domain: the services provided by the public sector, rather than its internal management. Also, the difficulties faced by ACUs were largely the result of the institutional challenges. As a

consequence, the TOWA Project has been designed to support a targeted number of key sectors (prioritized under the KNASP) and to emphasize external mainstreaming efforts.

80. **Civil society programs: the role of the FMA should be strengthened and arrangements made to mitigate concerns about inappropriate selection of projects and "briefcase NGOs".** Another conclusion of the ICR is that reforms are needed in the grant approval and management process, with opportunities for political interference minimized. As a result, under the TOWA Project there will be a more targeted approach (using the CfPs), with a focus on the funding of specific vulnerable groups who are under-supported from other sources (such as girls, MSM, IDUs and CSWs). Support will also be made available for technical capacity building for community groups, alongside the provision of grants. The M&E of community initiatives will also be strengthened and linked to the roll out of the LQAS methodology.

81. **Monitoring and evaluation: the Kenya HIV and AIDS epidemic is one of the most comprehensively monitored in Africa, but further strengthening of programmatic M&E is needed.** Good quality information from sentinel surveillance sites, the KDHS and other sources is already available to support the development of information-based responses, but under the KHADREP there was an absence of an effective, programmatic M&E system (especially for community initiatives). This lack meant that it was impossible to consistently measure the progress and impact of key HIV and AIDS interventions, and the management of the national response was therefore undermined. It was also difficult to quantify Project impact. In response, the TOWA Project has been designed to provide substantial support for the operationalization of the national M&E framework, including both epidemiological and programmatic indicators. It will also provide resources for essential supporting systems, for strengthening the NACC's role in coordinating M&E, and for the sharing of M&E data among all the various donors and implementers (which is essential for accurate measurement of the indicators in the national M&E framework). Under the TOWA Project, emphasis will also be placed on improving the evidence base for local decision making.

82. **Management and governance: the experience of the KHADREP shows that the NACC suffered from a lack of creative, results-based and effective leadership.** Going forward, it is imperative that there is strong leadership and the strengthening of key management systems and the TOWA Project has been designed accordingly. Specific investments are needed in such areas as: financial management strengthening; the development of internal oversight and audit arrangements, and the implementation of a fiduciary risk management policy; and the strengthening of decision-making, monitoring and accountability at the central and local levels. The newly recruited senior staff at the NACC are already being provided with training to enable them to function effectively, building upon the induction training that has already been carried out, and this will be continued under the TOWA Project. The recently introduced performance contracts provide an opportunity for an increased emphasis on the achievement of results and the strengthening of governance and accountability; and the annual institutional assessment of the NACC will be used as a key monitoring indicator of progress made.

(b) Lessons from 2004 MAP Interim Review[5]

83. **The multi-partner review of several MAP projects has indicated a number of major lessons from the Region generally**. These lessons include the following. First, better strategic planning is needed in terms of supporting specific activities and interventions which have the greatest impact, based on analyses of current epidemiological and behavioral data. Second, there is need for an information-based approach that strikes the balance between broad-based general public intervention and the targeting of vulnerable groups. Third, a performance-based disbursement system should be considered to encourage strong performers. Fourth, civil society should be fully involved in the design of materials and procedures for grant making, application and reporting. And fifth, adequate resources should be set aside to develop operational M&E systems which can provide adequate information for the monitoring of program activity. All of these lessons of experience have been incorporated into the design of the TOWA Project.

(c) Lessons from the Bank's HIV and AIDS Programs Globally[6]

84. **Key lessons have also emerged from reviews carried out in recent years by the World Bank of its HIV and AIDS lending and non-lending operations throughout the world.** They include the following: (i) the Bank, by its acts and its omissions, influences both developed and developing countries in their actions on HIV and AIDS; (ii) country ownership, leadership and capacity are crucial to successful action; (iii) the Bank's policy advice and country-led approach are important assets to countries in pursuing their national goals; (iv) HIV and AIDS needs to be better integrated into development policy and planning, and the Bank is uniquely positioned to assist countries with this; (v) HIV and AIDS strategies, policies and programs should be information-based, with priorities based on local epidemic conditions; and (vi) M&E are essential and consistently neglected. These lessons have guided the development of its Global AIDS Program of Action generally, and the design of the TOWA Project explicitly.

85. **Lessons are also available from the World Bank Independent Evaluation Group (IEG)'s "Evaluation of the World Bank's Assistance for Fighting the HIV and AIDS Epidemic, 2005".** These include the need to: (i) help governments to be more strategic and selective, and to prioritize, using their limited capacity to implement activities that will have the greatest impact on the epidemic; (ii) strengthen national institutions for managing and implementing the long-run response; and (iii) improve the local evidence base for decision making. Again, the design of the TOWA Project is consistent with these findings.

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[5] MAP Interim Review, ACTAfrica, October 2004.

[6] The World Bank's Global HIV/AIDS Program of Action (December 2005)

(d) Lessons from other partners

86. **Working with other partners has brought fresh perspectives and benefits.** The World Bank Team for the TOWA Project gained fresh and reinforced insights, and confirmed many of the lessons learned, through the joint work with UNAIDS, DFID and other development partners. Principally these perspectives were: (i) the benefits of harmonization (for TOWA Project, for example, it is agreed that advocacy for mainstreaming in the public sector, can be promoted largely by the UN system, using parallel DFID support); (ii) broadening access to additional expertise (the experience of AMREF, which have been doing capacity-building for grantee CBOs, has strongly influenced the design of the sub-component on capacity-building for implementing agencies); and (iii) the critical role of NACC coordination and the need to support it.

6. Project Alternatives Considered and Reasons for Rejection

87. **Repeater Project with the same broad scope as KHADREP (with no prioritization by program coverage, sector, risk groups or geographic hot-spots).** This alternative design was rejected due to the need, expressed by many stakeholders and also indicated in the KNASP, for the IDA financing to explicitly complement existing investments. Having separate project components for project implementers (e.g. public sector, civil society and the private sector entities), as under the KHADREP, would also not easily allow for a performance-based model, due to the need to conduct formal re-allocations between categories. The "no prioritization" approach was also rejected on the basis of the evolving epidemiological and socio-economic evidence of the HIV and AIDS epidemic in Kenya.

88. **Sector Wide or Programmatic approach.** It was felt that the current donor environment in the HIV and AIDS sector is not yet conducive for a more comprehensive SWAp. As a result, although the proposed Project would support the comprehensive KNASP and include a significant pooling of resources with DFID, as well as considerable harmonization of efforts of partners, the Project would not function explicitly as a SWAp overall. Efforts would be made in the areas of planning, financing and budgeting, implementation and M&E to prepare a foundation on which a future fully-joint operation could be developed.

89. **Cease IDA Support.** The final alternative considered would be to program no further IDA support for HIV and AIDS Program in Kenya, especially due to the governance problems experienced under the KHADREP. However, this was not viewed as an appropriate option, as it was felt by many stakeholders that the World Bank has a role to play in the national response to HIV and AIDS and needs to remain actively involved. As previously discussed, the World Bank's policy influence, country presence, technical and fiduciary expertise, broad scope across all development sectors, and implementation focus, are viewed as essential elements in supporting the continued strengthening and expanding of the national response to HIV and AIDS in Kenya.

7. Lending Instrument

90. The proposed Project is a Specific Investment Loan and is a repeater Project to the KHADREP. It is to be co-funded with DFID.

C. IMPLEMENTATION

Implementation arrangements are set out in the Operations Manual for the TOWA Project, and are summarized below.

1. Partnership Arrangements

91. **The TOWA Project would be implemented within a strong partnership framework**. In recent years, as previously discussed, additional and significant resources have become available to support Kenya's response to HIV and AIDS, particularly with increased Governmental funding and also with resources from the GFATM and the PEPFAR. However, local stakeholders believe that continued IDA support, through the TOWA Project, would be essential. The Bank is a major financing agency involved in the national HIV and AIDS policy dialogue. Together with UNAIDS and DFID in particular, it is strongly supporting greater steps towards harmonization and the implementation of the "Three Ones". Through the KHADREP, the Bank has supported the initiation and conduct of JAPRs, involving a wide range of stakeholders; in 2006 for the first time, the JAPR was also conducted at decentralized level, with consultations at the districts and provincial levels, as well as the national event. The TOWA Project would build upon these initiatives, emphasizing particularly the role of the Inter-Agency Coordinating Committee (ICC) for HIV and AIDS, the JAPR and harmonized external support, especially with DFID and UNAIDS.

2. Institutional and Implementation Arrangements

(a) Institutional Arrangements

92. **The institutional arrangements for the NACC to implement the TOWA Project reflect the multi-sectoral nature of the KNASP**. As no single agency has responsibility for all aspects of implementation, it is essential to have strong coordination mechanisms to ensure that key stakeholders cooperate effectively to achieve the results set out in the results framework, and work towards overall strategic objectives. This national coordination responsibility is a core function of the NACC, which provides the fora and mechanisms in and through which decisions are made. As outlined in the KNASP, the NACC is accountable for ensuring that: (i) effective coordination and monitoring mechanisms are in place for the national strategy engaging all stakeholders, including those who have lacked effective representation in the past; (ii) the CACCs

provide effective coordination mechanisms at the local level, including clear definition of, and limits on, the role of MPs; (iii) there are appropriate and timely communications to all stakeholders on progress made; (iv) there is accountability by lead agencies and strategic partners for the deliverables to which they have committed; and (v) periodic, effective and joint reviews take place of KNASP implementation. The NACC Council therefore, comprises senior policy makers from all sectors of society, including the Permanent Secretaries of key ministries, and senior representatives from the private sector and civil society. The NACC Council provides a high level policy forum to ensure that the KNASP remains on track.

93. **The NACC has recently been strengthened institutionally and is ready to implement the TOWA Project**. The reorganization of the NACC has enabled it to address more effectively the needs of national coordination and to position itself better to implement the TOWA Project. The new NACC structure consists of the Director's Office and three departments. The Director's Office includes the Audit Division, the Legal Office and Special Programs. The three departments are: (i) Coordination and Support, that is responsible for stakeholder coordination, technical support and the decentralized structures; (ii) Policy, Strategy and Communication, that oversees the implementation of KNASP, strategy development, resource mobilization, M&E, research and strategic communication; and (iii) Finance and Administration, that is responsible for finance, accounting, human resource development, management information and general administration. In line with the Letter of Sector Policy, the NACC has: (i) completed the process of filling all key senior and middle-level managerial positions competitively; (ii) reviewed and written staff policies and a Code of Conduct; (iii) developed individual work-programs, guidelines for performance appraisal and performance contracts; and (iv) instituted a well organized administrative management system. It has been supported in these activities by technical assistance provided by DFID through the HAPAC project. This support is being extended to facilitate the launch of the TOWA Project.

94. **The NACC Council has several committees which will also play a major role in the implementation of the TOWA Project**. These include:

- **The NACC Programs Committee.** Its main responsibilities include: (i) to review and assess all the programs, projects and plans submitted to the Council; (ii) to promote program coordination and collaboration between the interested organizations, agencies and individuals; and (iii) to monitor and evaluate all program activities, and promote dissemination of information.

- **The NACC Finance and Administration Committee.** Its main responsibilities include: (i) the preparation of estimates of expenditure and forward budgets; (ii) the administration of the rules and regulations governing financial management of the Council's funds; (iii) the provision of a framework for coordination, resource mobilization and allocation/distribution; (iv) the coordination of all matters related to external donor funding; (v) review of staff appointments; and (vi) functioning as a disciplinary committee for the staff of the Council.

- **Audit Committee.** The Audit Committee has recently been established with clear ToRs. The Committee is tasked with a general oversight role with regard to governance, accountability, and transparency at the Council. The Audit Committee is strengthening overall audit functions within the Council through constant review of operational risks and actions taken by the management to address the risk. To facilitate the Committee in its work, NACC's Head of Internal Audit Division reports to the Committee. The Committee approves and guides the audit plan.

95. In addition to the above NACC Council Committees, the NACC Secretariat has the following Committees:

- **Tender Committee.** Its main responsibilities include: (i) review and verify that all the procurement procedures, processes including tender opening, technical and commercial evaluation have been undertaken in accordance with the Public Procurement and Disposal Act, 2005, the Public Procurement and Disposal Regulations, 2006 and the terms set out in the tender documents; and (ii) award procurement contracts where the contract value exceeds the threshold of the Procurement Committee.

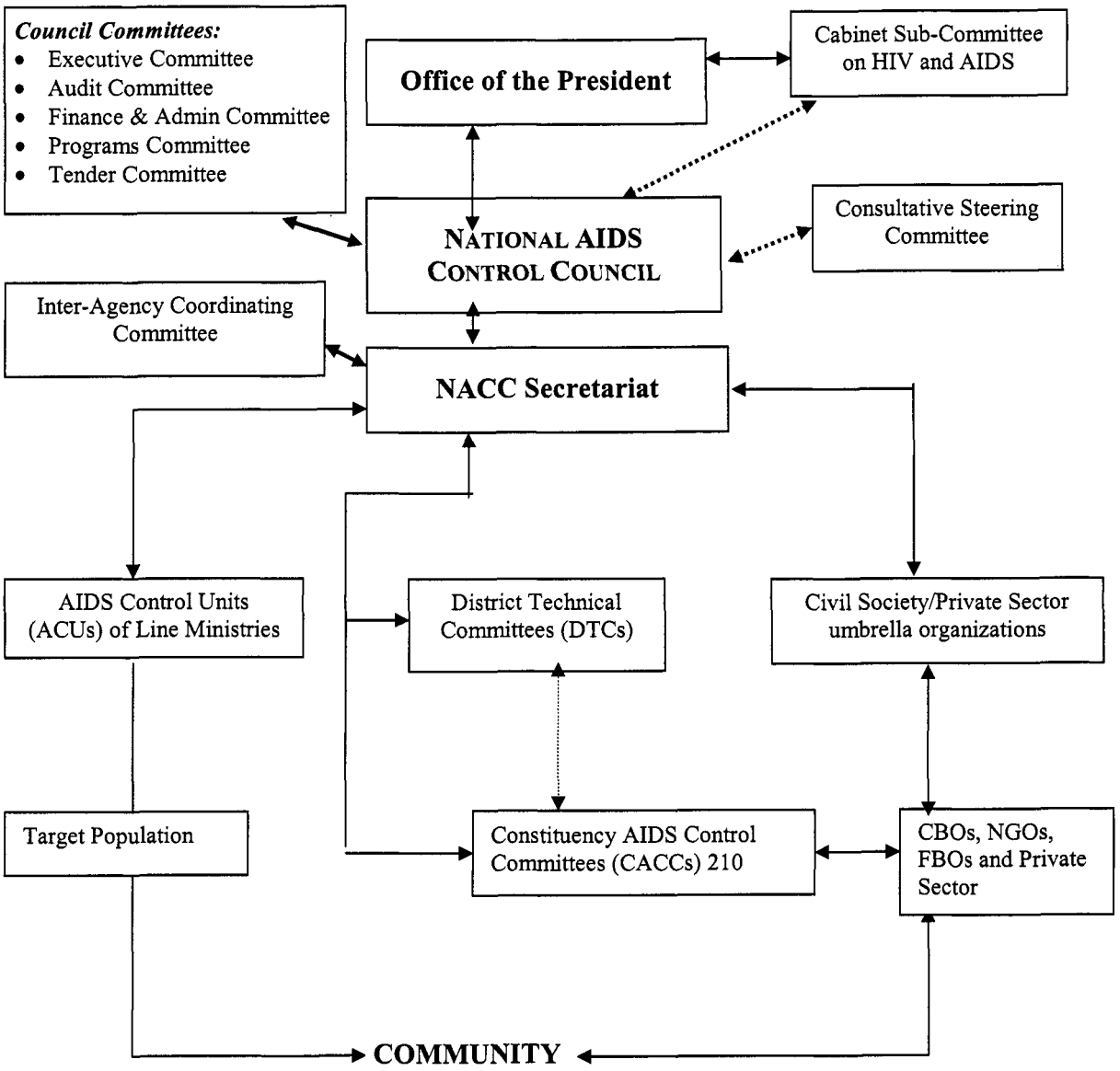
- **Procurement Committee.** The committee handles smaller contract awards. The threshold for procurement Committee is limited to Quotations below Ksh 500,000 and Direct Procurement below Ksh 500,000.

96. The key coordinating structures include:

- **The Inter-Agency Coordinating Committee (ICC) for HIV and AIDS** provides an effective HIV and AIDS stakeholder coordination mechanism. The ICC provides high-level technical coordination of the KNASP, including coordination of the annual JAPR process. The ICC is chaired by the Director of NACC and includes senior representatives with HIV and AIDS responsibility from Government, civil society, the private sector and development partners. The ICC includes, and receives reports from, the chairs and executive secretaries of the Monitoring & Coordination Groups for each priority area in the KNASP. The ICC will be used to review formally the progress with the KNASP on a regular basis.

- **Monitoring and Coordination Groups (MCGs)** have been established for the three priority areas of the KNASP (including M&E), and for support services. The MCGs follow on directly from the Working Groups that developed the KNASP results framework. The ToRs have been drawn up by the NACC for each MCG, incorporating the functions of the Technical Groups which were previously in existence. The membership of each MCG reflects key implementing agencies in relevant areas, as identified in the results framework, and other key strategic partners.

Figure 4: The Structure of the NACC



• **Steering Committee of the ICC- HIV and AIDS.** The ICC- HIV and AIDS has established a Steering Committee to be an executive arm and advisor on HIV and AIDS Programs. The Steering Committee will: (i) be responsible for efficient communication flow with the members of the ICC-HIV and AIDS; (ii) advocate for effective collaboration and networking among the members; and (iii) engage in problem solving and dispute resolution among the members upon request by NACC. The Steering Committee will also advise and support the NACC in the following areas: (i) development of policy and strategic direction based on the "Three Ones" principles, particularly in coordination, strategic planning, M&E, capacity development and technical assistance; (ii) harmonization of stakeholders' support

mechanisms and procedures; (iii) coordination of resource mobilization strategies and activities to implement the KNASP; (iv) addressing implementation bottlenecks of the national response, including challenges relating to resource absorption; (v) review of JAPR recommendations and guide the development of the annual workplan for the JAPR Results Framework, and promote adherence to the workplan by stakeholders; (vi) endorsing workplans as required by development partners, including those to be submitted to GFATM; and (vii) performing any other task that may be assigned by the ICC- HIV and AIDS.

Implementation Arrangements

97. **A new, more robust governance system will be used for the implementation of the TOWA Project.** The TOWA Project is built upon new governance and accountability mechanisms and systems. These are set out in the following documents:

- The Government's Governance Action Plan, July 2006 to June 2007 (Annex 1);
- The Letter of Sector Policy (Annex 3);
- The DIR Management Action Plan (Annex 4);
- The NACC Governance Action Plan (Annex 4);
- The NACC Risk Management Policy (Annex 4); and
- The TOWA Project Operations Manual (which includes chapters on governance, public disclosure and social accountability mechanisms, financial management and procurement).

98. **The TOWA Project would be implemented by the NACC using agreed procedures, as set out in the Operations Manual. Implementation of the Project will, as much as possible, rely on mainstream Government financial management systems, as modified in the NACC institutional arrangements.** These take account of: (i) the redefinition of the fiduciary risk management responsibilities of the Council Finance and Audit Committees; (ii) the institutionalization of an effective and independent internal audit and risk management function; (iii) the strengthening of project anti-corruption and public oversight activities; (iv) the revision of the responsibilities of the FMA to include fiduciary management of all grant funds; and (v) the arrangements for the external auditors' assessment and increased reliance on the work of Internal Audit Department.

99. **For the grants under the Project, there would be major changes to the award system used under the KHADREP[7]. In particular, under the TOWA Project,**

[7] Under the KHADREP, as noted earlier, financial resources were channeled to support civil society organizations (including NGOs, CBOs, FBOs and private sector organizations) through a continuous

proposals from both the public sector and civil society organizations will be invited in a more focused and structured manner. First, proposals will be invited through a CfP mechanism, advertised in the media in the case of civil society organizations, and as a written invitation in the case of ministries, Government departments or Government agencies (MDAs). Second, all proposals, whether from the public sector or civil society organization, will be treated as grants to implementing agencies. Third, in this process, priorities will be given to: (i) proposals with information-based interventions which have the largest impact on the epidemic; (ii) implementers who have the comparative advantage in implementing such interventions and can deliver results; and (iii) priority activities that have inadequate support from other sources of financing. Fourth, the Project would support an independent hotline to receive, review and act upon any feedback, question, complaints, or request for information. Fifth, two new verification and compliance mechanisms are being set in place: (i) an independent CVA to check that proposals do in fact respond to the results and targets asked for in the CfP; and (ii) an independent Performance Audit to assess and compare the results verifiably achieved with the results claimed. Finally, the CfP process would be supported by the capacity building activities, so that NGOs are assisted in the process of proposal design and submission.

100. **Very specific guidelines have been developed for the CfPs for the CSOs and private sector.** The CfP would be published in the national newspapers by the NACC and would indicate explicitly for which (one or more) outcome proposals they were being solicited. These outcomes would relate directly to the results as elaborated in the results framework being part of the KNASP and as prioritized through the annual JAPR. The CfPs would also request the potential recipient to commit to the M&E framework associated with the KNASP results framework, and elaborate the process through which the relevant indicators would be measured, collected and reported. The invitation to submit proposals would also indicate an allocation ceiling. Only a limited number of proposals could be funded according to the budgetary ceilings set for constituency, district and national level proposals. Financial allocations would be made for, and communicated to, individual CACCs, DTCs and the national level. The proposed allocations would be reviewed and endorsed by the Steering Committee, and subject to no objection by the World Bank, prior to the issuing of CfPs. The CfPs would also indicate the criteria for: (i) eligibility; and (ii) assessment and prioritization. These criteria would vary from one CfP to the next, in accordance with the evolution of priorities through the course of the Project, and would be subject to World Bank no

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process of submission, review and approval of proposals originating from these organizations. While the broad invitation to civil society organizations served the project's objective of expanding the national response to HIV and AIDS to include a significant number of additional stakeholders, it also became obvious that this "social mobilization" approach had its limitations. Civil society organizations were given little guidance on areas that were considered priorities; no allocations were set or ceilings given with regard to the funds available; and the proposal review process therefore lacked a critical set of criteria against which to assess proposals. In addition, because of the continuous intake and review of proposals, this activity was increasingly perceived as the main function of CACCs and the NACC as a whole. The public sector was supported under a different modality, through the financing of annual workplans reviewed and approved by the NACC.

objection, after review and endorsement by the Steering Committee. The frequency of CfPs inviting CSOs to submit sub-project proposals could also vary. This would depend on emerging priorities, identified gaps, availability of resources and additional funding opportunities and disbursement targets. Lastly, in the case of the smaller CBOs, proposals will be encouraged that cover more than a one year period, although finances beyond the first year of implementation would only be committed upon certification of performance by the relevant CACC and the beneficiaries.

101. **The review of proposals and their approval or rejection would be delegated to appropriate levels, with clear accountability.** The following thresholds would apply:

- proposals with a value of up to US$5,000 (70 percent of total funding for sub-component, equivalent to about 8,400 grants at a total cost of US$42 million) would be reviewed at the CACC level;

- DTCs would review proposals with a value of US$5,001 to US$25,000 (20 percent of total funding for sub-component, equivalent to about 480 grants at a total cost of US$12 million);

- proposals with a value of US$25,001 to US$100,000 (7 percent of total funding for sub-component, at a total cost of about US$ 4.2 million) would be reviewed at the national level by an ad-hoc committee; and

- proposals of a value over US$100,000 (3 percent of total funding for sub-component, at a total cost of about US$1.8 million) would be subject to technical review and a no-objection by IDA.

Once approved, proposals would be financed through the FMA, contracted by NACC to disburse financial resources to implementing agencies. The disbursement of funds would only be done through electronic transfer from the FMA account to the commercial bank account of the implementing partner.

102. **There are also specific guidelines for the CfPs for the mainstreaming of the public sector activities.** CfPs for the public sector would be issued once a year in order for the MDAs to include and plan the approved HIV and AIDS related activities in their annual planning cycle. The CfP would be in writing by NACC to selected MDAs, and would indicate explicitly for which (one or more) outcome proposals were being solicited. These outcomes would relate directly to the results as elaborated in the results framework of the KNASP 2006 to 2010. The CfPs would also request the potential recipient to commit to the KNASP M&E framework, and elaborate the process through which the relevant indicators would be measured, collected and reported. The invitation to submit proposals would reflect the budgetary ceiling, to be reviewed and endorsed by the Steering Committee, and subject to the no objection of the World Bank. The review of the proposals for the public sector would be the task of an ad-hoc panel of ICC experts. The panel would be appointed by the NACC and subject to ICC approval, on an annual

and short-term basis when the CfPs had been distributed to the various MDAs. The members of this panel would be drawn from various independent organizations, and the expertise required would be consistent with the nature of the CfP and relate to the specific result aimed for. Once approved, proposals would be financed through the FMA, contracted by NACC to disburse financial resources to implementing agencies. Project funds would be made available to, and accounted for by the Accounting Officer in the respective MDA.

103. **The NACC will prepare an annual workplan for no-objection from the World Bank and other financiers of the Program.** Following the JAPR, the Monitoring and Coordination Groups will identify priorities which will be consolidated, with overall funding allocations by the ICC Steering Committee, as the annual program targets. By April, the implementation partners will prepare annual workplans, based upon the agreed priorities and funding allocations. These will be consolidated by NACC into an annual comprehensive workplan to include Government, World Bank, DFID and SIDA funding. This will be submitted to the funding partners by the end of April for their respective no-objection certification.

3. Monitoring and Evaluation of Outcomes/Results

104. **Very considerable progress has been made in M&E strengthening by the NACC**. Whereas M&E was weak under the KHADREP, the NACC has made major progress in strengthening M&E systems particularly since the end of KHADREP. The NACC has demonstrated its strong commitment to improving M&E by implementing almost all of the activities outlined in the TOWA Project's original first-year M&E work plan using alternative funding sources in spite of the delay in TOWA Project effectiveness. In particular, (i) the KNASP M&E Framework has been officially launched; (ii) the NACC has elaborated a comprehensive KNASP M&E Implementation Manual; and (iii) the NACC has also recently developed a specific, complementary TOWA Project M&E Implementation Manual. Together, these documents detail procedures for: (i) the new community-based monitoring system; (ii) reporting by ACUs and key sectoral public sector entities; and (iii) interagency coordinating for national reporting.

105. **There has also been substantial institutional strengthening of the NACC for M&E.** The NACC M&E Division has produced a much-utilized "Data Booklet" summarizing the principal, up-to-date information about the epidemic, and has produced its first M&E Report outlining progress toward strengthening the M&E system. The NACC M&E Division has also coordinated the elaboration of an HIV and AIDS strategy for coordination and resource mobilization for HIV and AIDS research. The NACC has proceeded with the enlargement of the M&E Division by recruiting and training an M&E Coordination Specialist. The MIS Division has added a database administrator and analyst/programmer. This Division has successfully designed the COBPAR system database, which is now accessible over the NACC's new LAN/WAN. The M&E Technical Working Group has been revived, and is active in coordinating M&E activities, standards and essential funding for M&E. The NACC, through the M&E Division and

M&E Technical Working Group, has carried forward the design and rollout of the comprehensive CBO database and COBPAR System, even in the absence of TOWA Project support so far. In addition, formal linkages have been established with entities responsible for other sources of data.

106. **The stage is now set for the NACC to fully coordinate the national response to the epidemic using concrete M&E data for analysis, the JAPR process for coordinated determination of priorities, and implementation through the CfP that is results-based.** Further progress to continue implementation of the M&E workplan will require the significant ongoing support planned to be provided by the TOWA Project. The TOWA Project will place a strong emphasis on program improvement, learning by doing, and results-based management, which requires an effective M&E system. The following activities will therefore be undertaken or continued to strengthen the M&E system further: (i) ongoing training and supervision of national and regional M&E personnel; (ii) follow-up training and supervision for the program activity monitoring systems for community-based activities at the NACC, including training for data use; (iii) supporting the NACC M&E Coordination Specialist in strengthening the newly established inter-agency coordinating mechanisms; (iv) strengthening M&E dissemination and data use mechanisms at both the central and local levels; (v) the coordination and integration of information from the new Ministry of Health monitoring and reporting system at the NACC level, as well as some limited staff training (to be carried out together with other partners); (vi) the national implementation of the LQAS outcome measurement survey and its integration into regular M&E system; and (vii) the development and implementation of mechanisms both centrally and locally to link data with program management.

4. Sustainability

107. **The TOWA Project is a significant step forward in helping institutional sustainability of the HIV and AIDS Program in Kenya.** The Government, with support of IDA and other development partners, has already mobilized different sectors, mass organizations and communities to increase their capacity to respond to the demands of the HIV and AIDS epidemic. This would be continued and strengthened further under the TOWA Project. It is expected that the social, sectoral and community capacity built with the TOWA Project contributions would be sustained after the Project has been completed, particularly in light of the experience of KHADREP implementation. The position of the NACC is now considerably more established and accepted. Importantly, it has managed to go forward in the period since the end of the KHADREP (in December 2005), although it has had to struggle hard due to reduced resource availability which have limited the progress that could be made.

(i) ***Technical sustainability.*** The TOWA Project aims to support well-established, simple technical interventions and policies, the operational implications of most of which have been well-documented in Kenya. As a result, technical sustainability will be ensured.

(ii) ***Financial sustainability.*** The prevention and mitigation of HIV and AIDS is a public good, which would support efforts towards improved economic growth and poverty alleviation. This serves to justify the investment in the TOWA Project, even though long-term financing of the programs may remain problematic. However, the financial sustainability of the HIV and AIDS Program ultimately rests with Kenya's ability to: (a) increase domestic resource allocations for HIV and AIDS and health, in addition to improved prioritization and governance; and (b) further reduce new HIV infections. The Project will enable the Kenya Government, the NACC and implementers to become more strategic and selective, focusing on effective interventions with the greatest impacts on the epidemic to reduce its spread, the Project will also contribute to financial sustainability of Kenya's response to the HIV and AIDS epidemic.

108. **NACC and stakeholders are currently discussing ways to put in place a sustainable and harmonized financing framework for all HIV and AIDS Programs in Kenya, and thus to safeguard the gains made in the national response to HIV and AIDS in the country.** Key issues being addressed include: (i) mobilization and harmonization of financing to ensure that all KNASP priority interventions are efficiently addressed, both in the medium term and long term, and that there are no gaps in the response, particularly with respect to vulnerable groups; (ii) ensuring medium and long term plans are in place and resources set aside to minimize stock-outs of key inputs; (iii) mainstreaming of HIV and AIDS into all sectors and ensuring more funding of KNASP priorities by the Government and other sources through the MTEF Budget Process; (iv) streamlining financial flows and strengthening financial management systems/structures to ensure available funds are absorbed for intended purposes; and (v) ensuring appropriate mechanisms are in place for monitoring a mainstreamed harmonized response which includes all stakeholders. The sustainability of the program will be reviewed with stakeholders annually as part of the JAPR process.

5. Critical Risks and Possible Controversial Aspects

109. **The TOWA Project is recognized as being risky.** This is for several reasons: (i) Kenya is perceived as being a high-risk environment; (ii) the history of the KHADREP was problematic, with corruption identified; (iii) there are many different organizations (community-based, private sector and Government entities) with different levels of capacity to be involved in the proposed new Project; (iv) it is not easy to target the most vulnerable groups (CSWs, MSM, mobile workers and IDUs, etc.) who are often marginalized and hard to reach; and (v) despite very careful and extensive project design, risks remain in coordination, sub-project design and implementation and governance..

110. **However, the risks are considered to be manageable (substantial rather than high) for two main reasons. First, the NACC has already been successfully carrying out a Governance Action Plan.** Massive attention has already been given to the governance problems that have been affecting the performance of the NACC, by the NACC itself, the Government, development partners (including the World Bank) and other stakeholders. The NACC has clearly demonstrated its commitment to strengthen results-based management, including through its significant efforts to strengthen M&E.

In addition, the KNASP is a very impressive strategy and has been formally launched by the President, giving the NACC a clear and comprehensive political and technical mandate. Also, the recent JAPR, conducted in October 2006 with broad participation from stakeholders at all levels, is widely regarded as having been the best ever. It is also clear from the annual institutional assessment that the NACC is now performing considerably better than in the past.

111. **The NACC has committed itself to further governance strengthening actions.** The summary of program-specific risks and proposed mitigating arrangements is presented in the table below:

Table 6: Program Risks and Risk Mitigating Measures

Risk	Risk Mitigating Measures	Risk Rating after Mitigation
Weak governance environment.	• Continued implementation of governance action plan and roll-out of risk management policy, with regular monthly reporting. • Establishment of effective fiduciary oversight by the NACC Council through various subcommittees with clear operational terms of reference. • Continued investigation of officials and organization implicated in fraudulent activities. • Utilization of transparent, participatory, and performance-based approaches to project implementation. • Implementation of the NACC communications strategy. • Introduction of social accountability arrangements and independent anti-corruption hotline initiatives. • Intense and continuous supervision of the TOWA Project by the Bank, with public dissemination of mission findings.	M
Weak managerial accountability	• Signing and monitoring of performance contracts. • Further strengthening of the M&E system, with emphasis on program management. • Enhanced arrangements for quarterly reporting. • Institutional assessment of the NACC in CY09. • Annual review of work program and budget.	M
Weak external support and inadequate stakeholder coordination.	• Use of the Public Expenditure Review process to review external assistance and Government budget for HIV and AIDS program. • Use of the ICC and JAPR consultation processes. • Improved relations with CSO at all levels through links under DFID support to civil society under NACC Coordination. • Focused technical assistance to the NACC from the UN under DFID support for the Joint UN Plan.	M
Failure to target vulnerable groups with adequate interventions	• Development of clear eligibility and evaluation criteria for proposals which prioritize: (i) information-based, effective interventions with the largest potential impacts on the epidemic; and (ii) implementers with the expertise and comparative advantage to implement such interventions. • Conducting socio-geographical and service mapping for vulnerable groups. • Use of JAPR process to identify priority groups.	H

Risk	Risk Mitigating Measures	Risk Rating after Mitigation
	• Prioritization of the vulnerable groups in the CfPs. • Capacity building for CBOs to identify and address the needs of vulnerable groups effectively. • Promotion of behaviour change to address continuing social, religious and cultural challenges.	
Insufficient technical capacity for financial management and procurement	• Institution of independent and effective internal audit, with out-sourcing of independent verification. • Strengthening of grant accounting oversight function. • Expanded use of FMA. • Formal confirmation that the KNAO will take responsibility for the auditing of grants implemented by CBOs and NGOs. • Public disclosure of procurement decisions. • Retraining of the NACC procurement staff. • Training of the DTCs and CACCs in reviewing proposals from CBOs, etc. • Development of standard bidding documents and forms, acceptable to the Bank, where necessary. • Increased oversight of the NACC through the use of a procurement monitor.	M
Weak CACCs/DTC.	• New CfP approach and clear budget ceilings with decentralized responsibility. • Physical verification of community sub-projects. • Public disclosure of information at the local level. • Increased resources for supervision and creation of local secretariats. • Continued disbursement of funds directly to communities. • Expanded training programs for secretariats, including on M&E. • Wide distribution of Operations Manual (including procurement, M&E, and financial management). • Continuous training and capacity-building of CACC secretariats and members. • Improved coordination with CSOs and other partners.	H
Weak ACUs.	• Extended role of FMA to handle all public sector disbursements. • Competitive and performance-based approval of proposals. • Prioritization of ministerial programs. • Technical assistance from the UN to identify and support mainstreaming needs. • Distribution of Operations Manual (including procurement, M&E, and financial management).	S
Overall Risk Rating.		S

Risk Ratings – H (High), S (Substantial), M (Modest), N (Negligible or Low)

6. Credit Conditions and Covenants

112. There is no Board Condition.

113. The following are Effectiveness Conditions:

	Action
1.	The Contract with an independent FMA would have been signed.
2.	The Contract with an independent CVA would have been signed.
3.	The Contract with an independent PMA would have been signed.
4.	The prioritization and approval of the first CfP for FY07/08.
5.	The Government and the NACC would have executed and delivered the Subsidiary Agreement.
6.	The NACC would have opened a Project Account in an amount of Ksh 20 million.

114. The following is a Disbursement Condition with respect to Sub-component 1 of Component 2, relating to the grant awards:

	Action
1.	The KNAO would have confirmed that it accepts responsibility for ensuring the audit of the grant awards.

The following are Dated Covenants:

	Action
1.	The Co-financing Agreement between the Government and DFID would have been executed and delivered by December 31, 2007.
2.	Appoint a Performance Auditor with qualification and experience, and under terms of reference and executed contract satisfactory to the Association by December 31, 2007.
3.	The CfP for the following fiscal year would have been prioritized and approved by April 30 of each year.
4.	A draft NACC Budget for the following fiscal year would have been submitted to the Association by April 30 of each year.
5.	The NACC Consolidated Annual Workplan would have been submitted to the Association by April 30 of each year.
6.	The Annual National M&E Report would have been submitted by September 30 of each year, summarizing progress made up to June 30 of each year.
7.	An Institutional Assessment of the NACC would have been carried out, under ToRs acceptable to the Association, by September 30, 2009.
8.	A Mid-term Review of the Project would have been carried out by September 30, 2009.

D. APPRAISAL SUMMARY

1. Economic and Financial Analyses

115. **There is growing evidence in the Region of the value of HIV and AIDS-related interventions.** Research across many severely-affected, low-income countries clearly demonstrates that HIV and AIDS is a most serious impediment to economic growth and development[8] in such countries. This research includes detailed economic analysis on HIV and AIDS within the Africa Region carried out by the MAP (Report No. 20727 AFR, September 2000). There is also substantial knowledge regarding the economic impact of HIV and AIDS specifically in Kenya. This includes a country study conducted by the World Bank, and also a study of HIV and AIDS, ARVs, and socio-economic status in Western Kenya. Summarizing, the productivity of the agriculture sector, upon which the majority of Kenyans rely, is being undermined by negative impacts on the supply of labour, crop production, and agricultural extension services, loss of knowledge and skills, and trauma. The consequences include reduced household and community food security, and decline in the nutritional and health status of families. Commercial agriculture, a major source of employment and foreign earnings, is being detrimentally affected by increasing health costs, protracted morbidity and mortality of key workers. Education is also suffering as teachers are lost to AIDS, and as children drop out of school due to the illness or death of parents and reductions in household incomes. The health service is losing trained staff, and has to cope with the increasing burden of HIV related infections. There are also huge costs associated with caring for increasing numbers of orphans, coupled with existing high poverty levels. This demonstrates the impact of the epidemic on economic development and poverty, as well as the advantageous cost-benefit of key HIV and AIDS-related interventions.

2. Technical

116. **The proposed Project is built on the principles of internationally-accepted best practices for HIV and AIDS and lessons of experience.** First, the KNASP has received considerable acclaim for its technical strength. Second, the TOWA Project takes into account Kenya's specific socio-economic circumstances, and the most reliable and detailed epidemiological data that is now available. Third, it is also firmly built upon the experiences of the KHADREP. Fourth, the comparative advantage of different sectors and the community in the national response to HIV and AIDS is well established. Finally, the Project also places strong emphasis on strengthening institutions, learning and innovation, and an overall performance-based approach.

117. **However, there are many technical issues that need to be monitored and addressed further as the Project is implemented.** Specifically, the following issues were among those identified during the October 2006 JAPR. Some of these relate to the work of the NACC and the design of the TOWA Project, and are addressed in the risk assessment: (i) social, cultural and religious challenges continue to hamper the use of

[8] *The Macroeconomics of HIV and AIDS*, International Monetary Fund, November 2004 contains a comprehensive summary of this research

condoms, and the promotion and distribution of female condoms is particularly low; (ii) national behaviour change strategies targeting some of the vulnerable groups have not yet been developed; (iii) the mainstreaming of the rights of vulnerable groups in HIV and AIDS programs is still inadequate; (iv) the CACCs should be continuously trained to enable them carry out their mandate effectively; and (v) the funding to the CACCs and DTCs needs to be more consistent and timely. Other issues relate to the health sector, and are being addressed as part of the design of the health SWAp: (i) there are insufficient counsellors offering comprehensive and effective DCT, VCT & PMTCT services; (ii) post-exposure prophylxis training and awareness is low; and (iii) there is need for more networking to enhance information sharing and the improvement of health services for PLWA.

3. Fiduciary

118. **The financial management risk is considered to be modest**. The institutional arrangements comprise: (i) the establishment of acceptable financial management systems; and (ii) safeguards that respond to country and project level fiduciary risks of weak governance and corruption. As the project's key institutional arrangements have already been implemented satisfactorily, the financial management risk is rated as modest.

119. **Procurement risks are considered to be more serious and require some mitigation measures for the successful implementation of the Project.** The risks include the following: (i) NACC is staffed with two procurement officers, but their experience in Bank procurement procedures need to be enhanced; (ii) the procurement capacity of the staff in the MDAs is also mixed; (iii) more training is needed for DTCs and CACCs in reviewing proposals by CSOs; (iv) there is need to ensure that the procurement activities of DTCs, CACCs, CSOs and ACUs are monitored; (v) standard bidding documents need to be reviewed and cleared with the Bank; and (vi) more oversight is needed of procurement activities by the NACC. The initial assessment of the risks is high, but the rating may be viewed as modest, if the following measures are implemented satisfactorily:

- There will be: (i) an independent, externally-recruited FMA; (ii) an independent CVA to monitor compliance of grant proposals with CfPs; (iii) an independent performance auditor to assess and compare the results verifiably achieved with the results claimed; and (iv) an independent PMA to monitor the procurement activities of the NACC.

- The procurement staff in the NACC will be retrained at the World Bank Country Office in Kenya, or at a regional training institute (such as ESAMI, Arusha and GIMPA, Accra). There will also be some short-term technical assistance (funded by DFID) on procurement for the NACC.

- The capacity of DTCs and CACCs will be enhanced through the capacity building sub-component of the Project.

- Standard Bidding Documents and Forms, acceptable to the Bank, will be developed where necessary.

Table 7: Summary of Main Fiduciary Management Risks and Mitigation Measures

Risk	Mitigation Strategy	Status and/or Actions Required
Risk that Project resources may not be used for intended purposes owing to weak financial management capacity and environment.	Establishment and utilization of an Institutional Risk Management Policy Framework.	An Institutional Risk Management Policy Framework has been established, comprising ongoing risk identification and response initiatives by management.
	Establishment of fiduciary oversight functions in the NACC.	Fiduciary oversight functions have been established by the NACC Council Audit and Finance Committees.
	Deployment of a risk based internal audit function.	A risk based internal audit function has already been deployed.
	Regular project reporting.	There will be quarterly financial and project progress reports to stakeholders.
Risk that Project resources may not be used for intended purposes owing to weak procurement capacity and environment.	Sufficient capacity for procurement in the NACC.	NACC procurement staff to receive additional training. Short-term technical assistance on procurement to be recruited for the NACC.
	Importance of independent monitoring of procurement by the NACC and MDAs.	There will be an independent PMA to monitor the procurement activities of the NACC.
	Limited capacity of the CACCs and DTCs to carry out procurement efficiently.	There will be an independent CVA to monitor compliance of grant proposals with CfPs; and also an independent performance auditor to assess and compare the results verifiably achieved with the results claimed. The appointment of them would be a condition of effectiveness (as well as a financial management agent). Capacity building will also be provided through the Project.
	Need for transparent system for selection of sub-projects to be supported with grants.	New processes have been developed using Calls for Proposals, enhanced dissemination of information, and increased social accountability. The preparation of an acceptable first CfP is an effectiveness condition.

4. Social

120. **The recent Country Social Analysis (CSA) for Kenya has documented well the social impact of the HIV and AIDS epidemic, through the human suffering of its direct victims, the depletion of human capital, and the additional burden of care which the pandemic imposes on families and society.** The CSA also shows the links through social relations to the erosion of livelihoods and changing gender relations. In particular, HIV and AIDS adds to women's workload under conditions of time poverty. It also disrupts the level and timeliness of agricultural labor inputs, especially in the subsistence sphere, for which women are largely responsible, thus contributing to the precariousness of household food supply and nutrition. Second, because of the inferior nature of women's property rights, widows are liable to loose all of their property on the death of their husbands. They may also be subject to 'cleansing' rituals which involve ritual unprotected sex and remarriage. Third, because of their social and economic status, women are subject to coercive, predatory or transactional sex, with the accompanying high risk of infection. Many are subject to physical or sexual violence (correlated with HIV and AIDS incidence), and are unable to escape abusive partnerships, because divorce would mean their losing all rights to property.

121. **TOWA Project will pay close attention to social issues, with a renewed focus on expanding coverage of HIV and AIDS-related services to particularly vulnerable populations.** The HIV and AIDS epidemic will continue to exert severe social and economic consequences in Kenya over the coming years with increasing rates of morbidity and mortality, and increasing numbers of orphans. A major gap identified by many stakeholders in the review of the previous national strategy was the need to target interventions more effectively on vulnerable groups. Vulnerable groups in Kenya include, but are not limited to, discordant couples, CSWs, OVC, migrant workers, girls and victims of rape and sexual violence, and those in the uniformed services. With a growing recognition of the need to focus on vulnerability, it has been agreed that all priority areas of the KNASP would explicitly address the needs of groups that are especially vulnerable to infection, or whose quality of life or social and economic wellbeing is most severely affected by the epidemic. The TOWA Project would support this approach through its targeted interventions, based on the participatory and consultative JAPR process, and would additionally ensure that pertinent results of on-going social assessments in Kenya are reflected in the evolving program design.

122. **One of the key reasons that a broader, multi-partner, multi-level response to HIV and AIDS is required is the influence of socio-cultural norms and values on the spread of the disease**. Attitudes towards gender, religious teachings on sexuality, and social and cultural practices often facilitate the spread of HIV infection. Through the TOWA Project, as was the case under the KHADREP, concerted efforts would be made to promote socio-cultural norms, values, and beliefs that would create an enabling environment for HIV prevention interventions, and to protect the human rights of those infected or affected by the disease. NACC-coordinated activities are expected to pursue this objective through behavior change communication (BCC) campaigns, advocacy,

counseling, consultation, and intensified enforcement of both customary and written laws, particularly with respect to gender-specific issues. The reduction of stigma would receive special attention as it constitutes an important obstacle for affected persons and households to access available prevention, care, and support services.

123. **In particular, the growing number of OVC poses an unparalleled challenge to the social sectors, as merely providing very basic health and education services for them already constitutes a significant challenge**. Providing at least a basic, sustainable, but meaningful package of care and support services to OVC poses enormous economic, social, ethical, and organizational challenges to Kenyan society, as a whole. The TOWA Project would support the piloting of initiatives to enable greater coverage and quality assurance in the implementation of OVC-related community-based interventions (when the subject of CfPs) and also through the scaling-up of the cash transfer Program.

5. Environment

124. **The proposed Project has been classified as "Category B" for environmental screening purposes.** As a repeater Project, the TOWA Project would make use of the existing arrangements for safeguard issues which have been successfully implemented under the KHADREP. In addition, a national Medical Waste Management Action Plan has been developed and disclosed by the Borrower, and will be implemented as recommended. Both the Health Waste Management Plan and the ISDS for the Project have been disclosed at the Bank's Info Shop.

6. Safeguard Policies

Table 8: Safeguard Policies

Safeguard Policies Triggered by the Project	Yes	No
Environmental Assessment (OP/BP/GP 4.01)	[x]	[ ]
Natural Habitats (OP/BP 4.04)	[ ]	[x]
Pest Management (OP 4.09)	[ ]	[x]
Cultural Property (OPN 11.03, being revised as OP 4.11)	[ ]	[x]
Involuntary Resettlement (OP/BP 4.12)	[ ]	[x]
Indigenous Peoples (OD 4.20, being revised as OP 4.10)	[ ]	[x]
Forests (OP/BP 4.36)	[ ]	[x]
Safety of Dams (OP/BP 4.37)	[ ]	[x]
Projects in Disputed Areas (OP/BP/GP 7.60)	[ ]	[x]
Projects on International Waterways (OP/BP/GP 7.50)	[ ]	[x]

7. Policy Exceptions and Readiness

125. The Project does not require exceptions from Bank policies. The Project meets the Regional criteria for readiness for implementation. In particular, the NACC structure is in place; all of the key staff are in position; the Operations Manual has been prepared

and is acceptable to the Bank; the NACC is used to doing FMRs; and the first CfP is already under preparation. Moreover, all conditions and covenants have been discussed and agreed upon with the Client to ensure timely launch of the Project.

Annex 1: Kenya's Fight Against Corruption: Progress, Setbacks and New Frontiers

KENYA: Total War Against HIV and AIDS Project

I. Introduction

1. Several surveys of Kenyan households, firms and individuals suggest widespread concern about corruption in the public service. Some of these surveys also suggest that in specific areas like free primary education and health, the public is reporting improvements in service delivery, while in other areas, like procurement and the judiciary, the situation continues to cause public concern.

2. This Annex discusses highlights of Kenya's efforts since 2003 to address the problem of corruption, including steps taken and setbacks experienced, and further actions that are planned by the Government. These actions build on lessons of experience and look at corruption through a broader governance lens. Another important source of input has been consultations held in January 2007 with a wide variety of stakeholders around the World Bank's Board Paper on Governance and Anti-corruption (GAC) as part of the global consultation exercise.

II. Selected Highlights

3. **Historical Perspective**. Historically in Kenya, power has operated through a web of informal networks based on personal ties, often with a strong ethnic and gender element, between leaders and supporters at all levels. The networks permeated public institutions, subverted formal rules and severely compromised systems of public accountability. As a result, key institutions decayed. The judiciary, for example, became largely ineffectual and corrupt, and presidential powers (and single-party democracy until 1992) supplanted other vital institutions such as Parliament. Theft of public resources, including procurement fraud, was documented by controllers and auditors general, but corrupt individuals used the court powers and other means to punish critics. Media freedoms suffered, and the police emerged in Kenya's public opinion surveys as the most corrupt institution. When it came to power at the beginning of 2003, the new government made a number of bold moves in fulfillment of its campaign pledge to put a halt to corruption. These actions are discussed below.

4. **Legislative Actions.** In 2003, Parliament passed the Public Officer Ethics Act, requiring civil servants to file annual declarations of income, assets and liabilities, and the Anti-Corruption and Economic Crimes Act, which set up the Kenya Anti-Corruption Commission (KACC). The Government also enacted key legislation aimed at improving governance and public service delivery which include the Government Financial Management Act (2004) and the Public Audit Office Act (2004). In fulfillment of the Anti-corruption Action Plan for April 2005-June 2006, the Public Procurement and Disposal Act, 2005 came into force on January 1, 2007, and established a semi-autonomous Public Procurement Oversight Authority responsible for the regulation of

procurement in the public sector, including procurement of security related contracts, transactions which were shrouded in secrecy in the past and associated with high level graft. In addition, the Privatization Act received Presidential assent in October 2005 setting the stage for the privatization of public assets and operations including state corporations, as part of the privatization program under a new privatization commission. In late 2006, legislation was introduced to Parliament that would increase the number of judges, significantly reduce delays in corruption trials, fight money-laundering, and provide a framework for political party funding. Parliament recessed in December before completing this legislative agenda. On March 2007 Parliament reconvened and re-introduced this work program. The Government is also at an advanced stage in developing a Freedom of Information Bill that will ensure public access to information. Meanwhile, implementation of the new procurement act and regulations began in January 2007.

5. **Capacity Building and Administrative Actions.** After 2003 there was a four-fold increase in the professional staff of the KACC, recruitment magistrates and other legal staff, and the launch of public education campaigns. The Attorney General's Office had 126 new state attorneys in January 2006, significantly increasing its capacity. To speed up trials, the Chief Justice changed the rules of the court in January 2006 to set rigorous time limits for disposing of Constitutional references which tend to add years to the disposal of cases. Responding to criticism that it relied too heavily on legislative measures, the Government began to take administrative steps more regularly. For example, in December 2005, the Government annulled the recruitment of 3,000 police officers and suspended senior officers involved in the recruitment exercise, pending further investigation. The Kenya Revenue Authority also announced that it was suspending several senior officers who work at the Port pending investigation into why they were not achieving performance targets for customs revenues. In addition, the Government fired the Managing Trustee of the National Social Security Fund (NSSF) following investigation by the KACC, although months later he was appointed to head another parastatal (Meanwhile, a Bank-sponsored study of the NSSF has shown it to be severely dysfunctional; for example, as a result of mismanagement and low return on fund investments, the typical Kenyan retired worker can expect to receive a total retirement package that would cover no more than 12 months of income). The Governor of the Central Bank was also suspended pending investigations of wrongdoing and is now being prosecuted. Such suspensions and dismissals have become somewhat more frequent. For example, the Government recently suspended senior staff in the Ministry of Lands and two senior executives at the Kenya Re-Insurance pending investigations into corrupt practices. Also on the administrative front, the judiciary has instituted a self-rejuvenating mechanism through a peer review on integrity and handling of complaints, which is expected to improve its systems and performance.

6. **Results-based Management and Performance Contracts.** Consistent with the focus on the effective and accountable use of public resources, the Government has introduced a Results-Based Management (RBM) system as a tool for helping public sector institutions to focus their work, plan strategically and demonstrate the difference that each organization is making to development. This focus on "Practical Results for

Kenyans" is based on international best practice in countries such as Canada, Sweden and the United Kingdom. The Government has also introduced performance contracts for all its senior officials including those in parastatals. The contracts are meant to create incentives for public sector managers and their staff to improve performance and accountability by undertaking to deliver specific outputs in line with their mandates. The availability of these contracts (at http://www.dpm.go.ke/pages/splans.html) is not widely known, and is therefore a missed opportunity for public monitoring, assessment and pressure for enforcement. There is also room to improve the focus of the contracts themselves on issues of corruption. Public sector management reform has also focused on introducing rapid results initiatives, service charters, codes of conduct, and citizen scorecards. One important milestone in this home-grown reform program occurred in December 2006, when the President officiated at a public event in which all Ministers, Assistant Ministers, and their permanent secretaries received their performance scores as assessed by expert stakeholders on the basis of the results-based management performance contracts their departments had signed.

7. **Alleged Corruption Among Ministers.** Following the constitutional referendum of November 2005, the President reshuffled his Cabinet, removing ministers alleged to have been involved in large scale corruption and appointing a new and respected minister of justice and constitutional affairs. During February 2006 two of the ministers named in the report prepared by the former Permanent Secretary for Governance and Anti-Corruption resigned from office to allow for investigations to proceed. KACC began to investigate these and all others mentioned as possibly involved in corrupt activities. A third minister, the Minister of Education who had been the Minister of Finance at the time of the Goldenberg affair that occurred in the early 1990s, resigned following his implication in the Goldenberg Commission report which was also released at this time (in July 2006), however, Kenya's High Court ruled that he had acted appropriately in his role as Minister for Finance, and that because Kenya's Attorney General of a decade ago had cleared him of wrong-doing in a statement to Parliament at that time, he could not be prosecuted – this High Court ruling is being appealed again by the Hon. Attorney General on behalf of the Government. This was followed by Government seizure of passports and firearms of several individuals associated with Goldenberg. Prosecutions in the Goldenberg scandals began in mid-June 2006 but prosecutions in the Anglo-leasing case are awaiting the completion of investigations by the KACC. The ongoing investigation and the status of legal action in the Anglo-leasing affair have been much in the news recently. In October 2006, the Attorney General sent the investigative files of 12 prominent individuals (including former Cabinet members), who had been recommended for prosecution, back to the KACC for lack of evidence that would sustain prosecution. In late November 2006, the President reappointed two Ministers who had earlier left Cabinet because of their alleged involvement in corruption scandals (both had undergone judicial processes that appear to have cleared them of criminal wrongdoing). On January 19, 2007, local journals reported that the Attorney-General had cleared all four Ministers implicated in the scandal of any wrongdoing, and this was received with a large-scale public outcry against the decision. The Attorney-General has, however, issued a statement indicating that in fact investigations are ongoing and that there has not been a judicial clearance on substantive issues of corruption.

8. **Other Measures.** Separately, the President has required that members of the new cabinet sign a code of conduct, and that the KACC verify their declaration of assets. These declarations are now being vetted by the KACC. The Government has ended 'land grabbing' and state sponsored 'harambees' or fund-raising. It also set up the Ndung'u Commission to look into the illegal allocation of public lands and after making public the report in February 2006, gave individuals and organizations implicated a three month period to return land that was obtained illegally (whether deliberately or not). That period has now expired and further action by the Government is awaited. As of January 2007, 133 title deeds for illegally or irregularly acquired public land had been surrendered to the Ministry of Lands. Measures were also taken to improve the governance of public finances. They included enhancing the capacity of the National Audit Office, which was then able to clear the long-standing backlog of public accounts audits. In addition, in October 2005, the government established independent audit committees in all ministries, departments, state corporations and local authorities. This step is part of a new risk-based internal audit approach, supported by the World Bank and other donors, that involves identifying the potential for fraud in advance and building the necessary risk mitigation processes into the design of government systems and processes. The prospects for reducing rent seeking were further enhanced in November 2005 through additional measures such as the liberalization of coffee marketing (after over a decade of policy debate about it). Under the ongoing licensing reform program, about 9 percent of licenses have been abolished, and another 50 percent are scheduled for harmonization, simplification, or elimination by December 2007 (including about 23 licenses that the private sector has identified as priorities).

III. Assessment

9. Despite the range of actions on legislative, administrative, political and other fronts discussed above, the Government has acknowledged that the fight against corruption is an uphill task. At a National Stakeholder Conference convened in late May 2006 by the Government to discuss future plans for fighting corruption, the Minister of Justice and Constitutional Affairs noted that efforts so far 'have only scratched the surface'. Meanwhile, the peer review by the New Partnership for Africa's Development (NEPAD) indicates that 60 percent of Kenyans feel that the government has not gone far enough in the fight against corruption and over 90 percent believe that there is still corruption in government.

10. **Doubts about the Government's Commitment.** In January 2006 the former Permanent Secretary for Governance and Anti-Corruption alleged that some Cabinet ministers and other senior civil servants in the new government were involved in big graft. In March 2006, hooded men raided the headquarters of the Standard Media Group late at night, allegedly for national security reasons. In October 2006, the Attorney General sent the investigative files of 12 prominent individuals (including former Cabinet members), who had been recommended for prosecution, back to the KACC. In late November 2006, the President reappointed two Ministers who had earlier left Cabinet because of their alleged involvement in corruption scandals (both had undergone judicial

processes that appear to have cleared them of criminal wrongdoing, but public confidence in these processes is quite low). In January 2007 two other Ministers were cleared by the KACC of interference with an investigation. Other allegations against them are being looked into. Overall, Kenyans continue to cite governance as the most pressing concern, and want more action on it, but some are concerned about the Government's commitment to the fight.

11. **Measuring Results to Date**. While there is a broad domestic and international consensus on where Kenya is coming from on corruption (historically) and where it needs to go, there is much less agreement on the results that have been generated so far, and on the prospects for winning the fight. Transparency International's Annual Corruption Perceptions Index has consistently placed Kenya towards the bottom of the list (in 2006 it ranked 142 of 163 countries, whereas in 2005 it had ranked 144 of 159 countries). In June 2006, Transparency International (Kenya branch) reported that bribery increased in 2005 following declines in 2003 and 2004. Ranking public institutions for the occurrence of bribery include the police, state corporations, and local authorities. Roughly 55 percent of Kenyans felt that corruption was unchanged, the same number as in 2003. But while 13 percent felt it had worsened in 2003, the number jumped to 19 percent in 2006. A larger household survey released in early July 2006, conducted by the KACC and covering 21 districts in all provinces, found that public awareness of corruption has risen from about 75 percent in 2000 to 99 percent in 2005. The survey concurred that the police, the Ministries of Health and Lands, and local and district governments were perceived as the most corrupt. Roughly 41 percent of respondents believed that corruption has decreased from a year ago, 22 percent believed that there has been no change and 37 percent believe that it has worsened. About 60 percent felt that the Government was performing badly on corruption, a figure similar to the NEPAD assessment. Contrasting with these more negative findings, Kenya's score of 3.0 (of a possible 6) on the question on "Transparency, Accountability and Corruption in the Public Sector" in the most recent Country Policy and Institutional Assessment (CPIA) conducted globally by the World Bank and released at end-May 2006 places Kenya at roughly the mid-point among the 79 low income developing countries covered in the exercise. Meanwhile, the 2006 Global Integrity Index, released in January 2007, gives Kenya a score of 71 out of 100, up from 61 in 2004, placing it the same cluster of "moderate" performers as Argentina, Uganda, and Brazil, well ahead of Mozambique, Russia, and Senegal, and far ahead of Tanzania, Egypt, and Vietnam.

12. **Synthesis.** Notwithstanding important legislative and institutional developments and the beginnings of political accountability, more needs to be done to assure the public of its commitment to fighting graft. This will ensure that the efforts already made and ongoing and that planned initiatives will produce tangible and measurable results. Pursuit of this aim would require strong leadership at all levels, with an almost single-minded focus on reversing behaviors that have been entrenched, politically, socially and culturally for decades.

IV. Further Steps toward Better Governance

13. **Broad-based Stakeholders Participation**. There appears to be a growing realization among governance reformers in Kenya that the war against corruption requires the mobilization of a broad range of stakeholders, including civil society, the media, private sector, faith-based organizations and professional bodies. For example, as recent experience indicates, civil society and the media can have a powerful impact as sources of information on corruption and as advocates for change. There is some evidence that the reformers in Kenya might wish to reach out to these groups in a more systematic way. For example, the June 2006 Stakeholder Conference on the Draft National Anti-corruption Strategy, the largest of the three held since September 2005, brought together Kenyans from the executive, parliament, the judiciary, the private sector, the media, trade unions, faith-based organizations, professional bodies, and NGOs to consider the government's national multi-year strategy for fighting corruption. The Draft Strategy itself arose from a process conducted years ago and updated recently that involved grass-roots inputs and consultations in all eight provinces. The other recent broad-based consultations have focused on the Strategic Plan of the Kenya Anti-corruption Commission. A particular challenge is to ensure that all the broad-based participation and consultations cohere around a focused set of workable initiatives oriented toward demonstrable results, while leaving participants the freedom they need to serve as both advocates and critics.

14. **Formulation of the Government of Kenya's updated Governance Strategy and Action Plan**. Concurrently with these stakeholder consultations, Bank-sponsored audit work at the project level (the Department of Institutional Integrity (INT) led Detailed Implementation Review [DIR]) and at the level of national and sectoral policy (the WBI-led Initial Governance Assessment [IGA]) gave fresh insights into anti-corruption measures that the Government itself could take. These inputs all contributed to the formulation of the Government's Governance Strategy and Action Plan (GSAP) through December 2007. The GSAP reviews progress in terms of legislation passed since 2003, administrative actions taken, public sector and financial management reforms, the role for the private sector, public education efforts, investigation/prosecution, and restitution of stolen assets. It sets forth a matrix of specific, time-bound actions accompanied by progress indicators in areas that include (a) strengthening the legislative platform for the fight against corruption (e.g., legislation for witness protection, anti-money laundering and greater disclosure of personal wealth declarations of government officials); (b) facilitating transparency and public access to government information; (c) deepening public financial management reforms; (d) deepening procurement reforms; (e) scaling down the role of government; and (f) strengthening capacity for investigation and prosecution of corruption.

15. **Transparency, Public Access to Information and Public Education**. The Government is at an advanced stage of assuring public access to information through the proposed Freedom of Information Bill, which seeks to empower members of the public to have free access to information held by Government. The Media Bill, the second bill, also at an advanced stage, will promote and protect a professional, self-regulating free

and independent media. The right of the media to access and disseminate information will further enhance transparency and accountability. The Media Bill seeks to establish a Media Council of Kenya and enshrine the "freedom to hold opinions without interference and to seek, receive and impart information and ideas through any Media regardless of frontiers." Parliament reconvened in March 2007, and it was expected that both the above bills will be submitted. These legislative developments complement another initiative by Government to establish a National Bureau of Statistics, through the Statistics Bill of 2006. The Bureau, which will replace the Central Bureau of Statistics, will collect, compile, analyze, and publish statistical information, and will be guided by explicit provisions for public access and dissemination. A related aspect of these transparency initiatives is heavy investments in e-government, including e-procurement, and continued investment in public education and awareness-raising. To improve accountability in budget implementation, the Budget Monitoring Unit at Ministry of Finance will be revamped, initially paying particular attention to roads and water programs. The Unit will prepare comprehensive quarterly reports on budget implementation for dissemination to the public.

16. **Further Legislative Advances.** A number of bills were on the parliament's list to be passed into law in late 2006. The Witness Protection Act was passed but Bills on anti-money laundering and political party financing were not acted upon by the time Parliament recessed in early December. Parliament reconvened in March 2007 and it was expected that they will be considered. The pending Statute Law (Miscellaneous Amendment) Bill proposes to amend the following laws, namely; the Judicature Act, (Cap 8) to increase the number of judges of the High Court from fifty to seventy and those in the Court of Appeal from eleven to fourteen; the Constitutional Officers (Remuneration) Act, (Cap 423) to implement the new salary structure for constitutional office holders; and the Anti-Corruption and Economic Crimes Act (ECA), 2003, to disallow applications for stay of proceedings in cases involving economic crimes and corruption. The Miscellaneous Amendments Bill will also harmonize the penalties for offenses that can be prosecuted under both the ECA and the Penal Code and amend the Public Officer Ethics Act, 2003, to regulate the public officers' declaration of wealth. The Witness Protection Bill, 2006, if passed will provide for the regulation and operation of a scheme for the protection of witnesses in criminal cases, commissions of inquiries and similar proceedings that are critical to the prosecution of corruption cases. The proposed scheme under this Bill will be established and coordinated by the Attorney General. Legislation on political party financing is also proposed.

17. **Capacity to Prosecute.** Despite improvements in the investigation of corruption cases, the current capacity to prosecute is still inadequate. This has affected efforts to effectively prosecute past and on-going cases on corruption. A number of training programs have been launched to strengthen the capacity of the State Law Office (SLO) and the Director of Public Prosecutions (DPP) in the Attorney General's Office. The government is in the process of recruiting additional lawyers, (130), including specialized and competent prosecutors with proven integrity. Of these, 65 will serve the State Law Office, 42 to the Department of Public Prosecutions to make a total of 104 and 23 to the Civil Litigation Department. Other initiatives include addressing legal challenges arising

from corruption prosecutions (see paragraph 15) by, among others: publishing judgment and court statements; and establishing open hearings.

18. **Disposal of Cases.** In 2005, there were 503,948 new cases filed together with those pending at the beginning of that year, bringing the total number to 1,074,602 cases. Of these, the courts were only able to deal with 541,167 cases, rolling over 535,840 to 2006. As part of the effort to address this challenge, the following initiatives will be implemented. As indicated in the Miscellaneous Bill, the number of judges will be increased to 70 from 50. In addition to the absence of judicial officers, the Government's efforts to effectively dispose of cases (including corruption cases) have been hampered also by the lack of basic facilities such as court rooms, manual filling and retrieval of cases, lack of equipment such as computers, poor remuneration and terms of service for the judiciary especially for the magistrates. The World Bank-financed Financial Legal and Technical Assistance Project is currently supporting the training of judges and modernization of the court system through automation of the courts. It will also finance the recording of court proceedings, better case management methods and improvement of court administration. Meanwhile, the judiciary has proposed amendments to the Civil Procedure Rules to simplify the court processes and include alternative methods of dispute resolution to shorten the time taken to dispose off cases and reduce the backlog. The Chief Justice also issued a circular (January 2007) to address the problem of multiple suits on the same issue being filed in different courts.

19. **Implementation of Procurement Reform.** In order to enforce the Procurement Act, passed by Parliament and assented to by the President in November 2005, gazettement of the Public Procurement Regulations and establishment of an independent Public Procurement Oversight Authority received Parliamentary approval (December 2006). The main objective of the proposed procurement reforms is to strengthen the institutional capacity of the public procurement in order to enhance accountability and effectiveness by reducing rent-seeking opportunities and corruption. Among the initiatives proposed for implementation over the next one year are: (i) establishing and making fully operational the Public Procurement Oversight Authority ensuring its independence and objectivity, and fully rolling out of the new procurement regulations and guidelines; (ii) posting on the ministries' websites all information on contracts, including names of contractors, decisions of Procurement Appeals Board, bidders and tender outcomes, and contractors' performance; (iii) introducing a transparent Vetting System to pre-qualify companies interested in bidding for contracts to address conflict of interest and to enable exposure of fraudulent companies; and (iv) blacklisting companies found to have been involved in cases of corruption in accordance with the new procurement law, and make this information publicly available.

20. **Implementation of Privatization.** Further participation of the private sector in the economy will be enhanced over the next year through privatization, restructuring of the public sector and removal of administrative barriers to trade. Among the initiatives to be implemented over the next year to enhance efficiency in the economy and encourage private sector participation include: (i) establishment of a privatization commission by the end of March 2007. The privatization commission will pave the way for a transparent and accountable process of privatization, thereby making it difficult to disguise

corruption in the privatization transactions; (ii) restructuring/privatization of Telkom Kenya is moving forward with IFC technical assistance (e.g. retrenchment completed, Ksh 5.6 billion secured by Telkom from local banks, etc.). while the National Bank of Kenya (NBK) will be restructured in tandem with privatization (GOK's 06/07 budget includes Ksh 20 billion for the NBK restructuring approved by Cabinet); (iii) sale of part of government shares in Mumias Sugar Company was completed end-December 2006, and the action plan for further divestiture of the Kenya Reinsurance Company, and KenGen for March 2007 remains in force; (iv) plans for increased private sector participation also remain in place for the ports: and (v) liberalization of the telecomm sector has already happened, including a recent CCK decision approving an application from Reliance Consortium for the second fixed line license; (vi) including in the finance bill for 2007/08 the elimination of business licenses found not to serve a useful purpose; (vii) initiating a legal and institutional framework to operationalize public-private partnership, allowing the private sector to participate in the provision of water, energy, roads and transport services and limit the potential risks from contingent liabilities that may arise in such operations; (viii) submission to Cabinet of a market-oriented financial sector reform strategy by March 2007; and (xi) a diagnostic audit of National Social Security Fund (NSSF) will be undertaken to form the basis for restructuring and reforms of its governance.

21. **Public Financial Management.** Planned public financial management reforms (PFM) include:

- preparing and publishing external audit reports of the Controller and Auditor General in a timely fashion in accordance with *The Public Audit Act 2003*;

- adopting a risk based internal audit approach, including establishment of the ministerial audit committees expected to provide oversight. Empowering the Ministerial Audit Office and providing them a mandate for ensuring implementation of audit recommendations. And, develop audit's post-implementation reviews by the National Audit Office, communicate the results to the Public Accounts Committee, and publish them;

- enhancing transparency and broader stakeholder participation, including members of parliament and public in the preparation of 2007/08 budget cycle;

- conducting expenditure-tracking surveys in at least one ministry to inform budget implementation and improve its effectiveness in achieving development goals;

- strengthening management and audit capacity for efficient and effective use of devolved funds under the Local Authority Transfer Fund and the Constituency Development Fund, Constituency Roads Fund and Bursary Fund, among others;

- accelerating the implementation of integrated financial management and information system (IFMIS) and make it operational in four spending ministries (including education, health) for the management of the 2007/08 budget; and

- developing and enforcing objective criteria for granting tax exemptions and waivers to regulate the exercise of discretionary powers and improve transparency and accountability in the tax exemption regime. This will be complemented by publication of tax expenditure budgets from FY2007/08 onward.

Other measures being taken include preparing and publishing external audit reports in a timely fashion in accordance with the Public Audit Act 2003 and adopting a risk based internal audit approach, including establishment of the ministerial audit committees. These measures are expected to improve Parliamentary oversight on the executive's use of public funds.

22. **Results Measurement and Performance Management.** Government is deepening the focus on results as an integral part of good governance, and is making progress in rolling out the RBM system in the public sector. Now that a Results office has been established within the Public Sector Reform and Development Secretariat, additional steps related to the RBM's implementation include developing systems for performance management and integrated performance appraisal, performance audits and monitoring and evaluation. Other actions include introducing service charters and score cards for selected Government ministries and departments.

23. **Governance and Accountability Programs in Selected Key Ministries.** Several Ministries that are central to the achievement of ERS objectives are putting in place governance and anticorruption programs. Here are some examples:

- *Health*. The health sector faces substantial governance strengthening challenges. The management structure is not aligned to the implementation of the national health plan; accountability and transparency are weak; there is poor utilization of information for monitoring purposes; and tendering has been plagued by accusations of corruption, failure to follow procedures and delays. In recent months, however, there have been some important developments. These include the initiation of a SWAp approach, with teams appointed to work on key issues, including procurement, financial management, and monitoring and evaluation. The Ministry of Health has developed a risk management approach to internal audit, and initial steps have been taken to improve procurement procedures, including through support from the Millennium Challenge Corporation with the redrafting of procurement regulations for the Government as a whole (but with the Ministry of Health as a lead sector for the reforms). Service delivery will be addressed through the adoption of a risk-based management approach to internal audit; monitoring full implementation of the recommendations by KACC into the operations of the Kenya Medical Supplies Agency (KEMSA); and improved

management of the GFATM Program. Weaknesses in the area of procurement, financial management and governance identified by the World Bank's Detailed Implementation Review will be addressed as follows:

(i) Procurement: finalization of the sector specific procurement manuals, independent procurement actions, scaling up the capacity and involvement of KEMSA in procurement and public notification of contract awards;

(ii) DARE: undertake a comprehensive update of progress on action plan from forensic audit; recruit auditors; and investigate and where necessary prosecute those found guilty; and

(iii) Financial management: remittance of funds directly to health facilities using commercial banks, instituting effective internal and external audit functions using a risk-based framework, disclosure of information on financing and support to community monitoring over expenditure.

- *Education.* The Government has developed its policy for strengthened governance and accountability in the education sector around the following themes: (i) community involvement through decentralized financing and procurement; (ii) resource allocation; (iii) consultation and social accountability; (iv) teacher management; and (v) public expenditure and management. The plan shows commitments for the future towards a more transparent and accountable environment in the education sector, but it also shows important progress already made. An independent public expenditure tracking survey has already been completed, and it concluded that "Overall, the flow of funds has been efficient, with schools receiving funds allocated on time. Bottlenecks encountered in the flow are being addressed by the ministry. At school level, funds received have been correctly recorded and used for intended purposes. A large majority of the schools have put in place systems that ensure transparency and value for money.

- *Water.* Since mid-2003, the Government through the Ministry of Water and Irrigation has embarked on far reaching reforms in the water sector based on the Water Act gazetted in late 2002. These reforms have involved comprehensive institutional reforms and increased investments in water supply and sanitation to remove the bottlenecks to achieving safe and sustainable services. The continuing reforms include: (i) separation of functions between each aspect of service delivery – policy making, regulation, and service delivery; (ii) clarifying the role and responsibilities of each new institution; and (iii) ensuring the new institutions are given the mandate and autonomy to perform, but at the same time are made accountable in meeting their responsibilities.

- *Road Sector.* Government plans to establish three autonomous road authorities to streamline ownership, management, accountability and financing of all road

network activities in the country. This action will be implemented as soon as Parliament approves the legislative instruments. On-going actions to improve governance in the roads sub-sector include: (i) re-enforcement of procurement regulations – (for example, GOK funded contracts are no longer "given out" but advertised; and award of all contracts is based on contractor capability, current workload and past performance to encourage competition and fairness); and (ii) in-depth analysis of the cost of road construction in Kenya and other countries in the region to update market prices and improve project cost estimation. In addition, at least two actions agreed with government in 2004 have already been effected. First, road sub sector staff who previously owned road construction companies removed themselves from such companies and kept their jobs, or left government to manage them. Second, lengthy payment procedures requiring 23 approvals and signatures, which led to delays in payments and cost inflation, were reduced to 6 approval steps, and the oversight function was also strengthened.

24. **Measuring Progress in Governance and Anti-corruption.** The KACC household (2006) survey cited earlier will be done annually. In addition, the Government has resolved to carry out a nation-wide assessment to measure how corruption and other issues related to public sector performance in governance are perceived by the public. The assessment will examine public service delivery, functioning of government staff, financial management and procurement. The activity is intended to support a unified vision and design for a statistical development strategy that will improve policy and decision making in the area of governance. It will facilitate monitoring the progress made in broad governance indicators, including targets specified in the IP-ERS and the Anti-corruption Action Plan. To ensure integrity and broad participation, the Government intends to establish a Steering Committee comprising of Permanent Secretaries and representatives of the private sector, civil society, media, Parliament and development partners. In addition, to ensure independence of the diagnostic process from the executive and credibility of the process, data collection and analysis will be undertaken by an independent firm. The time frame for this assessment is currently under discussion, but is expected to be carried out in August-September, 2006. The results are to be widely shared, including through workshops at local and national levels. Currently, the Bank and other development partners, through the Statistical Capacity Building Project, are supporting the collection and analysis of justice and crime statistics which would measure the impact of crime on the public and the working of the criminal and civil justice systems. In March 2006, the project provided computers, software and training for the police, prisons, the judiciary and the probation department to improve the quality and timeliness of statistics. Government plans to publish these statistics regularly and to place them in websites from mid-FY2006/07. These steps, and others, have been integrated by Government into the Governance Strategy for Building a Prosperous Kenya (GSPK).

V. World Bank Involvement in the Fight Against Corruption

25. **The Bank Group is Directly Supporting a Subset of Priority Actions in Kenya's GAP.** Given the prominence of the corruption issue in Kenya, the Bank's

Country Assistance Strategy 2004-2007 (now extended through June 2008) has recently been updated to account for the findings of the numerous audits and analyses of governance at the general and the sector level. In supporting the GSPK and the GAP, the Bank will focus on transparency initiatives (including transparency in the judiciary, and capacity building in the prosecutorial and judicial services); broadening stakeholder involvement, including additional private participation in infrastructure services such as the ports; accelerating public financial management reforms; and improving governance in high-priority sectors—education, HIV and AIDS, health, and roads. Analytic work in such areas as media development, parliamentary and judicial capacity, and police oversight mechanisms will help lay the foundation for the development and governance agenda beyond this GSPK/GAP and for the next CAS.

26. **Bank's Comparative Advantage.** In identifying priorities for Bank support, we take account of the importance (drawing in part on empirical evidence in the IGA and the findings of the DIR) and potential impact of the actions; the Government's leadership and readiness for implementation; the comparative advantage of the Bank Group; and what other partners are doing. It should be emphasized that while the GAP is a short-term strategy, focused on actions in the year 2007, the challenges of governance and corruption are large in scale and will require sustained efforts over an extended period of time. Our analytic work (including ongoing audits at the level of projects and government systems) will focus on longer-term objectives and how policy and investments can reinforce them, while laying the groundwork for future operations. Operations—for example, the Institutional Reform and Capacity Building (IRCB) project, but also sectoral projects—will also continue to focus on the longer term by supporting the Government in building the capacity of its systems to control corruption.

27. **Transparency Initiatives are the First Governance Priority Area for Bank Support.** A major pillar of the updated GAP is the Government's significant "transparency deficit." A Transparency and Communications Infrastructure project, which is part of a regional ICT initiative, will support the implementation of "e-government," which will both vastly increase public access to Government information and advance the eventual implementation of pending freedom-of-information legislation. The Bank is also providing additional support for transparency in specific areas of potential impact. For example, the Bank has provided technical support for the recently passed Statistics Act (2006) and is collaborating in strengthening national capacity to collect, compile, analyze, and publish statistical information. Its assistance in this area will be channeled through a Statistical Capacity Building Project (StatCap), which will also include support for in-depth governance surveys. Another example is a pilot program to record and disclose court proceedings, in collaboration with the National Council of Law Reporting (NCLR). The ongoing Financial and Legal Technical Assistance Project is supporting this pilot and other measures to improve performance along the judicial chain.

28. **Broadening Stakeholder Involvement is the Second Governance Priority Area for Bank Support.** Given Kenya's history of patrimonial politics, a central challenge is to identify and support interventions that can "crowd in" more stakeholders

to ensure that public resources are efficiently and effectively used for the purposes intended. A greater focus on stakeholder involvement will include the following kinds of initiatives:

- Those that involve informed communities and service users in the delivery and oversight of service provision at the front line, including oversight of procurement—for example, parents in school committees in the education sector-wide approach (SWAp), or community-driven development in the Arid Lands Additional Financing project.

- Those that foster competitive arrangements for service provision—for example, by supporting private sector participation in the provision of water, energy, roads (including a toll-road concession for a stretch of 77km in and around Nairobi), and port services while limiting the potential risks from contingent liabilities that may arise in such public-private partnerships. In addition, IFC has extended a pilot program originally developed in Ghana to support private educational institutions in Kenya and has invested US$32 million in the Kenya-Uganda railways. MIGA is providing support for a 45 MW private geothermal power plant.

- Those that promote synergies between governance and equity—for example, by improving poor people's access to justice, and increasing opportunities for participation in community-level development planning, monitoring, and evaluation.

- Those that further develop, deploy, and integrate practical tools for systematic citizen/stakeholder participation and monitoring.

- Those that create pilots aimed at testing new participatory approaches for service delivery with built-in social accountability.

29. **Selected Public Financial Management and Licensing Reforms are the Third Governance Priority Area for Bank Support.** Here Bank support will focus on (i) procurement reform, including related transparency initiatives; (ii) accelerated implementation of an integrated financial management and information system (IFMIS); (iii) support for risk-based auditing throughout the government; and (iv) licensing reforms under which about 9 percent of licenses have been eliminated, and another 50 percent are scheduled for harmonization, simplification, or elimination by December 2007 (including about 23 licenses that the private sector has identified as priorities). The financial management activities will be supported mainly through ongoing programs, principally the IRCB project. They will also involve scaled-up attention to standards in the accounting profession through a new partnership with the umbrella professional body, the Institute of Certified Public Accountants of Kenya. In addition, the Bank Group will scale up its advisory services on licensing reform.

30. **Governance Reforms in High-Priority Sectors—Education, HIV and AIDS, Health, Roads, and the Judiciary—are the fourth area for Bank support.** For *education*, the governance agenda is being extended to the secondary and postsecondary levels and to the Teachers Service Commission under the Bank-supported education SWAp. In the *health* sector, the Bank is proceeding on three tracks: (i) through the existing IRCB project, it is providing assistance for the rollout of IFMIS in the Ministry; (ii) as chair of the donor subgroup on health, it is heavily involved with others in developing a SWAp for health for which the centerpiece will be community-based management of health facilities, with strong fiduciary safeguards, to support piloting this approach);[9] and (iii) it will partner with others to scale up successful preventive efforts.[10] For *roads*, the key governance actions proposed include establishing three autonomous road authorities to streamlined ownership, management, accountability, and financing of all road network activities in the country. These activities (and physical investments) are being supported under the ongoing Northern Corridor Transport Improvement Project (NCTIP), and additional financing would be considered in line with progress in these reforms. Working with development partners in Governance Justice Law, Order and Security (GJLOS[11])—where the Bank heads the sub-committee on the judiciary—the Bank will provide support for improving the performance of Kenya's judiciary (including clearing the 1.1 million case backlog) through such measures as improved case management, process re-engineering, initiatives such as piloting a judicial clerkship program for top Kenyan law students, and training in Alternative Dispute Resolution methods. It will also support the full automation of the recording of court proceedings, building on the pilot exercise.

31. **Vigorous Efforts will be Required During and Well Beyond the CAS Period.** Given the history and scale of Kenya's governance problems, it will take vigorous actions on a broad front over the medium term to achieve sustained gains. The dynamics of the election year are also likely to make significant reforms difficult, although not impossible. The Government has enumerated priority actions—from a larger work program—that it believes it can achieve in the short run. In areas in which preparation for implementation is already well advanced—for example, procurement and other financial management reforms—such progress is very likely to occur. We are also working to help consolidate governance improvements in water and sanitation, which the Bank has been supporting since 2004 through a technical assistance project. Other areas that require Parliamentary approval, such as the increase in the number of judges, could be delayed. Meanwhile, analytic work in such areas as media development and parliamentary capacity, and police oversight mechanisms will help prepare the governance agenda beyond the timetable set out in the GAP.

32. **Safeguarding Bank-funded Operations.** Experience highlights the importance of attention not only to broad strategic aspirations, but also to practical issues of

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9 A staff-monitored program (without financing) is in place, with monthly reporting and verification of progress.

10 One example is the private sector/civil society's Global Water Challenge, which involves multinationals, international NGOs, and UNICEF to deliver clean water, sanitation, and hygiene education and support.

11 GJLOS seeks to improve transparency and accountability, empower the poor, marginalized and the vulnerable inter alia by promoting equal access to justice, and police and penal reforms.

implementation, such as the risk of corruption during project execution, operational staffing and budgets, and partnerships.

33. **Additional Measures will Address Systemic Corruption Risks in Lending.** All Bank-funded projects benefit from a range of measures (e.g., results-based auditing) being rolled out across Government. In addition, recently approved operations contain a range of provisions that reflect the Bank's selective engagement with ministries, agencies, and institutions that champion good governance, and make clear that funds must be used for their intended purpose. For example, the Education Sector Support Program and Arid Lands Additional Financing Projects contain enhanced public disclosure provisions, mechanisms for community monitoring, and independent complaints mechanisms. We will use similar measures to ensure that both existing and new Bank-supported lending operations address issues of governance. In addition, beyond the regular project supervision that addresses policy and institutional issues, each year beginning in FY07 the Bank will undertake an integrated and in-depth technical, procurement, and financial management review of projects with high fiduciary risk. This review may include sampling contracts, visually inspecting the actual delivery of work, following up on audit findings and recommendations, and reviewing interim financial management reviews. The Bank will also agree with the Government on the release of certain documents that will help enhance the transparency and accountability of Bank-financed projects—for example, aide-mémoire of implementation review missions, audit reports and the Government's formal responses to them, procurement plans and schedules, bidding documents and requests for proposals, shortlists of consultants, and summaries of bid evaluations that do not reveal confidential commercial information provided by bidders.

34. **Work to Build Country Systems will Continue to be an Integral Part of Managing Project Corruption Risks.** With overall donor support accounting for only about 5 percent of Kenya's development spending, measures aimed at protecting externally funded projects (including activities supported by the World Bank Group) are being carefully tailored to maximize impact by benefiting all Government spending. For example, after forensic audits of Bank operations in 2005 showed problems related to faulty accounting practices, lack of fraud risk management, weak oversight by senior Government officials, inconsistent application of the Bank's Procurement Guidelines, and failure to share lessons learned and best practices, the Bank initiated a dialogue with the Government over systemic anticorruption measures (such as risk-based audit procedures) that the Government has since applied to Bank operations, and more broadly, to strengthen Kenya's systems. In the same spirit of Kenyan system building, side letters are also being used in project agreements with the World Bank to reinforce implementing agency staff compliance with Kenyan anticorruption laws such as asset declaration, and to promote other transparency measures such as disclosure of financial statements and audit reports.

35. **Bank Staffing, Processes, and Internal Organization will Better Reflect Operational Priorities.** A field-based governance adviser will be recruited for the Nairobi office to guide the Bank's work on governance, and recruitment of additional

field-based staff procurement and financial management specialists is in process. A cross-sectoral Operations Risk Mitigation Team will be established, to be chaired by the governance adviser, with a mandate to oversee risk-mitigation actions, advise task teams in the design and preparation of projects, share and disseminate information on risks, advise the country management team on strategy for mitigating governance risks, and interface with INT as necessary. In addition, the rolling intensive Country Program Review process will sharpen its focus on corruption issues.

36. **Development Partnerships will be Deepened.** As we intensify the equity and governance agenda in the Bank assistance program, it will be important to partner meaningfully and transparently with other stakeholders in the spirit of mutual accountability. The Bank's comparative advantage is ESW, grounded in qualitative and quantitative research and comparative analysis. But even here the Bank will seek partnerships with other development and research agencies. During the rest of the CAS period, we will also mobilize a small team of external reviewers comprising a representative from each of the following: (i) the donor subgroup on harmonization, alignment, and coordination; (ii) the relevant donor sector working group; (iii) the relevant professional association; and (iv) the civil society/governance network. This team will review all projects proposed for Bank financing. The Bank has also committed to preparing the next Kenya CAS in the context of a Joint Country Assistance Strategy, and to identifying opportunities for greater selectivity and division of labor based on comparative advantage. A particularly important partnership has been that with the IMF: for example, in recent months there has been close collaboration and information sharing between staff of the two organizations on issues of governance, structural reforms, and the growth outlook during the preparation for and discussions on the second review under the IMF's PRGF arrangement and the Article IV consultation. IMF staff also participated in a Bank-led governance mission in July 2006. This close partnership is expected to continue.

37. **Civil Society Partnerships will Receive Additional Support.** Within Kenyan society, we propose deepening our partnerships with the private sector, professional bodies, faith-based organizations, youth groups, foundations, and trade unions, and our engagement with parliamentarians and nongovernmental organizations. For example, through the World Bank's Parliamentary Network, parliamentarians have engaged the Bank on such issues as the need for analytic work on the functioning of Parliament, collaboration in monitoring and evaluation at the community level, and technical support for key oversight committees. The Institute of Certified Public Accountants of Kenya has approached the Bank for institutional strengthening support to help ensure the quality of the professional accounting practice and adoption of best practice, including enforcing compliance with international standards. The Bank will seek trust-funded resources to finance a multiyear grants program to support such partnerships.

Annex 2: The HIV and AIDS Epidemic in Kenya

KENYA: Total War Against HIV and AIDS (TOWA) Project

Key Issues of the HIV Epidemic in Kenya

1. Knowledge of HIV prevention.	• 58 percent of women and 70 percent of men reported knowing that risk of HIV infection can be reduced by using condoms and limiting the number of sexual partners.
2. Age at first sex.	• Median age at sexual debut rose from 16.7 in 1998 to 17.8 in 2003 for women.
3. Knowledge of HIV status.	• Number of VCT sites has increased from 650 to 840, and the number of people benefiting has also gone dramatically from about 440,000 to 760,000 in 2006. • Up to 15 percent of women and 16 percent of men in the age group 18-49 have been tested and counseled for HIV, with majority having received their results. • Between 400,000 – 500,000 couples in Kenya are discordant.
4. Feminization of the epidemic and vulnerability of young women.	• 65 percent of people living with HIV in Kenya are women. • Average HIV prevalence in women 15-49 years of age is 8.7 percent, compared to 4.6 percent in men of the same age group. • Infection rates for women dramatically worsens among young women 15-19 years of age, with infection rates that are six times higher than among young men of the same age group. • Prevalence rates among young women peaks at 25-29 years of age, while those of the male peak at the 40-44 years age group. • Married couples in stable relationships have significantly higher HIV prevalence at 8 percent for women and 7 percent for men, compared to single women (5.6 percent) and men (1.6 percent). • Widows and divorced/separated women are particularly at high risk (31.8 percent and 14.6 percent, respectively). • Up to 16 percent of women surveyed in 2003 reported having been sexually violated.
5. Condom use.	• Percentage of adult Kenyans who reported more than one sexual partner in the last 12 months declined from 4.2 percent among women and 24.1 percent among men in 1998 to 1.8 percent and 11.9 percent respectively, in 2003. • 18 percent of women and 40 percent of men reported engaging in higher-risk sex (i.e. with non-marital, non-cohabitating partner) in the previous 12 months. • An increased figure of 24 percent of the women and 47 percent of the men reported condom use in last higher-risk sex.
6. Prevention of mother to	• About 1.0 million pregnant Kenyan women in total need to be reached annually with routine offer of HIV testing and counseling.

child transmission (PMTCT).	• Approximately 86,000 need to be reached with prophylaxis to prevent mother-to-child transmission. • In 2004, 40 percent of all women visiting the Ante-natal Clinic (ANC) were reached with PMTCT services.
7. Most-at-risk groups.	• 6 percent of women aged 15-49 reported having received money, favors or gifts in return for sex in the past 12 months; among girls 15-19 years of age, the figure rises to 16%. • Close to 4 percent of young men aged 15-24 reported having paid for sex in the past 12 months. • There are an estimated 80,000 female sex workers in Kenya, with infection levels of up to 80 percent. • There are an estimated 600 male sex workers work in Nairobi, servicing both male and female clients. • There are an estimated 20,000 injecting drug users in Kenya. • More than 50 percent of injecting drug users in Mombasa and Nairobi are estimated to be HIV positive. • Studies from the lake communities in Western Kenya, as well as those carried out along the main transport routes, indicate high prevalence of routine risk practices.
8. Emerging issues.	• HIV prevalence among circumcised Kenyan men is 3 percent, compared to 13 percent among non-circumcised men. • Recently announced results from the Kisumu trial confirmed a 53 percent protective effect of male circumcision on HIV infection.

Annex 3: Letter of Sector Policy

KENYA: Total War Against HIV and AIDS Project

REPUBLIC OF KENYA

MINISTRY OF FINANCE
Office of the Minister

Telegraphic Address: 22921
FINANCE - NAIROBI
Telephone: 252299
When replying please quote

THE TREASURY
P.O. Box 30007-00100
NAIROBI
KENYA

Ref: EA/FA 62/240/04 /G/(48)

12 April 2007

Dr Paul Wolfowitz
PRESIDENT
The World Bank
1818 H STREET
WASHINGTON DC 20433
USA

Dear Mr President,

RE: TOTAL WAR AGAINST HIV AND AIDS (TOWA) PROJECT: LETTER OF SECTOR POLICY

1. I would like to take this opportunity to confirm to the World Bank that the Government of Kenya is fully committed to the principles of transparency and accountability, the enhancement of governance and fighting corruption in our country. As you are aware, Parliament passed the Public Officer Ethics Act and the Anti-Corruption and Economic Crimes Act, in 2003.

2. The Government has also enacted key legislations aimed at improving governance and service delivery, including the Government Financial Management Act (2004), the Public Audit Office Act (2004), the Privatization Act and the Public Procurement Disposal Act. More recently, the Government developed a Governance Action Plan for the period July 2006 – June 2007, and is committed to its implementation.

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3. Below are highlights of the Health sector issues and strategies for intervention that have been developed as a result of lessons learnt from the Kenya HIV and AIDs Disaster Response Project (KHADREP):-

- Emerging challenges owing to the phase of the HIV and AIDS epidemic in Kenya;
- Challenges pertaining to institutional management;
- The Government's commitment to good governance and dealing with corruption issues; and
- The National response to HIV and AIDS to be guided by the Kenya National HIV and AIDS Strategic Plan (KNASP), 2005-2010.

4. HIV and AIDS spread rapidly in Kenya in the 1990s reaching prevalence rates of 20-30% in some areas of the country. The result of this was not only an increased burden on the health sector but also major economic and social impact at all levels of the society. More important is the corrosive effect of HIV and AIDS to poverty reduction efforts by virtue of its impact on economic growth and development.

5. It is in the realization of the multi-sectoral impact of HIV and AIDS that the Government of Kenya declared HIV and AIDS a national disaster in 1999 and established the NATIONAL AIDS CONTROL COUNCIL (NACC) through a legal notice to co-ordinate a multi-sectoral national response.

6. Significant steps have been made in the war against HIV and AIDS as evidenced by the drop in the national prevalence rate to below 7%, increased awareness, increased condom use, scaled up ART, among others. The Government greatly appreciates the support from Development Partners and more specifically the World Bank through the Kenya HIV and AIDS Disaster Response Project (KHADREP) implemented between 2000 and 2005. Other support has also been received from Global Fund to fight HIV and AIDS, TB and Malaria as well as Bilateral Partners such as USAID, DFID, JICA, SIDA, GTZ among others.

7. The goals of the KHADREP included expansion of the Government multi-sectoral interventions to reach the community level, establishment of HIV and AIDS programme institutional arrangements and enhancing capacities of all participating agencies as well as delivering funds for prevention, treatment care and support services by private sector and civil society organizations.

8. The NACC through the KHADREP and assistance from other Development Partners has established and built capacity of institutional structures at National, District and constituency levels. Funds for community initiatives are disbursed through Financial Management Agency (FMA) in a needs-based manner. Community based organizations, non-Governmental organizations and faith-based organizations generated proposals that were evaluated and approved by the respective Constituency AIDS Control Committees (CACCs). CACCs also monitored and supervised implementation of programmes.

9. The strategies of the NACC and Development Partners particularly, under the KHADREP yielded positive results as demonstrated by increased community participation and civil society demand for funding of proposals and decline in prevalence rates, partially as a result of increased awareness and behaviour change.

10. However, new challenges have emerged during this period, as detailed in the NACC Joint Institutional Review (NJIR) report of February 2004. These include the need to improve the effectiveness of the Council, build effective Council and Cabinet Committee relations, create a Council Executive Committee to complement a Non-Executive Council, reforming the NACC Secretariat, public sector mainstreaming and stakeholder coordination, and building of effective Constituency AIDS Control Committees with functional oversight Boards at the District level (District Technical Committees). There were also issues of governance and

suspected fraud within the operations of KHADREP from EMU and Forensic Audit Reports.

11. New challenges have also emerged in the nature of the epidemic and its impact. This as outlined in the Kenya National HIV AND AIDS Strategic Plan (KNASP) 2005/6-2009/10, including, the unacceptably high rate of new infections, particularly among vulnerable groups, the socio-economic impact of HIV and AIDS including the rising numbers of orphans and other vulnerable children and the need to improve the quality of life of the people infected and affected by HIV and AIDS.

12. To enhance HIV and AIDS intervention, the Government has declared "TOTAL WAR AGAINST HIV and AIDS" at the Community level and has also established a Cabinet Committee on HIV and AIDS to provide impetus for the national response. The Government is thus, committed to lead a multisectoral national response to HIV and AIDS and has mandated the NACC as the national coordinating authority to provide the required leadership within the principles of "three ones" namely;

- One agreed HIV and AIDS action framework that provides for coordinating the work of all partners,
- One National HIV and AIDS coordinating authority with a broad based multisectoral mandate and,
- One agreed country level Monitoring and Evaluation (M & E) system.

13. The NACC, working closely with Development Partners and other stakeholders has developed the KNASP 2005/2006-2009/2010 which aims at sustaining the war against HIV and AIDS by addressing the emerging challenges while consolidating the gains achieved so far. The KNASP focuses on the key sector issues such as prevention of new infections, improvement of the quality of life for the people infected and affected by HIV and AIDS and mitigation of the socio-economic impacts.

GOVERNANCE AND ANTI-CORRUPTION STRATEGIES

14. Since the Government developed and has maintained a policy of zero tolerance to corruption. When this Government came to power it realized that the war against corruption could not be won without effective institutions to develop appropriate policies, conduct investigations, undertake prosecution, determine cases and create awareness against the vice. The Government therefore immediately commenced the process of creating and/or strengthening anti-corruption institutions. It also started developing the enabling policy and legal environment for a sustained war against corruption.

15. The Government passed the Anti-corruption and Economic Crimes Act, 2003 (No. 3 of 2003). The Act allowed setting up of the legal and institutional framework for fighting corruption in the Country. Under this Act we have a new category of offences called corruption and economic crimes such as embezzling public funds and implementation of projects without approved plans. The Act also provided for the establishment of the Kenya Anti-Corruption Commission (KACC), which is now fully operational and its functions include the enforcement of the Act, litigation and civil recovery of unexplained assets. To ensure efficient and expeditious determination of corruption cases, special magistrates have been appointed as provided for in the Act.

16. The Public Officer Ethics Act, 2003 (No. 4 of 2003) which was operationalized on May 2, 2003, is yet another important piece of legislation in the fight against corruption. Its main purpose is to enhance the Ethics of public officers by providing for a Code of Conduct and Ethics for public officers and requiring financial wealth declaration from certain public officers, among other purposes. NACC being a state corporation is bound by this Act and all senior staff of NACC are therefore required by law to declare their wealth and can be prosecuted where conflict of interest has been demonstrated. The Act also provides for the independent

verification of their wealth and the attendant penalties where a crime may have been committed.

17. The Government also published the Witness Protection Act 2006. This Act seeks to protect witnesses and "Whistle Blowers" in cases of corruption and economic crimes and thus, encourage increased public participation. In line with this, the Audit Committee of the Council has recommended the institutionalization of Whistle Blowers into the policy that has been developed. Hotlines for reporting all urgent cases mainly fraud have been put in place.

ISSUES ARISING FROM THE VARIOUS REPORTS AND NACC POLICY ON GOVERNANCE AND ACCOUNTABILITY

18. Arising from the reports of the Controller and Auditor General in 2003, the Efficiency Monitoring Unit of 2003, the NJIR of 2004 and the recent Forensic Audit, there have been issues concerning NACC governance and accountability. The key issues identified in the reports include the need to:
    - Strengthen the overall governance environment for HIV and AIDS activities,
    - Increase managerial accountability and effectiveness of the NACC secretariat,
    - Reduce the risk of fraud,
    - Improve the functioning of CACCs,
    - Accelerate mainstreaming and make more effective the HIV AND AIDS activities in the public sector; and
    - Enhance stakeholder co-ordination and support.

Strengthen the overall governance environment for HIV and AIDS activities

19. The Government is committed to providing a conducive political and legal environment for the NACC, development partners and all stakeholders to realize their goals and enacted the HIV and AIDs Prevention and Control Act 2006.

20. The process to address the above issues is ongoing. To strengthen the management of HIV and AIDS activities, the

Government has completed restructuring the council. A number of Committees have been established to improve the efficiency of the council, all these committees meet quarterly.

- The Executive Committee
- The Programmes Committee
- The Finance and Administration Committee
- The Audit Committee
- The Tender Committee

21. The Council has also developed several policies to enhance the management of HIV and AIDS activities in the country. This has been done in consultation with Stakeholders and with technical assistance from development partners. The policy documents so far developed include:

- The Kenya National HIV and AIDS Strategic Plan (KNASP) 2005-2010, to guide the national response against HIV and AIDS for the next five years. It identifies the priority areas for intervention by the stakeholders including the Government, the civil society, the private sector and Donors.

- It is expected that the KNASP 2005-2010 will be signed by His Excellency the President and be ready for the launch by the Minister in-charge of Special Programmes as soon as it is signed.

- The staff harmonization policy and terms of service have also been developed. This is to ensure competitive and transparent hiring of skilled staff and retaining them within NACC.

- The M & E framework has been developed and was launched in August, 2005. This will strengthen the monitoring and evaluation of HIV and AIDS activities in the country to ensure lessons learned inform policy and influence best practices in our programmes.

22. In line with the Government policy on Results Based Management (RBM) approach, NACC has developed a performance management system, which was signed

between the Government and the NACC Council on July 8, 2006 for the year 2006/2007. The Council and the Director signed the performance contract on November 17, 2006 and the Director and the Deputy Directors signed on November 29, 2006. All senior staff of NACC will adhere to a strict Code of Conduct which requires managerial accountability, declaration of assets and avoid conflict of interest. The Council and the Government will closely monitor the implementation of these contracts.

23. The Council is increasingly playing the role of technical advisor to the Cabinet Committee on policy development, strategic planning, resource mobilization, national response research, monitoring and evaluation of resource utilization. We expect the legal notice establishing NACC to be changed allowing appointment of more professional Council members. This will enable the Council perform its functions more effectively. HIV and AIDS programme activities under NACC coordination will be supervised by the Oversight Board, whose membership include the Permanent Secretary, Secretary to the Cabinet and Head of Public Service and Secretary to the Cabinet as Chairman, Permanent Secretary in the Office of the President in charge of Special Programmes and the Chairman of the NACC Council. Although the oversight Board has not met regularly, it is scheduled to meet twice a year.

Increase managerial accountability and effectiveness of the NACC secretariat

24. The Government is implementing the recommendations of the NJIR report and the process of restructuring NACC to make it more effective and focused is almost complete. The NACC has developed a staffing structure with assistance from the Department of International Development (DFID) under which a team of professionals have been hired including Deputy Directors and Heads of Divisions, in the three departments with International Technical Assistance. The departments are; - the Department of Finance and Administration, the Department of Co-ordination and Support and the Department of Policy, Strategy and Communication. The positions have been filled

except the one for the Deputy Director (Finance and Administration), which is currently occupied by a competent officer seconded by the Government on an acting capacity. It will was substantively filled on a competitive and transparent basis in November, 2006. NACC has completed recruiting middle cadre staff competitively, transparently and equitably in line with institutional needs and agreed positions. This exercise is expected to be completed by June, 2007.

Reduce the risk of fraud

25. We recognize that the Council is responsible for managing institutional risks. In this regard, the NACC Council with international technical assistance has developed a comprehensive Risk Management Policy to effectively manage fraud and corruption risks. The risk management policy has been discussed by all the Stakeholders and was adopted by Council in August 2006.

- This policy stipulates among others:
- The strengthening of the Internal Audit Unit with the hiring of staff,
- The establishment of the Anti-corruption hotlines and
- Institutionalization of whistle blowers for suspected corruption cases.

26. It also emphasizes increased transparency of the procurement system and improved social accountability.

27. To reduce the risk of fraud at NACC and amongst Stakeholders, specific measures have been put in place. These include training of all new senior staff in financial management and fraud detection, strengthening of the internal audit unit and provision for technical audits as well as spot checks.

28. NACC with assistance from the Government has also strengthened procurement processes and in this regard, information about all procurements has been posted on the NACC website and Notice Boards at the Regional at the Regional, District and Constituency levels.

29. NACC has also taken action against past cases of suspected corruption/fraud arising from EMU recommendations. As a result the Council investigated the former Director leading to her prosecution, imprisonment and the proposed recovery of Kshs. 27 million from her is in Court. NACC has also recovered allowances irregularly paid to other staff.

30. NACC has investigated more than **131** organizations. It is currently pursuing **44** CBOs, 11 of which have been handed over to KACC and **33** Criminal Investigations Department (CID) and **5** cases are already in court while **22** others are still under investigation. The Government has instructed KACC to investigate all the suspected cases of financial mismanagement involving the NACC staff, the FMA staff as well as NGO, CBOs and FBOs. Meanwhile NACC has blacklisted **9** adversely mentioned organizations and withheld funding to them. The Government is committed to taking timely and appropriate action within the country's legal framework.

31. Specific measures aimed at managing risks inherent in KHADREP have been put in place. These include strict adherence by NACC of the accounting practices acceptable to the Government of Kenya and where necessary, specific accounting policies and reporting requirements set out in grants agreements with the development partners. On the positive note NACC has been submitting quarterly Project Management Report (PMR) to the World Bank and will continue submitting quarterly Financial Management Reports (FMRs) to the Bank. NACC has strengthened the Internal Audit Division as part of its mitigation measures towards risk. Personnel have been recruited and have reported on duty.

32. An independent auditor who will be appointed by NACC, in liaison with the Controller and Auditor General will carry out an audit of the CBOs/NGOs/private sector organizations receiving funds from NACC. Reports from these audits will be submitted to the Bank within six (6) months of the end of the financial year. It is also a requirement that NACC accesses financial management records of beneficiaries for periodic reviews, inspections and audits.

33. While appreciating the importance of annual financial reviews, we realize that these are insufficient in determining value for money and therefore provide for regular technical audits. It is envisaged that a consultant, competitively outsourced will undertake a quarterly technical audit to ensure that the funds released to NGOs/CBOs are indeed used for the intended purpose. This will serve to reduce the risk the NACC may be exposed to in terms of ensuring that the funds under TOWA are utilized for the purposes for which it is intended and as per the work plan. In addition, spot checks will be made regularly to strengthen the audit system. The technical monitoring will be closely linked to the financial audit so as to realize the impact of the project.

34. The NACC has also strengthened its capacity and that of other Stakeholders in financial management. To this end, improved terms of reference for a better Financial Management Agency (FMA) has been developed. The FMA for the TOWA project will be recruited before disbursement of funds to the Communities is commenced. The terms of reference of the FMA will cover FMA involvement in disbursement of funds to ACUs, as well as NGOs and Private Sector. NACC has also strengthened its Internal Audit Division and Stakeholders procurement procedures. NACC with international technical assistance has also developed a financial management system in consultation with the stakeholders through the Inter-Agency Coordinating Committee. In addition to this policy, NACC has also put in place a transparent procurement system where all information will be available on NACC Website and shared through

internet as well as community communication channels at the DTC and CACC levels.

35. The Kenya National Audit Office (KNAO) conducts annual audits. Previously, NACC used to submit annual audit reports late; however this changed from 2004. The audit report for the financial year ended June, 2004 was submitted on time. For the financial year ended June, 2006, NACC audited reports were ready by December 31, 2006 as per statutory requirement.

Improve the functioning of CACCs

36. The functioning of CACCs has been strengthened to cope with their role of co-coordinating HIV and AIDS activities at the Community level. The capacity of CACCs has been built through training. The Government has provided offices and secretarial staff. The NACC has also increased operational allocation to improve their efficiency in monitoring and coordination of the project activities. The CACCs have been trained on M & E and continuous training will be provided as the programme is rolled out.

37. The District Technical Committees (DTCs) have been formed to provide technical support to CACCs and act as an Oversight Boards. The DTCs have been trained on M & E and funded to carry out their mandate and functions including supervision of CACCs. The training will be expanded to include fraud risk management. With effective and efficient DTCs in place a decentralized management of the programme will greatly improve.

38. To ensure increased social accountability, hence create confidence in the NACC, an open door policy has been adopted. This is aimed at improving communication with Stakeholders at all levels. To buffer the NACC from perceived political interference and accusations of bias, specific measures meant to ensure impartiality have been put in place and are addressed in the Operations Manual. The call for proposals will be communicated through the media. A

communication strategy that will ensure flow of information to all Stakeholders at all levels has been developed. A similar communication strategy developed for use in the education sector with support from World Bank has proven successful and we intend to borrow from it to improve on the TOWA project.

39. Information about received proposals, approved projects as well as those rejected and reasons for their rejection will be posted at the CACCs, DTCs, and Provincial Administration and at the Co-ordination desk at NACC headquarters. Some CACCs in Nairobi and Rift Valley Provinces already have notice boards where information on the process of funding of HIV AND AIDS activities is displayed. The amounts of grants and status of implementation of this project will also be communicated in a similar channel. Review of proposals will be done by the CACCs, DTCs and the relevant Technical Committees while the NACC secretariat will impartially play a coordination and support role. Membership of the Technical Committees will be based on professional competence and will be subject to approval by the ICC.

Accelerate mainstreaming and make more effective the HIV and AIDS activities in the public sector

40. The Government is committed to ensuring that public sector response to HIV and AIDS activities is both effective and efficient. In this regard, overall resource allocation and utilization for HIV and AIDS has been reviewed through the National Resource Envelope (NRE) and the Public Expenditure Review processes and all Ministerial Permanent Secretaries have made commitment to take personal responsibilities for integrating HIV and AIDS activities into their core policies and operations. The Government has put in place specific measures to ensure public sector mainstreaming and enhanced stakeholder coordination. This includes the fact that NACC will have held meetings with all Permanent Secretaries by the end of June 2007 based on a recent situation analysis in the Ministries aimed at improving the performance of the AIDS Control Units. All ministries now have

Budget Lines and effort is still being made to raise more resources for the public sector. Resource allocation to the line ministries included in the project will be performance based.

Enhance Stakeholder co-ordination and support

41. While admitting that the Government will play a lead role in the fight against HIV and AIDS through the NACC, the contribution of the private sector partnerships and civil society cannot be over emphasized. The Government will therefore strive to promote and support public-private sector partnerships. In this regard, the NACC has created a public-private sector coordination desk which has so far established several networks including the Network for people living with HIV and AIDS in Kenya (NEPHAK), the Kenya Inter Religious Consortium on HIV and AIDS (KIRAC) and the Private Sector Advisory Network. This will ensure that Private Sector, civil society and faith-based organizations including the hard to reach groups play a more central role in the national HIV AND AIDS response at all levels.

42. The NACC is working closely with Development Partners to strengthen donor harmonization. The council has approved and implemented the creation of a donor coordination desk at the NACC secretariat to enhance coordination of donor activities. The Government has also started bi-monthly donor coordinating meetings. A resource mapping database has been designed in consultation with development partners and all stakeholders.

43. The purpose of this database is to:-

- Map resource allocations for various activities and funding sources
- Identify gaps in resource allocation and,
- Avoid duplicate funding to implementers

44. It is designed to capture implementers' details in addition to geographic areas of intervention, descriptions of intervention, priority programme areas and funding details.

45. Immediately after the pilot was designed, NACC and Development Partners including Global Fund, PEPFAR and DFID provided information to register the various NGOs, CBOs, FBOs, Private and Public Sector Implementers. Currently 7,000 implementers are registered. NACC will continue to provide this information during the TOWA project.

46. The NACC is also ensuring increased stakeholder participation. In this regard, stakeholder coordination has been improved mainly through the monthly Inter Agency Committee (ICC) meetings and the revitalization of the Monitoring and Coordinating Groups (MCGs) leading to the JAPR. NACC is proud to have pioneered the Joint HIV and AIDS Programme Review (JAPR) process and we hold them regularly. Five JAPRs have been held and one is scheduled for the end of August 2007.

47. The JAPR process is envisaged to play a significant role in the implementation of the KNASP 2005-2010 including the TOWA project. The regular ICC meetings are meant to ensure that existing coordination structures are regularly and effectively used, thus linking the JAPR process to allocation of resources and issuing Calls for Proposals on priority areas. In addition the information available in the resource-mapping database will be shared at the JAPR, for efficient resource utilization by identifying the gaps and avoiding duplicate funding among other checks.

48. Lessons learned from the KHADREP included the existence of a weak link between M & E and the programmes. The role of a strong M & E framework in ensuring efficient utilization of resources is therefore of utmost importance. In this regard NACC has developed and launched a strong M & E framework which was launched in August 2005 and the drafting of its implementation plan is complete. Capacity building for all stakeholders to ensure effective implementation of the system at all levels including CACCs, civil society and private sector is on going has been rolled out in al the 210 Constituencies.

49. The Country has a communication strategy developed to guide HIV and AIDS intervention activities. The national strategy will regularly be reviewed to address emerging changes in the intervention programmes. A communication strategy that is specific to TOWA project has been developed and incorporated in the Operations Manual as mentioned earlier.

50. A new Management Information Systems (MIS) Division has also been created within NACC aimed at capturing and managing the information collected through CACCs. The new functions will integrate with stakeholders for information aggregation through development of tools such as Intranet/Extranet, decision support and intelligence to avail information throughout NACC and its stakeholders for prompt decision-making.

Conclusion

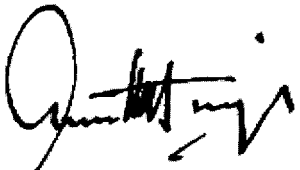
51. HIV AND AIDS is the single most important threat to Kenya's Economic Recovery Strategy (ERS), Vision 2030, Poverty Reduction Strategic Plan (PRSP) and her efforts to attain the Millennium Development Goals (MDGs). In developing the KNASP 2005 – 2010 the multisectoral impact of HIV and AIDS particularly its impact on the education, agricultural, industrial and health sectors have been taken into account. Efforts to mainstream gender in the Economic Recovery Strategy must recognize the gender disparity inherent in the HIV and AIDS economic impact and the two programmes must be in tandem for any gains to be realized. To attain the MDGs the gains made against HIV and AIDS must be sustained to avoid the real risk of all progress made so far being eroded by the scourge.

52. **Mr. President**, in conclusion, let me reiterate the Kenya Government's appreciation of the financial assistance the Bank has continued to provide towards our development programmes. Allow me to single out the KHADREP for the positive impact it has made on the lives of the Kenyan people

and the compelling need to build on it by availing further assistance through the proposed TOWA project. Kenya remains committed to a close working relationship with the Bank and other partners.

53. We assure you that the assistance we are seeking to support the TOWA project will be used prudently to scale up the intended HIV and AIDS activities in Kenya. We are certain that the enabling environment the Government continues to provide for all strategic development programmes will successfully support the implementation of TOWA and contribute significantly to the realization of our vision as a people.

Warm Regards



Hon. Amos Kimunya, EGH, MP
MINISTER FOR FINANCE

CC: Mr. Colin Bruce
Country Director
Comoros, Eritrea, Kenya, Seychelles and Somalia
World Bank Offices
Nairobi

Annex 4: NACC Governance Strengthening: Progress Made and Action Plan

KENYA: Total War Against HIV and AIDS Project

This Annex contains three key documents. The first is the Management Action Matrix (MAM), which was compiled in response to the Detailed Implementation Review (DIR) Report in October 2006. The second document is a summary of the current status of achievements by the NACC in key areas of governance strengthening. The full progress report has been updated consistently by the NACC on a monthly basis, and the summary here relates to the achievements as at the end of February 2007. The third document is a summary table of the Risk Management Report compiled by Price Waterhouse Coopers for the NACC.

KENYA – MANAGEMENT ACTION MATRIX IN RESPONSE TO THE 2006 DIR (OCTOBER 13, 2006)

Item and Recommendations	Specific, Monitorable Actions (ongoing and planned)	Progress/Results Indicators	Comment
Finding/concern regarding the Kenya HIV and AIDS Disaster Response Project (KHADREP): *irregularity indicators exhibited in the contracts related to internal procurement conducted by the National AIDS Control Council (NACC) included fraud, corruption and collusion.*			
***Immediate**: Review existing risk mitigation measures in all planned HIV and AIDS and other health related projects in Kenya.* Of relevance to this DIR recommendation are the risks identified by the Task Team as part of the project design work	The new planned HIV and AIDS Project is the Total War Against AIDS (the "TOWA"). An Action Plan in place since August 2005 (see Annex I) to address the risks has included: (i) suspension of the NACC Director (who was in charge from 2003 to 2006) in March 2006; (ii) ongoing investigation of 101 non-government organizations implicated in fraudulent activities, with 4 cases currently in court, another 11 now being investigated by the KACC, and 23 presently being investigated for grants received under that program by the police; (iii) ongoing discussions with the Attorney General to take legal action against the first NACC Chairman and Director (from	Continued progress by the NACC in carrying out the Action Plan, as evidenced by: (a) Government reviews; (b) World Bank monitoring activities; and (c) feedback from other stakeholders. Continued progress by the NACC and the GOK in strengthening the governance of the GFATM program, including completion of ongoing actions against CSOs which have failed to provide full accounting. Adoption by Country Coordination Mechanism of new Governance Manual for the GFATM program in Kenya (end-October, 2006) The draft of the new Manual includes clear roles and responsibilities for all stakeholders, clarification of CCM membership and procedures, and complaints	The "TOWA" will be subjected to intense and continuous supervision, including physical inspections, by both field-based and HQ-based staff. The findings of supervision missions will be publicly disseminated, including through public accountability forums that focus particularly on beneficiary groups targeted by the project. In addition, there will be continued use of the joint program monitoring system (with other stakeholders and development partners); and intensive feedback to

Item and Recommendations	Specific, Monitorable Actions (ongoing and planned)	Progress/Results Indicators	Comment
carried out in 2004 and 2005. These were: (i) poor governance environment; (ii) weak managerial accountability and an ineffective National Aids Control Council (NACC); (iii) continuing high risk of fraud; (iv) ineffective constituency AIDS control councils; (v) ineffective AIDS Control Units in ministries; and (vi) lack of effective stakeholder coordination. These risks generally correspond to the weaknesses identified in the D&T forensic audit report and the DIR, and relate mostly to the governance of NACC.	2001 to 2003); (iv) the re-defining of responsibilities and establishing clear mandates for the Audit Committee and the Finance and Administration Committee; (v) the signing, public disclosure, monitoring and satisfactory implementation of performance contracts; (vi) strengthened financial management expertise in the NACC headquarters (with a senior secondee from the MOF); (vii) the development of a communications strategy to ensure increased social accountability (with specific measures relating to the flow of information to all stakeholders, especially at the local level); and (viii) institution of independent and effective internal audit capacity with the Unit staffed by a Senior Internal Auditor and another Internal Auditor; a risk strengthened M&E system, with emphasis on results-based performance.` Based on a review by the World Bank in early October 2006, the Action Plan was augmented by the following measures: (i) the Operations Manual for the TOWA is being updated with specific measures such as a new grant award mechanism, which would be results oriented and performance based, and limit CBO/NGO participation to those with established track records of delivery and performance. The grant making mechanism would include clearly defined budgets for grantees, transparent decision-making processes that involve the full dissemination of information, and exclusion and/or black-listing of non-performing previous grantees (end November,	mechanisms. Launch of new "Call for Proposals" approach for CSO with clear and transparent budget ceilings, decentralized responsibility and strong social accountability measures (including public disclosure of information at the local level). Particular attention will be given to reformed and strengthened systems of supervision with external and independent monitoring. Supervision will also build upon strengthened systems of social and local accountability. The October 2006 action plan report from NACC (mentioned in the previous column), shared with INT under separate cover, provides important information on progress made while demonstrating serious efforts by government. For example the report's annexes include: (i) the list of investigations and reported cases of suspected fraud handled by NACC as at September 29, 2006. The list goes back to Oct - 05 and is comprehensive, including: 33 cases handed over to the Criminal Investigation Department (of which 5 are now in court); cases reported to the KACC (15); cases where investigations are still in progress (26); and cases where investigations have been found to be baseless (42). Total number of cases is 116; (ii) a schedule of repayment/recovery of bonuses paid in 2001 and 2002, how much and from whom the bonuses have been recovered. Out of a total of K She. 6.6 million Ksh paid to 83 staff members, Ksh. 1.66 million still remains to be recovered from 19 staff members who worked in the NACC at the time; (iii) a sample (dated February 20, 2006) of letters sent to staff members to recover the bonus above;(iv) samples of letters sent to Board and	management on achievements and challenges encountered. Monitoring of the NACC Action Plan, in place since August 25, 2005 following the DTT review, is continuing. The World Bank is receiving regular updates on Action Plan implementation progress with the latest one dated September 29, 2006. A copy of the most recent report, with comprehensive and detailed Annexes, is being sent to INT with this Action Matrix. In addition, building on the experience of the DIR led by INT, which included extensive data gathering by ACS staff in the Country Office that was then analyzed for red-flags, the CMU proposes piloting a program of similar but routine data collection and entry by CMU staff as part of continuous supervisions in real time. The database can then be analyzed at appropriate intervals by experts with appropriate skills (and eventually on a more routine basis by Task Team Leaders) for red flags and appropriate follow up.

Item and Recommendations	Specific, Monitorable Actions (ongoing and planned)	Progress/Results Indicators	Comment
	2006); (ii) all vacancies in the NACC Procurement Unit would be filled, following a competitive recruitment process, enabling the Unit to execute the NACC procurement plan efficiently (end December, 2006); (iii) the tender for a new, independent, externally-recruited Financial Management Agent, with ToRs acceptable to the World Bank, would be issued (end November, 2006); (iv) the tender for an independent agent to monitor compliance, with ToRs acceptable to the World Bank, would be issued (end December); and (v) a progress report on the implementation of the newly adopted Risk Management Plan would be drafted and shared with the World Bank (end October, 2006)	staff members asking them to pay taxes on funds that had been paid from the council without tax deduction; (v) a photo of the notice board for Kisumu Town East CACC. This shows that the NACC has adopted the "FPE approach" for public dissemination of information; and (vi) a program and confirmation of participants to a workshop on financial fraud, arranged by KPMG. Five people will attend (the Head of Finance, the Senior Internal Auditor, the Grant Accountant, the Procurement Officer and the Head of the MIS).	
Intermediate. *Under the leadership of Africa Operational Quality and Knowledge (QK) and in collaboration with HD and other sector units implementing HIV and AIDS projects, undertake a diagnostic review of MAP projects in Africa.*	Regional Management recommends implementation of a sample review of MAP projects. A task team comprising of QK units, and ACTAfrica and other sector units implementing HIV and AIDS projects will be established to develop the appropriate review methodology, selection criteria of projects, implement the diagnostic reviews and develop recommendations. The task team will collaborate closely with INT. The diagnostic review will take into consideration other review mechanisms and use other relevant material (e.g., QAG reviews).	Establishment of a task team. Agreement on methodology and indicators, and selection criteria of sample projects developed and completed by December 2006. Diagnostic reviews in about 6 countries including recommendations completed by December 2007.	Recommendations will inform existing and future project design.

NATIONAL AIDS CONTROL COUNCIL

MONTHLY PROGRESS REPORT ON NACC GOVERNANCE STRENGTHENING AS AT MARCH 31, 2007

ISSUE RAISED	ACTION TAKEN	PROPOSED FURTHER ACTION	REMARKS
1. Adoption and implementation of comprehensive risk management policy	Risk management policy was developed and adopted by NACC at a Full Council meeting held on November 29, 2005. PWC have been competitively selected to carry out implementation of the Policy, with support from DFID. Initial training of core team members (Champions) was conducted in September 2006. Detailed on-the-job training is going on. Risk management systems (assessment instruments and report forms) have been designed. Pilot test of the developed procedures and forms has been done. Senior staff trained during the second induction on January 22 – 25, 2007. Decentralized structures trained on January 28 – February 14, 2007. Middle level staff trained during induction on February 12-15, 2007. Quarterly implementation report submitted to the	• Training of NACC Council to be conducted in April/May 2007. • Quarterly report on the implementation status to be presented to the Audit Committee at its quarterly meetings • Draft implementation report will be submitted to the Council at its next meeting on April 17, 2007.	

	Audit Committee meeting of March 29, 2007. Training materials for the Council ready.		
2. Creation of a functioning Internal Audit Division	The Division has been set up and both the Head Internal Audit and the Internal Auditor have reported. A Risk based audit work plan was drawn for the period July 2006 – June 2007 and approved by the Council at its meeting of August 2, 2006. An Audit Committee of the Council has been formed and is operational. It has enhanced the operations of Internal Audit Division. An Audit Committee Charter was adopted by the Council on August 2, 2006. It is guiding the operations of the committee. The Internal Audit Charter was also adopted by the Council August 2, 2006. The Charter is guiding the audit work in NACC. Unit has been upgraded to a Division by Council at its meeting of August 2, 2006 and Head of Internal Audit substantively appointed. A number of hotline enquiries have been received and processed. The Division has continued to conduct investigative audits on suspected fraud/complaints cases. As at December 31, 2006, out of 131 cases of complaints received:	• The Division will continue conducting audits on the CACCs and NGOs/ CBOs. • The Division has been issuing quarterly reports to the Audit Committee on its findings. • The capacity of the Division will be enhanced through training, workshops and seminars. • Necessary audit tools are in the process of being acquired and adopted. • Continuation of audit of NGOs/CBOs when the need arises. • The hotline 316792 being handled by Internal Audit Division and the Legal Officer. Procurement of a more easy to memorize number is on course. • Further training of the Audit Committee on risk management to be conducted in April/May	. Annex I represents the monthly cumulative report of audited NGOs/CBOs as at March 31, 2007.

	. Referred to CID: 33 . Referred to KACC: 11 . In court: 5 . Found to be baseless: 51 . Pending: 22 . Blacklisted: 9 An Anti-Fraud policy is in place with a hotline number 316792 and a Corruption Reporting Box installed at the NACC Office Reception. Training for Audit Committee members was done on November 15, 2006. Guidelines to handle the hotline were developed and approved by the Audit Committee on November 16, 2006. An e-mail hotline (hotline@nacc.or.ke) has also been installed.	2007. We hope to install in the next few weeks a separate hotline post office box number.	
3. Investigation and prosecution of officials and/or grant recipients who have committed any form of fraud	The Efficiency Monitoring Unit (EMU) report for 2003 which was released in April 2005 was received, discussed by Council on March 3 and 8 2006 and its recommendations are being implemented as follows: i. Nearly all Bonus allowances irregularly paid to staff have been recovered. ii. Letters have been written to Permanent Secretaries to recover money paid to staff in GOK but not in NACC currently including demand notes from NACC Secretariat to some former staff.	• Follow-up with the Attorney General to take legal action against the former Chairman (Dr. M. Abdullah) and Director (Dr. M. Gachara) • Follow-up action to be taken on items ii, iii, & iv to ensure conclusion. • KACC has cleared Dr. P. Orege after completing investigations on allegations against him.	The Ag. Director NACC/Legal Officer wrote to Directors KACC and CID to get status report on referred

	iii. KACC is carrying out further investigations on other external parties including components of EMU Reports released in April 2005 and February, 2006. iv. NGO/CBO investigations are going on. Council also discussed the EMU Report of February 2006 and made recommendations for follow up. The Internal Audit Division has conducted thirty nine (39) investigations on CBOs in the country and the reports forwarded the Director-CID for further action. The Legal Officer has been competitively recruited and has reported.	• NACC through the Internal Audit Division will continue to audit CBOs and NGOs suspected to be and/or involved in fraudulent activities. • Blacklisting systems have been developed and incorporated in the TOWA Operations Manual.	cases in September, 2006. No reply was received by March 31, 2007, but the legal officer is following up on this.
4. Public disclosure of information	Notice Boards for all Field Offices, DTCs and CACCs have been procured, distributed and installed. These notice boards are being used to display information on HIV and AIDS related activities, procurement and implementing organizations that have been funded. Funded NGOs/CBOs were published in the print media. NACC is currently updating the website, LAN and WAN with Field Officers to allow for faster and easier communication and interaction. A new PABX has been installed to enhance communication.	• NACC has published and posted in the website www.nacc.or.ke for public information a list of approved proposals under KHADREP and details of the organisations that applied and funding levels. • Publication of funded NGOs/CBOs will continue to be printed in the local media periodically.	Notice Boards already erected in 9 regional offices, 71 Districts and 210 constituencies.

	Results of the JAPR were published in March, 2007.		
5. Implementation of the Communication Strategy	TOWA Operations Manual Draft III that includes the communication strategy has been finalized and was circulated to members on December 20, 2006 for comments. Comments were received and the Manual continues to be updated. Now at draft IV stage. Display boards have been made and distributed to constituencies Mass media – two adverts have been made in the newspapers on implementing organizations funded under KHADREP and their geographical location. Closure of KHADREP was also advertised in the media. 12,000 unfunded proposals worth Ksh.8.2 billion under KHADREP have been returned to the CACCs for redistribution to applicants at the community level. Client satisfaction survey 2006 has been done and report received from the consultant. Dissemination is ongoing.	• Dissemination of the communication strategy has been initiated. • NACC website is being redesigned to accommodate more information. • CACCs have returned all unfunded proposals to the originating NGOs/CBOs/FBOs. • Another Client satisfaction survey to be held in 2008.	There is an increase in information dissemination locally. The Secretariat has received a report from all CACCs on returned proposals by the end of March, 2007.
6. Strengthening of the M& E system	The M&E committee has been fully functional and has come up with a work plan to roll-out the M&E Framework and tools. Pilot for community based M&E reporting tools has been done in Nyanza and Western and the tools have been adopted by the M&E committee. The Community Based Programme activity Reporting (COBPAR) has been rolled out to all the 210	• Consultation on support of gaps and roll out of M&E going on. • Reports on the rolled out COBPAR have been received	

	constituencies. M&E Coordination Specialist has reported. Interviews for the positions of Programme Officers, M&E Research was done and successful candidate given letter of offer. The Programme officer – M&E research has reported. The position of M&E Coordination was readvertised. M&E Division led the development of mechanisms for prioritization and funding of research.	from 209 CACCs as at March 31, 2007. • Short listing for the M&E Coordination position is ongoing and interviews to be held in April, 2007	
7. Human Resource Development	NACC Council has continued to meet regularly. New staff including the Senior Internal auditor, Internal Auditor, Grants accountant, M&E Coordination Specialist and the Database Administrator have been recruited. NACC management has already drawn up a HR action plan which is under implementation. Advertisements were done for the middle level managers (Programme Officers) by March 31, 2006. Interviews for these positions are over and successful candidates have reported. HRM and Administration Policies are being developed through Technical Assistance provided by Constella Futures. Draft policy has been circulated to members for comments. Various training programmes (including intervention	• The staff rationalization for lower level positions (NACC 6 - 9) is over and letters of offer to be sent in April 2007. • Training of staff to be continuous. • The position of Head, Finance and Grants Accountant will be filled by the end of April 2007.	The successful candidates are expected to be in office by April/May 2007 Transparent recruitment for remaining NACC I – III positions will be conducted by end of April 2007.

	programming, M&E, procurement, risk management, communication and governance have been undertaken and various members of staff trained. 2nd phase induction for senior managers was done with support from Futures on January 22 - 25, 2007. 1st phase induction for middle level managers was done on February 12 – 15, 2007 with support from Futures The positions of Deputy Director, Finance & Administration, Head, Internal Audit and Head, Special Programmes were substantively filled by the Council on November 17, 2006. **The position of Director NACC was substantively filled on February 11, 2007.**		
8. Performance Contracts	Performance Contract for the 2006/2007 between the Council and the Government was signed on 28/7/06. Performance Contract between the Council and the Director was signed on November 16, 2006. Performance Contract between the Director and Deputy Directors was signed on November, 29 2006. The NACC Council approved the work plans for all the Departments for the period July 2006 to June 2007. 4th quarter report on performance contract was submitted to the State Corporation Advisory Board for	• Preparations for the third cycle contracts in progress. • In August 2006 an independent team from State Corporations evaluated the Performance of 2005/2006 for NACC. • Annual performance review of staff will be undertaken. • Preparation for the 3rd Quarter (2006/7) report is in progress and will be submitted by end of April	Meeting between Ag. Director and Performance Evaluating team was held on August 30, 2006. Our performance contract composite score was 2.41**(Very good)** for 2005/2006. **NACC was in the top ten service**

	the period ended June 30, 2006. Training for senior staff on the 3rd cycle of performance contracts done in May 2006. Response on the third quarter report for the period ended 31 March 2006 has been received and relevant action taken. 1st and 2nd Quarter (2006/7) report on performance was submitted to the State Corporation Advisory Board. Service Charter for NACC was developed and approved by the Council on June 16, 2006.	2007. • A programme to implement the Charter has been developed. Printed copies of the Service Charter are being displayed in all NACC offices at the secretariat and subsequently to CACC and DTC offices by end of April 2007.	**parastatals.** Soft copy of the Service Charter was sent to World Bank/ Mike Mills by August 30, 2006.
9. Governance	All NACC Staff completed their Wealth Declaration Forms as per Public Ethics and Economic Act in November 2005 and the exercise was repeated in November 30, 2006. Some senior staff members have been trained on Corruption Prevention in South Africa. Guidelines for the FOs, DTCs and CACCs have been developed and discussed with a committee of Members of Parliament on December 13 – 15, 2006. The TOWA Operations Manual has been developed and continues to be updated. Ag. Director NACC attended a training workshop in	• In November 2007 further declaration will be made. • Further training on corruption prevention is planned for the rest of staff. • TOWA operations Manual Draft IV has been circulated for comments and continues to be updated.	The HIV and AIDS Prevention and Control Act 2006 received Presidential Assent on December 30, 2006

	corporate governance between October 16 and 18, 2006. One officer has graduated in Ethics, Economic crimes and Governance course conducted by KACC in December 2006. Guidelines for Field Operations at the regional district and constituency levels developed, approved by Council on August 2, 2006 and shared with Parliamentarians on December 12-15, 2006. The Second Edition of these Guidelines has been sent out for printing.		
10. NACC's External Support	The KNASP 2005/6 – 2009/10 was officially launched by the Vice-President during World AIDS Day on December 1, 2006. The DIR Report has been received and response to the issues raised given to the World Bank through Ministry of Finance. There is increasing confidence in NACC from development partners (DFID, PEPFAR, UNDP, UNICEF, UNFPA, UNIDOC) to support our programmes. The Harmonisation Task Force has continued to hold regular meetings. National JAPR for 2006 was conducted on October 12 – 13 2006.	Continue building donor confidence through enhanced programme implementation and transparency. NACC Council at its meeting of July 27, 2006 approved in principle the position of Senior Advisor supported by Did to oversee DFID Programmes in Kenya working through TOWA Project, and the UN System. A post JAPR Steering Committee will be constituted by HIV and AIDS – ICC to develop national work plans to harmonize all activities for 2006/7.	This is our commitment. Approval of TOR for Senior Advisor to be provided by Full Council meeting on April 17, 2007

	The JAPR Task Force adopted the report on the findings at its meeting of November 16, 2006. The report was published in March, 2007.		
11. Financial Management	The Terms of Reference for the Finance and Administration committee were developed and tabled at the Finance & Administration Committee meeting of July 21, 2006. A Grant accounting unit has been established that will monitor and supervise Financial Management Agency (FMA). The role and duties of the Grants Accountant have been incorporated in the TOWA Operations Manual. Financial Monitoring Reports adopted under KHADREP will continue under TOWA. Qualified finance staffs have been recruited and have reported. TOR for the FMA has been revised to ensure a clear distinction between roles and responsibilities of the Internal audit and Grant Accounting unit vis-à-vis the FMA. The Expression of Interest (EoI) for the FMA was advertised internationally and short listing has been done. The position of Deputy Director, Finance and Administration has been substantively filled.	The TOR for the Finance & Administration committee had been approved by the Council in 2006. Training of Finance and Accounting staff to be conducted. Financial management capacity of the CBOs, CACCs and DTCs will be built. Procurement of a new Financial Management System (FMS) is ongoing and the contract will be awarded in April, 2007. The Request for Proposal (RFP) for the FMA to be done in April 2007.	

12. Procurement	A new Tender Committee has been appointed following guidelines of the Public Procurement and Disposal Act 2005 and accompanying Regulations for 2006. Recruitment of qualified procurement staff has been completed and the successful applicants have reported. Training of procurement staff on World Bank procurement procedures was conducted on February 8, 2007	The TOR for the Committee to be reviewed to take into account the new GOK regulations of the Public Procurement and Disposal Act. All procurements will be as per the Public Procurement and Disposal Act 2005 and World Bank regulations.	

PRICE WATERHOUSE COOPERS (PWC) RISK MANAGEMENT REPORT

The Table below summarizes the significant control gaps identified and recommended actions:

Control Gap	Action Recommended	Action Taken
NACC Council Non attendance of meetings by members, who prefer to delegate to junior staff that cannot drive major policies. Inactive committees and diverse agendas of members threatening the Council's ability to deliver.	The Council should encourage effective participation by the Council Members. There should be clarity of agenda and follow up mechanisms for the Council meetings. Key areas of policy, budgets and management reports should be adequately addressed.	A number of committees have been established to improve the efficiency of the Council; all these committees meet quarterly and have clear terms of references, namely: • The Executive Committee. • The Programs Committee. • The Finance and Administration Committee. • The Audit Committee. • The Tender Committee.
Inadequate financial management capacity. Inappropriate accounting structure and failure to migrate to appropriate accounting software have created high error risk and inefficiencies in preparation of financial reports. This risk has been increased by inadequate skills among the finance staff to operate computerized systems.	Define accounting and reporting requirements, design an accounting structure and establish systems. Provide training to staff and monitor systems to ensure efficient generation of reports.	An Audit Committee Charter was developed and adopted by the Council on August 2, 2006. Strengthened Internal Audit Division to mitigate towards risk. The Head of Internal Audit and an Internal Auditor were recruited in February, 2006. An Internal Audit Charter to guide the internal audit work was developed and approved by the Council on August 2, 2006. All senior financial management positions permanently filled. A new financial management system is under procurement.
Grants management. A number of control gaps have been identified with respect to the grants management function. These include: • CBOs/NGOs failure to adhere to funding agreements. • Inadequate accounting capacities of CBOs/NGOs. • Untimely accounting for funds disbursed to CBOs/NGOs.	NACC should contract out grants management and: • Establish an effective community support monitoring and evaluation system to minimize the identified risks and enhance accountability. • Strengthen the capacity of CACCs and DTCs to coordinate and monitor CBOs/NGOs. • An updated database of CBOs/NGOs should be	The terms of reference for the FMA are revised. The tender process is ongoing. A Grants Management Unit established and will function as a counterpart to the FMA.

Control Gap	Action Recommended	Action Taken
• Lack of mechanism to ensure CBOs can be traced for audits and monitoring. • Monitoring, evaluation and audits that do not cover all the FMAs work.	maintained and persons responsible for approval of proposals, monitoring and evaluation, and audits allowed access to the database. • Audit Terms of Reference should be widened to include assessment of value for money with respect to CBOs expenditure. • Monitoring, evaluation and audits should include the reviews by the FMAs to ensure they are effectively conducted.	
Inadequate human resources management policies and procedures. NACC observes GOK human resources management regulations but has not customized them into specific policies and procedures. An internal recruitment and development policy that would cushion it against external pressures to deviate from merit-based approaches in recruitment, development and promotions is required.	NACC to develop internal human resources policies and procedures covering all aspects of recruitment, performance management, staff development, promotions and code of conduct. These should be in line with GOK regulations but tailored to address specific NACC requirements.	Human resources policies and procedures are developed and documented in (among other places) the TOWA Operations Manual.
Ineffective manual office systems. NACC is operating a manual office system, making it extremely difficult to ensure compliance with operating cost control measures.	MIS staff to enhance the internal office system to facilitate control of operating costs and enhance administrative efficiency.	A comprehensive management information system under development, which will be strengthened with financing under TOWA support
Absence of MIS strategy and sub-optimal computerization. NACC does not have an MIS strategy and policy leading to less than optimal computerization. Most processes at NACC including human resources, fixed assets, vehicle management and other operating costs management are running on manual systems.	NACC to develop MIS strategy and policies, and determine computerization requirements in the NACC operations. Ensure establishment of properly integrated systems and skills training to staff to enhance utilization of MIS.	See above.

Control Gap	Action Recommended	Action Taken
Stakeholder coordination. Due to the large number of stakeholders and diversity of interests, NACC faces the risk of stakeholders championing their own interest at the expense of the greater HIV and AIDS agenda. There are instances where the players have not been transparent with respect to the activities they undertake, sending inconsistent messages and making coordination difficult.	Ensure commitment of stakeholders to the three ones identified in the Strategic Plan (2005/2010) for the national response to HIV and AIDS. Hold necessary forums to advocate for transparency and balanced implementation of activities.	Fora for all kinds of stakeholders established. The annual Joint HIV and AIDS Program Review expanded to cover all levels from constituency to national level, thus ensuring opportunities for stakeholders at all levels to contribute to the review process.
Information on the pandemic. Information from subsystems is submitted in an untimely manner, making it unrepresentative of the true situation.	Obtain commitment from subsystems to ensure correct and timely submission of information required for monitoring and policy decisions.	The community based reporting system (COPBAR) rolled out with 205 out of 210 CACCs reporting their activities to the NACC. Facility based reporting; however, still remains a problem and solutions are sought to remedy the situation.

Annex 5: Major Related Projects Financed by the Bank and other Agencies

KENYA: Total War Against HIV and AIDS Project

Sector Issue	Project	Latest Supervision (PSR) Ratings (Bank-financed projects only)
1. Bank-financed Ongoing Health and HIV Project.		Implementation Development Progress (IP) Objective (DO)
Improving HIV and AIDS services.	Decentralized HIV and AIDS and Reproductive Health Project (2001) US$50 million.	(DO) U (IP) U
Completed Projects.		
Intensifying the multi-sectoral response to HIV and AIDS and accelerating the process of achieving the targets elaborated in the national Strategic Plan with broad participation.	Kenya Disaster Response Project (2001) US$50 million.	(DO) S (IP) U
Promoting preventive measures to reduce the risks of STI transmission.	Sexually Transmitted Infection Project (1995) US$50 million	(DO) S (IP) MS
2. Other		
• Reduce the spread of HIV; improve the quality of those infected including provision of ARVs.	PEPFAR (2005-2006) US$475.4 million.	
• Support to the national program in addressing HIV and AIDS program.	DFID (HAPAC) (2005 to 2007) US$20 million	

• Support the national program in addressing HIV and AIDS program including provision of ARV. • Capacity building of CSOs and financing CSOs in Western Province. • Support the national HIV program including provision of human resources and provision of ARVs to children.	GFATM (2005 to 2007) US$38.9 million The Maanisha Project implemented by AMREF under SIDA funding (2006–2008) US$6 million Clinton Foundation (2005-2007) US$18 million.	

Annex 6: Results Framework and Monitoring

KENYA: Total War Against HIV and AIDS Project

The following table focuses on indicators monitoring the support being provided through the TOWA to the NACC for the implementation of the KNASP.

Project Development Objectives	Project Outcome Indicators	Use of Project Outcome Information
The Project development objective is to assist Kenya to expand the coverage of targeted HIV and AIDS prevention and mitigation interventions through: (i) sustaining the improved institutional performance of the NACC; and (ii) supporting the implementation of the KNASP.	NACC composite score on the annual independent performance evaluation (see OM for definitions).	Assess overall NACC performance and needs for further institutional strengthening and technical assistance.
	Proportion of overall targets met for NACC-funded programs in: • civil society/private sector (beneficiaries); and • public sector (beneficiaries	Assess the effectiveness of the NACC in directly funding and implementing programs and identify areas for further strengthening and technical assistance.
	Key outcome indicators for prevention and mitigation: • Proportion of youth aged 15-24 reporting condom use in the last sexual encounter with a non-regular partner (of those reporting sexual intercourse with a non-regular partner in the last 12 months) [M&E 6, SC 5]. • Proportion of sexually active youth 15-24 who report having had sex with a non-spousal, non-regular partner in the past 12 months [M&E 5, SC 4a.]. • Number of persons who undergo testing and counseling in the last 12 months [M&E 31, SC 9]. • OVC receiving care/support in the past 12 months [M&E 93, SC 8]. • Number of male and female condoms distributed in the last 12 months (SC 10).	Assess impact of NACC's performance in implementation of the KNASP in the areas of prevention and mitigation. Most of the ACTAfrica Scorecard indicators are included in the TOWA Project Results Framework. Those Scorecard indicators that are not in the Results Framework were omitted because the Project will not directly support activities that depend on those indicators.

Component 1- Strengthened Governance and Coordination Capacity		
Intermediate Outcomes	**Intermediate Outcome and Output Indicators**	**Use of Intermediate Outcome Monitoring**
NACC effectively coordinating program implementation.	Outcome: • Stakeholder satisfaction with NACC as shown in the bi-annual Stakeholder Satisfaction Survey conducted [KNASP 4.4.4] • The proportion of CACCs and DTCs which function according to performance indicators (see OM for definition) [similar to KNASP 4.4.3] [See OM for definitions]. Outputs: • Coordination meetings held with participation from key stakeholders (ICC meetings and MCG meetings) [similar to KNASP 4.5.5]. • JAPR with participation from principal development partners, implementing partners from civil society, private sector and public sector [KNASP 4.5.7].	Assess the NACC's ability to mobilize the participation of partners in a coordinated response to the epidemic. Assess needs for supervision and training of the NACC's decentralized structures with regard to each of their primary responsibilities: coordination, reporting and grant-approval.
Strengthened NACC accountability and financial management.	Outcomes: • Annual Audit Report for NACC demonstrating transparent and accountable financial management [KNASP 4.3.5]. • Proportion of funds available to the NACC that are expended each year [KNASP 4.3.6]. Outputs: • Annual External Audit Report [KNASP 4.3.5]. • Number of costed annual workplans developed (by division).	Identify areas for strengthening in NACC's performance and need for support and technical assistance. Absorptive capacity of the NACC to operationalize its programs. Identify bottlenecks to effective program implementation. Identify the specific departments and divisions requiring training and TA in planning and costing activities.
Operational M&E system in use for planning, project design and implementation.	Outcomes: • The proportion of KNASP M&E indicators included in the annual M&E report, disseminated and available on time for the JAPR [KNASP 4.1.7 and 4.5.7, SC 13].	Assess the completeness and timeliness of the national M&E system (including those areas outside the direct control of the NACC), and identify areas requiring further support and coordination[12].
Capacity of implementing partners to respond effectively to identified needs.	Outcomes: • Number and proportion of proposals received by the CACCs, DTCs and the NACC that are rated as meeting CfP criteria for approval each year. [Not in KNASP---TOWA-specific].	Assess the adequacy of the CfP process, training needs for CACCs, DTCs and implementers and the ability of all to respond effectively to identified needs.

[12] This indicator is linked with the ability to monitor indicators for the Africa Region HIV and AIDS Scorecard.

Component 2- Program Implementation

Intermediate Outcomes	Intermediate Outcome and Output Indicators	Use of Intermediate Outcome Monitoring
Strategic and targeted programs implemented effectively through civil society and the private sector.	Outcome: • Proportion of overall targets met for NACC-funded programs in civil society and private sector. [not in KNASP—TOWA specific] • Proportion of registered CBOs reporting through COBPAR at the time of the JAPR. [TOWA specific—similar to KNASP 4.1.4] Output: • **Number of civil society and** private sector organizations **supported [SC 11].** • **Number of grant proposals re**ceived per year.	Assess adequate implementation of civil society and private sector programs Identify implementers, CACCs and DTCs requiring further training and support. Assess completeness of data for assessing degree of achievement of national targets. Identify CACCs requiring further support and supervision.
Programs in key sectoral ministries expanded and mainstreamed.	Outcome: • Number of priority sector entities (ministries, divisions, etc.) that have identified their needs in HIV and AIDS programs, have costed them, have engaged the MTEF process to fund them and are able to monitor and report on expenditures [similar to KNASP 4.5.8]. Outputs: • **Number of public sector** organizations supported in mainstreaming.	Assess needs for strengthening public sector mainstreaming support. Identify entities that require further support from the NACC.
Improved supply of essential commodities.	Outcomes: • **Proportion of youth aged** 15-24 reporting condom use in the last sexual encounter with a non-regular partner (of those reporting sexual intercourse with a non-regular partner in the last 12 months) [M&E 6, SC 5]. Outputs: • Number of male and female condoms distributed. • Number of bed nets distributed. • Number of TB drugs distributed.	As above.

1. Whereas it has been noted that M&E was weak under the KHADREP, the NACC has made significant progress in strengthening M&E systems in the interim between the end of KHADREP and TOWA. The NACC has demonstrated its strong commitment to improving

M&E by implementing almost all of the activities outlined in the TOWA first-year M&E work-plan, using alternative funding sources in spite of the delay in TOWA effectiveness.

2. The rationale for not having indicators towards specific target groups is that the priority areas (and thus the groups) to be targeted in the country will depend on the prioritization process developed from the JAPR up to and including the Calls for Proposals. The concept pursued is to have an evidence based targeting of interventions towards the defined results in the results framework that are considered most urgent to address. As priorities will depend on what one will determine to be the most important areas of interventions, on an annual basis, the groups and results to be targeted will vary over time. The indicator that can measure success over time is therefore not specific to the different groups, but has to be more general. The progress in terms of target groups will, however, be defined in the calls for proposals process and performance will be monitored by the performance audit and incorporated in the National results framework.

3. The KNASP M&E Framework was officially launched. The NACC elaborated the KNASP M&E Implementation Manual, which is quite comprehensive, and has recently been complemented by the TOWA M&E Implementation Manual. KNASP was formally launched in 2006. Together, these documents detail procedures for the new community-based monitoring system, procedures for reporting by ACUs, and key sectoral public sector entities, and interagency coordinating arrangements for national reporting. The M&E Division has produced a much-utilized "Data Booklet" summarizing the principal up-to-date information about the epidemic, and has produced its first M&E Report outlining progress toward strengthening the M&E system. The NACC M&E Division has also coordinated the elaboration of an HIV and AIDS strategy for coordination and resource mobilization for HIV and AIDS research.

4. The NACC has proceeded with the enlargement of the M&E Division by recruiting and training an M&E Coordination Specialist. The MIS unit has added a Database Specialist and programmers as well. This unit has successfully designed the community-based activity reporting system database, which is now accessible over the NACC's new LAN. The M&E Technical Working Group has been revived and is active in coordinating M&E activities, standards, and essential funding for M&E. The NACC through the M&E Division and M&E Technical Working Group have carried forward the design and rollout of the comprehensive CBO database and COBPAR System even in the absence of TOWA support. In addition, formal linkages have been established with entities responsible for other sources of data.

5. The stage is now set for the NACC to fully coordinate the national response to the epidemic using concrete M&E data for analysis, the JAPR process for coordination determination of priorities, and implementation through a CfP process that is results-based.

6. Further progress to continue implementation of the M&E workplan will require the significant ongoing support to be provided by the TOWA Project. The TOWA Project will place a strong emphasis on program improvement and learning by doing, and results-based management, which requires an effective M&E system. The following activities will, therefore, be undertaken or continued to strengthen the M&E system further: (i) ongoing training and supervision of national and regional M&E personnel; (ii) follow-up training and supervision for

the program activity monitoring systems for community-based activities at the NACC, including training for data use; (iii) supporting the NACC M&E Coordination Specialist in strengthening the newly established interagency coordinating mechanisms; (iv) strengthening M&E dissemination and data use mechanisms at both the central and local levels; (v) the coordination and integration of information from the new Ministry of Health monitoring and reporting system at the NACC level, as well as some limited staff training (to be carried out together with other partners); (vi) the national implementation of the LQAS outcome measurement survey and its integration into regular M&E system; and (vii) the development and implementation of mechanisms both centrally and locally to link data with program management.

ARRANGEMENTS FOR MONITORING RESULTS OF THE KNASP

		Target Values				Data Collection and Reporting		
Project Development Objective Outcome Indicators	**Baseline**	**YR1**	**YR2**	**YR3**	**YR4**	**Frequency and Reports**	**Data Collection Instruments**	**Responsibility for Data Collection**
(i) NACC composite score on annual independent performance evaluation, and submitting quarterly performance contract monitoring reports to the government.	Annual score 2.4; Submitted X 4	Score 2.4 Submitted X 4	Score 2.4 Submitted X 4	Score 2.4 Submitted X 4	Score 2.4 Submitted X 4	Quarterly (first part) and annually (independent evaluation).	Quarterly performance contract report and annual independent performance evaluation report.	NACC.
(ii) Proportion of overall targets met for NACC-funded programs in: • civil society/private sector (beneficiaries); and • public sector (beneficiaries).	N/A	a) 60% (1400) b) 60%	a) 65% (2000) b) 65%	a) 70% (2500) b) 70%	a) 80% (2500) b) 80%	Annual	a) and b) collected quarterly via COBPAR	Reporting: each CBO to CACC to NACC and Ministries to NACC. Collation and reporting: NACC M&E Division.
(iii) Key outcome indicators for prevention and mitigation of HIV and AIDS.								
• Proportion of youth aged 15-24 reporting condom use in the last sexual encounter with a non-regular partner (of those reporting sexual intercourse with a non-regular partner in the last 12 months). [M&E 6, SC 5].	24% F 47% M (KDHS 2003)	24 47	30 50	35 55	40 60	At least every 2 years	DHS, AIS, LQAS	NACC
• Proportion of sexually active youth 15-24 who report having had sex with a non-spousal, non-regular partner in the past 12 months. [M&E 5, SC 4a.].	30% F 84% M (KDHS, 2003)	30 84	25 80	25 75	20 70	At least every 2 years	DHS/AIS, LQAS	NACC
• Number of persons who undergo testing and counseling. [M&E 31, SC 9].	750,000 (JAPR 2005)	800,000	850,000	900,000	950,000	Annual	COBPAR + NASCOP	NACC + NASCOP
• Number of male and female condoms distributed. [M&E 42. SC 10].	120 million	132 million	144 million	156 million	168 million	Annual	NASCOP	NACC + NASCOP

		Target Values				Data Collection and Reporting		
Project Development Objective Outcome Indicators	**Baseline**	**YR1**	**YR2**	**YR3**	**YR4**	**Frequency and Reports**	**Data Collection Instruments**	**Responsibility for Data Collection**
Intermediate Outcome Indicators								
Component 1: Strengthened governance and coordination capacity								
(i) High level of stakeholder satisfaction with NACC as shown in annual stakeholder satisfaction survey conducted. [KNASP 4.4.4].	High	High	High	High	High			
(ii) The proportion of CACCs and DTCs which function according to performance indicators (see OM for definition). [Similar to KNASP 4.4.3].	N/A	60%	70%	80%	90%	Annual	Compiled from COBPAR, FMA, finance and Technical Division.	NACC.
(iii) Annual audit report for NACC demonstrating transparent and accountable financial management. [KNASP 4.3.5].	Unqualified	Unqualified	Unqualified	Unqualified	Unqualified	Annual	Independent audit report	NACC.
(iv) Proportion of funds received by the NACC that are expended annually. [KNASP 4.3.6].	About 80% (last year of KHADREP)	80%	85%	85%	90%	Annual	Annual financial report	NACC.
(v) The proportion of KNASP M&E indicators included in the annual M&E report, disseminated and available on time for the JAPR [KNASP 4.1.7 and 4.5.7].	57/106 (53%)	75%	80%	85%	95%	Annual	Annual M&E report	NACC.
(vi) Number and proportion of proposals received by the CACCs, DTCs and the NACC that are rated as meeting CfP criteria for approval each year. [Not in KNASP---TOWA-specific].	N/A	70%	80%	80%	80%	Annual	CACC/DTC reports X Independent Verification Agency	

		Target Values				Data Collection Reporting		
Project Development Objective Outcome Indicators	**Baseline**	**YR1**	**YR2**	**YR3**	**YR4**	**Frequency and Reports**	**Data Collection Instruments**	**Responsibility for Data Collection**
Intermediate Outcome Indicators								
Component 2: Program implementation								
Civil Society and Private Sector								
(i) Proportion of overall targets met for NACC-funded programs in civil society and private sector. [Not in KNASP—TOWA specific].	N/A	60%	65%	70%	80%	Annual	COBPAR	NACC.
(ii) Proportion of registered CBOs reporting through the COBPAR at the time of the JAPR. [TOWA specific—similar to KNASP 4.1.4].	N/A	60%	70%	80%	90%	Annual	COBPAR	NACC.
Public Sector								
(iii) Number and proportion of priority sector entities (ministries, divisions, etc.) that have identified their needs in HIV and AIDS programs, have costed them, have engaged the MTEF process to fund them and are able to monitor and report on expenditures. [Similar to KNASP 4.5.8].	33/43 (77%) have a budget allocation (MTEF, able to report)	37 (85%)	39 (90%)	43 (100%)	43 (100%)	Annual	Sectoral work-plans and financial reports	NACC.
(iv) Coordination meetings held with participation from key stakeholders (ICC meetings and MCG meetings). [Similar to KNASP 4.5.5].	12 ICC 2/4 MCGs had at least 1 meeting each quarter.	12 ICC 4/4 MCGs	12 ICC 4/4 MCGs	12 ICC 4/4 MCGs	12 ICC 4/4 MCGs		Minutes of MCG meetings filed with Directorate of Special Programs.	NACC.

		Target Values				Data Collection Reporting		
Project Development Objective Outcome Indicators	**Baseline**	**YR1**	**YR2**	**YR3**	**YR4**	**Frequency and Reports**	**Data Collection Instruments**	**Responsibility for Data Collection**
Intermediate Outcome Indicators								
(v) JAPR with participation from principal development partners, implementing partners from civil society, private sector and public sector. [KNASP 4.5.7].	Yes	Yes	Yes	Yes	Yes			
Outputs.								
• Annual external audit report [KNASP 4.3.5];	Done	Done	Done	Done	Done			
• Number of costed annual work-plans developed (by division);	N/A	10	10	10	10			
• Number of civil society and private sector organizations supported [SC 11];	N/A	1400	2000	2500	2500			
• Number of grant proposals received from private sector and civil society per year;	N/A	2800	4000	5000	5000			
• Number of male and female condoms distributed [M&E 42, SC 10]; and	10 million monthly	11 million	12 million	13 million	14 million			
• Number of public sector organizations supported in mainstreaming.	33	37	39	43	43			

Africa Region HIV AND AIDS Scorecard

FINAL

Version 2.4
15 January 2007

INDICATOR	INDICATOR ORIGIN	UNIT	DATA SOURCE	DATA SOURCE UNDER TOWA
A. Demographics				
1. Total population (million)	World Bank	Number	WDI database	
B. Challenge				
2. Estimated number of adults and children living with HIV	UNAIDS	Number	UNAIDS Global Report	NACC has this data—standard estimates based on prevalence data.
3a. Men and women aged 15-24 who are living with HIV (may need to be estimated from antenatal data)	UNGASS, IDA14	Percentage	UNAIDS Global Report / WHO estimates	NACC has this data—standard estimates based on prevalence data.
3b. Sex workers in the capital city who are living with HIV	UNGASS alternate indicator	Percentage	UNAIDS Global Report / WHO estimates	It is not clear if this is available. TOWA may support collection under special studies if JAPR assesses it as a priority (which it likely will do).
C. Final outcomes				
4a. Condom use: Young women and men aged 15-24 reporting the use of a condom during [last] sexual intercourse with a non-regular partner (of those reporting sexual intercourse with a non-regular partner in the last 12 months)	UNGASS	Percentage	ISR (extracted from country UNGASS report)	TOWA PAD
4b. Condom use: Sex workers who report using a condom with their most recent client (of those	UNGASS	Percentage	ISR (extracted from country UNGASS report)	If JAPR assesses it as a priority, NACC can

INDICATOR	INDICATOR ORIGIN	UNIT	DATA SOURCE	DATA SOURCE UNDER TOWA
surveyed having sex with any clients in the last 12 months)				commission study (and likely will). Collected via BSS regularly (though TOWA doesn't fund this)
5. Young women and men aged 15-24 who have had sex with a non-marital, non-cohabiting sexual partner in the last 12 months	UNGASS	Percentage	ISR (extracted from country UNGASS report)	TOWA PAD
D. Intermediate outcomes				
6. Men and women with advanced HIV infection receiving antiretroviral combination therapy	UNGASS	Number	ISR (extracted from country UNGASS report)	Collected through NASCOP HIS, reported to NACC
		Percentage	ISR (extracted from country UNGASS report)	Collected through NASCOP HIS, reported to NACC
7. Pregnant women living with HIV who receive a complete course of antiretroviral prophylaxis to reduce the risk of MTCT	UNGASS	Number	ISR (extracted from country UNGASS report)	Collected through NASCOP HIS, reported to NACC
		Percentage	ISR (extracted from country UNGASS report)	Collected through NASCOP HIS, reported to NACC
8. Orphans and other vulnerable children whose households have received care/support in the past 12 months	UNGASS	Number	ISR (extracted from country UNGASS report)	TOWA PAD
		Percentage	ISR (extracted from country UNGASS report)	TOWA PAD
D. Intermediate outcomes (continued)				
9. Persons aged 15 and older who undergo HIV voluntary counselling and testing	World Bank	Number	ISR (from country M&E system)	TOWA PAD
		Percentage	ISR (from country M&E system)	TOWA PAD
10. Male and female condoms distributed	World Bank	Number	ISR (from country M&E system)	TOWA PAD

INDICATOR	INDICATOR ORIGIN	UNIT	DATA SOURCE	DATA SOURCE UNDER TOWA
11. Civil Society Organizations supported for subprojects (includes NGO, CBO, FBO)	World Bank	Number	ISR (from country M&E system)	TOWA PAD
		Amount	ISR (from country M&E system)	TOWA PAD
12. Public sector organizations supported	World Bank	Number	ISR (from country M&E system)	TOWA PAD
		Amount of funding	ISR (from country M&E system)	TOWA PAD
13. National AIDS Coordinating Authority that report annually on at least 75% of the indicators in its national HIV M&E framework and that disseminates the report to national-level leaders in at least three public sector organizations, national civil society leaders and business leaders in the private sector.	World Bank	Percentage	ISR (from country M&E system)	TOWA PAD
E. Financial commitments				
14. Estimated investment requirements for HIV and AIDS, USD	World Bank	Amount	UNAIDS global data	NACC financial department has this
15. Total commitments for HIV and AIDS, USD	World Bank	Amount	Calculation (15a + 15b + 15c)	NACC
15a. Country commitments	World Bank	Amount	ISR (extracted from country UNGASS report)	NACC
15b. World Bank financial commitments for HIV (US$ million)	World Bank	Amount	World Bank Business Warehouse	WORLD BANK
15c. Other development partners' commitments	World Bank	Amount	Development partner websites	NACC
16. Financing gap to reach HIV and AIDS targets, USD	World Bank	Amount	Calculation (14 - 15)	NACC
F. Disbursements				
17. World Bank financial disbursements for HIV, USD	World Bank	Amount	World Bank Client Connection	WORLD BANK

TOWA Results Framework and the ACT Africa Regional Scorecard
Most of the ACTAfrica Scorecard indicators are included in the TOWA Results Framework. Those Scorecard indicators that are not in the Results were omitted because the project will not directly support activities that depend on those indicators. Those indicators that are not included are the following:

4b. Condom use: Sex workers who report using a condom with their most recent client (of those surveyed having sex with any clients in the last 12 months). This indicator (along with the number of sex workers in the capital city) were not included because there is no certainty that the JAPR process will identify sex workers as a priority, and therefore that TOWA will fund activities in this area. However, it is *likely* that sex workers will be targeted. The condom use indicator is collected through the BSS, which has been done in the past. TOWA includes funds for special studies, and if sex workers are included as a priority to be funded through TOWA, then a study will be commissioned. If not, one will be commissioned for the next UNGASS report. In either case, the data will be available.

6. Men and women with advanced HIV infection receiving antiretroviral combination therapy.

7. Pregnant women living with HIV who receive a complete course of antiretroviral prophylaxis to reduce the risk of MTCT. Both of the above indicators relate to MOH/NASCOP supported activities that are not supported under TOWA. However, both of these indicators are included in the KNASP M&E framework and are collected by the NASCOP M&E system. There are some concerns about the completeness of reporting through this system, but the data are available annually to the NACC from NASCOP.

All of the financial indicators can be obtained either from NACC Financial Department or the World Bank.

Annex 7: Detailed Project Description

KENYA: Total War Against HIV and AIDS Project

PROJECT DESIGN

1. The Project is an integral part of the implementation of the Kenya National HIV and AIDS Strategic Plan 2005/06 to 2009/10 (KNASP), which is built around the principles of the Three-Ones:

   - One strategic action framework;
   - One coordinating authority; and
   - One joint monitoring and evaluation framework.

2. The KNASP outlines three priority areas for the period 2005-10:

   - **Prevention of new infections** with the objective to reduce the number of new infections in both vulnerable groups and in the general population.
   - **Improve the quality of life of people infected and affected by HIV and AIDS** with the objective to improve treatment and care, protection of rights and access to effective services for infected and affected people.
   - **Mitigation of socioeconomic impact** with the objective to adapt existing programs and develop innovative responses to reduce the impact of the epidemic on communities, social services and economic productivity.

3. The priorities will be set within the priority areas and strategic objectives of the KNASP, strategically detailed each year through the Joint HIV and AIDS Program Review (JAPR) process. Defined results will be derived from the results framework of the KNASP, and monitoring will be done by the Monitoring and Coordination Groups (MCGs) set up to monitor the progress against the KNASP generally. The TOWA will be jointly funded by IDA and DFID. As much of the design work has been done in collaboration with DFID, it also provides a formidable platform for enhanced harmonization and alignment with other programs funded by DFID, especially the UN-project currently under design and the AMREF-implemented Manaisha Project which is jointly funded by DFID and Swedish SIDA.

4. The Project comprises the following components:

Component One: Strengthening Governance and Coordination Capacity. This would support the continued development of the coordinating function and the M&E framework of the KNASP II through the following sub-components:

- **Sub-Component (a): Strategic Leadership**: Over the years, and with an accelerated pace over the last year, NACC's capacity to effectively deliver on its coordination and leadership role has improved as the organization has undergone extensive restructuring and strengthening. NACC and its decentralized structures have become

the place where all stakeholders involved in HIV and AIDS meet and discuss concerns, priorities and solutions in the implementation of KNASP II. The processes thereby developed are based on inclusiveness, transparency and accountability. Thus, the NACC does not make decisions on behalf of anyone; instead it provides the fora and mechanisms in and through which decisions are made. The Project will support the continued development of these structures and processes through:

- Financing regular reviews, especially the annual Joint HIV and AIDS Program Review (JAPR). As much of the processes for setting the priorities depend on the JAPR process, it is imperative that it is further developed to be the forum where all stakeholders share their successes and failures during the past year. The process has already been decentralized to cover more that 50% of the districts in the country, but it will be necessary to make it all inclusive.
- Supporting the operations at all levels. In implementing sub-component 1.1, much of the decision making and monitoring depend on the NACC decentralized structures, the DTCs and the CACCs, both for awarding proposals and for monitoring progress. Their capacity must therefore be ensured and the additional costs for supporting the TOWA Project financed, projects covered.
- Building capacity of staff and stakeholders. Apart from building the technical capacity at all levels, this will also include training all levels in governance principles, risk management, and operational procedures for the NACC and its decentralized structures.
- Ensuring social accountability by communicating results and experiences to stakeholders, which will finance the communication of results in line with the communication strategy for the NACC. This strategy has been developed as an integral part of the operations manual for the Towa Project.

- **Sub-Component (b): Accountability and Verification**: The previous project (KHADRE) provided a number of crucial lessons in terms of the need to ensure there is accountability, efficiency and effectiveness in management of Community Grants that are at the core of the Project. In particular, authenticity and prudent management of the funded community level sub-projects will have to be verified and closely monitored to ensure value for money and utmost transparency. This will have to be done on continuous basis. Apart from the traditional independent external Financial Audits, the Project will finance:
  - An independent Financial Management Agent responsible for managing the financial aspects of the Project, both in the public and the private sector.
  - An independent Compliance Verification Agent checking compliance at all levels with the laid down rules in the processing and approval of proposals.
  - An independent Performance Auditor to assess and compare the results verifiably achieved with the results claimed;
  - An independent Procurement Monitoring Agency. Verifying that procurement in the NACC structures is made following Government and/or World Bank regulations and procedures.

- **Sub-Component (c): Information-based Management**: The JAPR provides an opportunity for all stakeholders to participate in the development of the continued response through an annual results monitoring and priority-setting exercise.

However, it is also imperative that the strategies chosen and the priorities selected are based on sound evidence, both in term of progress in implementation and in selecting interventions. For the Information-based Management sub-component, the project will support:

- The development of the Management Information System (MIS). Through: (i) Procurement of Hardware (server) for the MIS; and (ii) Procurement of new financial management software, this component will improve the technological platform for storage and processing of data. Furthermore, the intervention will facilitate the integration of performance and financial data by also including the evaluation and procurement of a new modernized financial system. In the long term, the component will also contribute to transparency and accountability by making information available on line, over the Web for all stakeholders.
- The continued development of the Monitoring and Evaluation (M&E) system. Significant progress has been made in implementing and strengthening the MIS, especially in terms of the Community-based interventions. However, without additional funding, the achievements made will be at peril. The funding is required to further strengthen the M&E and to run the community-based system. In relation to this, a project preparation facility has been requested to secure achievements made.
- The Operations Research agenda. Operations research is crucial to understand how interventions implemented can be improved, what works and what does not. Therefore, the prioritization of operational research must be an integral part of the JAPR. Two areas that should be evaluated as part of the operations research are the JAPR process and the approach for mainstreaming support to public sector programs.

- **Sub-Component (d): Capacity Building of Implementing Partners**: The aim of this sub-component is to strengthen the overall civil society organizations particularly at grass-root level to effectively participate in the national response to HIV and AIDS. This take cognizance of the capacity gaps that are there particularly among small NGOs and CBOs on issues such as grant management and accountability that is key to success of TOWA. A set of selected national-level NGOs with the necessary capacities will act as 'facilitating agencies' to build capacity of local NGOs and CBOs. These 'facilitating agencies' will be supported to provide technical assistance and capacity-building only using a pre-determined "capacity building package" for NGOs and CBOs within agreed geographical areas. There is no intention that actual grant-making funds should flow through them from the project. As capacity is built across the country, it is expected that the need for this facilitation will become less and less over time. The support is limited to the technical contents, as it is within the Terms of Reference of the Financial Management Agent to provide administrative and financial capacity building of implementing partners.

Component Two: Support for Program Implementation. This component would make financial resources available to civil society, public sector, private sector, and research institutions, focusing on initiatives in line with the KNASP, responding to priorities identified by the JAPR. The component would include three sub-components:

- **Sub-Component (a): Grant Awards:** This sub-component aims primarily at financing the agreed priority civil society and private sector sub-projects, as well as research, and will focus on proposals and activities achieving defined results.

  Compared with the precursor KHADREP, where proposal development was not guided, the approach for TOWA Project will be to provide very specific guidance on priority areas, interventions and expected results in calls for proposals based on KNASP II. The prioritized results areas will be selected annually within the framework of the KNASP and based on areas identified as priorities in the JAPR. Project proposals from the civil society organizations, private sector and research institutions would be invited in a more focused and structured manner through the mechanism of "Call-for-proposals (CFP)". Actual interventions and implementers will be selected based on proposals received and after assessing which proposals will potentially achieve optimal results. The focus will be on results achieved, not on inputs given. Awarding proposals to civil society organizations, private sector agencies and research institutions will be done at three levels:

  Level I: CACC-based proposals with funding up to US$5,000.
  Level II: DTC-based proposals with funding range of US$5,001 – 25,000.
  Level III: National based proposals with funding range of US$25,001 – 100,000.

  Should a project proposal exceed US$100,000, approval is subject to IDA/DFID consultations prior to awarding.

  It is envisaged that the grants will be allocated primarily to lower levels with about 70 percent (US$32 million) going to the lowest level, 20 percent (US$9 million) going to the district level and 10 percent (US$5 million) going to national projects, as the ability to channel funds to the lowest level has proven to be the comparative advantage of the World Bank.

  Target groups selected will be based on the framework of KNASP vulnerable groups that are more exposed to the epidemic or are more at risk of being infected. In this context, vulnerable population groups include, but are not necessarily limited to: (i) commercial sex workers (CSW); (ii) orphans and vulnerable children (OVC); (iii) migrant workers; (iv) Women (including widows and grandmothers); (v) youth (including young girls); (vi) Workers in small and medium-sized enterprises, micro-enterprises, and the informal sector; (vii) People with disabilities; (viii) People exposed to sexual violence; (ix) MSM; (x) IDUs; and (xi) pastoralists.

- **Sub-Component (b): Mainstreaming Public Sector Program:** Generally, the Ministries' response to HIV and AIDS to-date in Kenya has been characterized by: (i) a focus on internal awareness building among ministerial staff. Though largely successful, it has not, however, been a sufficiently comprehensive response to HIV and AIDS; (ii) reliance on funding from NACC for HIV and AIDS activities. Very few ministries allocated funds for HIV and AIDS activities out of their own budgets; (iii) reliance on NACC funding resulted in most AIDS Control Units (ACUs) working independently of the mainstream ministry structures such as Central Planning and

Project Monitoring Units and Finance Departments thus making their HIV and AIDS activities, plans and funding be geared towards responding to NACC rather than existing overall ministry need; and (iv) limited involvement of decentralized levels in planning, budgeting and implementation of multi-sectoral response to HIV and AIDS.

The objective of NACC's work in mainstreaming is to strengthen the multi-sectoral response to HIV and AIDS in Kenya by assisting key sectors to secure additional funding for HIV and AIDS activities which address the distinctive opportunities and challenges presented by the on-going work of the sector. In order to advocate for additional funding, HIV and AIDS needs to be captured as an integral part of the sectoral and line Ministries' strategies and plans. Therefore, this sub-component will provide support to mainstreaming HIV and AIDS within the Public Sector response. The focus will be to catalyse and accelerate HIV and AIDS on programming in the public sector based on KNASP II priorities. The support will emphasize external rather than internal mainstreaming by the Public Sector. Funds will be used to amplify and fortify interventions designed by the targeted sectors within their own MTEFs, Budgets and Annual Plans of Operations and not to fund separate projects or work plans. The sub-component is closely linked to the UN-program as this program will provide the essential technical support required to develop the evidence based analysis and suggested interventions for the priority Ministries.

- **Sub-Component (c): Essential Commodities:** The component will support the procurement of essential commodities required in the national response against HIV and AIDS. Commodities related to the response to HIV and AIDS and its linkages with the malaria and TB programs will be eligible for financing under the project, and include drugs, test kits and laboratory equipment and supplies. TOWA will respond to priority needs for these commodities in a flexible manner. However, the project plans to focus on some key commodities for which there is a funding gap by contributing: (i) US$12 million for condoms; (ii) US$4 million for first-line TB drugs; and (iii) US$4 million for ITN bed nets for free distribution among PLWHA who live in malaria zones. Although ARV drugs are also an important HIV commodity, they are being funded by other sources (GFATM, PEPFAR). TOWA will therefore focus its commodity support on the above-mentioned areas.

  Adjustments to the procurement of HIV commodities under the project may be made during project implementation, taking into account available funding from other sources. They will be responsive to the development of the national condom program being supported by the Joint UN Plan with DFID support. This will allow for flexibility and enable the project to respond to emerging commodity priorities. HIV commodity procurement under TOWA will be conducted according to the project procurement plan, which will be linked with the national HIV commodities procurement plan. HIV commodity procurement under TOWA will also be conducted in close coordination with procurement of HIV commodities financed by the Government, the GFATM as well as other development partners such as PEPFAR, PMI and DFID, etc. The commodity procurement under TOWA is expected to take place in the first three years of the project. All of the commodities will be procured though non-Government procurement agencies. Possible

arrangements include: (i) UNICEF for ITNs; (ii) UNFPA for condoms; and (iii) the Global Drugs Facility (GDF) for TB drugs. From the fourth year onwards, the Government's procurement system, which is expected to be strengthened under the Kenya Health SWAp, will take over.

COMPLEMENTARY DFID-SUPPORTED ACTIVITIES

Under its new program of support for the KNASP, DFID is a co-financier of the TOWA Project, along with support to the UN System in Kenya, and co-funding of AMREF with SIDA. The primary approach of DFID in this new program of support is not what particular set of primary needs DFID should try to address, but rather how best DFID can add value. The DFID support operates through three delegated partnerships: the World Bank (through the TOWA), the UN system, and SIDA supported AMREF model.

- **Support to NACC through TOWA, channeled through the World Bank (US$33 million).** Through the TOWA Project, DFID funds are pooled with the World Bank (IDA) Credit.

- **Support channeled through the UN.** Further support for technical assistance to, and public sector implementation of the KNASP, is through the UN system: DFID funds support a Joint UN Program for HIV.

- **Support channeled through SIDA to AMREF.** Support for strengthening integration and coordination between civil society and government for implementation of KNASP through capacity building, networking, documentation of lessons learned, and active collaboration, is through support to AMREF: DFID funds are pooled with the existing SIDA support to AMREF to strengthen the capacity of civil society to participate. This kind of support could be extended to other facilitating NGOs with the necessary capacities to operate in different regions in the country with TOWA funding (Component One (d): Capacity Building of Implementing Partners)

Annex 8: Project Costs

KENYA: Total War Against HIV and AIDS Project

The total funding of the TOWA Project is US$115 million (IDA, US$80 million; DFID, US$33 million; and Government, US$2 million). The allocation by component is shown below.

Expenditure Categories	Activity Headings	Activity Details	TOWA (US$ '000)	Financing GoK	World Bank	DFID (US$ '000)
Component A: Governance and Coordination Capacity Strengthening			29,758	2,000		
Strategic Leadership						
	Strategic reviews	Mid-Term Review	250	0	177	73
		JAPR Process	2,000	1,000	708	292
	Sustaining program operations	CACCs Operational Costs	5,129	427	3,329	1,373
		DTCs Operational Costs	1,622	427	846	349
		FO Operational Costs	282	0	200	82
		Minor Works	1,464	146	937	381
	Institutional capacity building	Council Members Training	30	0	21	9
		Training of NACC HQ Staff	214	0	152	62
		Training of Field Staff	66	0	46	19
		Training of 210 CACCs and 71 DTCs	685	0	485	200
		Training of 4 MCGs	160	0	113	47
	Program targeting	Technical support for targeting particular population sub-groups (women, adolescents, youth, and other vulnerable groups).	500		354	146
	Strategic Communications	IEC materials, WAD, Advocacy	1,000		708	292
Sub-total			**13,402**	**2,000**	**8,076**	**3,326**
Accountability and verification						
	Financial Management Agent	Contracting of the FMA	3,656		2,588	1,068
	Performance Auditors	Contracting of the Audit Agent for the Performance Audit	1,250		885	365
	External Auditor	Contracting of the External Auditor to conduct NACC accounts Audit	1,600		1,133	467
	Procurement monitoring	Contracting of an agent for monitoring procurement.	500		354	146
	Compliance verification	TA for checking compliance of CACCs, DTCs and National Proposals to CFPs	1,500		1,062	438
Sub-total			**8,506**		**6,022**	**2,484**

Evidence-Based Management					6,022	
	Management information system	Setting-up on a comprehensive MIS for the program	400		283	117
	Monitoring and evaluation		3,500		2,478	1,022
	Operational research		1,000		708	292
Sub-total			**4,900**		**3,469**	**1,431**
Capacity building of implementing partners						
	Needs assessments	Undertake needs assessment of NGOs/CBOs on national response	150		106	44
	Technical support	Strengthening grant performance by provision of technical support for grantees (capacity building and facilitation)	2,800		1,982	818
Sub-total			**2,950**		**2,088**	**862**
Component A - Total			***29,758***	***2,000***	***19,655***	***8,103***
Component B: Program Implementation			81,000		57,345	23,655
Grant Awards	Grants to NGOs, CBOs private sector based on CFPs		53,000		37,522	15,478
Mainstreaming Public Sector Programs	Support to mainstreaming in public sector institutions		8,000		5,664	2,336
Essential Commodities						
	Condoms		12,000		8,496	3,504
	TB drugs		4,000		2,832	1,168
	Malaria Bed nets		4,000		2,832	1,168
Component B - Total			***81,000***		***57,345***	***23,655***
Unallocated			***4,242***		***3,000***	***1,242***
GRAND TOTAL			**115,000**	**2,000**	**80,000**	**33,000**

Disbursement Schedule (IDA and DFID funds)

	FY07/08				FY08/09				FY09/10				FY10/11			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Amount (US$ m)	-	6.0	7.0	7.0	7.0	7.0	8.0	8.0	8.0	8.0	9.0	9.0	9.0	9.0	7.0	4.0
Cumulative	-	6.0	13.0	20.0	27.0	34.0	42.0	50.0	58.0	66.0	75.0	84.0	93.0	102.0	109.0	113.0

Expected date of effectiveness: October 1, 2007

Completion date: June 30, 2011

Closing date: December 31, 2011

Costs By Category

Category	Component I	Component II	Sum (US$ '000)
Goods	**4,550**	**20,000**	**24,550**
Setting-up on a comprehensive MIS for the program	400		400
Monitoring and evaluation	2,000		2,000
Mid-Term Review	150		150
JAPR Process	1,000		1,000
IEC materials, WAD, Advocacy	1,000		1,000
Condoms		12,000	12,000
TB drugs		4,000	4,000
Malaria Bednets		4,000	4,000
Works	**1,464**	0	**1,464**
Minor works	1,464		1,464
Services	**9,156**	**0**	**9,156**
Contracting of the FMA	3,656		3,656
Contracting of the Audit Agent for the Performance/*Value for Money* Audit	1,250		1,250
Contracting of the External Auditor to conduct NACC accounts Audit	1,600		1,600
Contracting of an agent for monitoring procurement.	500		500
TA for checking compliance of CACCs, DTCs and National Proposals to CFPs	1,500		1,500
Technical support for targeting particular population sub-groups (women, adolescents, youth, and other vulnerable groups).	500		500
Undertake needs assessment of NGOs/CBOs on national response	150		150
Training	**1,155**	**0**	**1,155**
Council members training	30		30
Training of NACC HQ Staff	214		214
Training of Field Staff	66		66
Training of 210 CACCs and 71 DTCs	685		685
Training of 4 MCGs	160		160
Grants	**3,900**	**61,000**	**64,900**
Mid-Term Review	100		100
JAPR Process	1,000		1,000
Strengthening grant performance by provision of technical support for grantees (capacity building and facilitation)	2,800		2,800
Grants to NGOs, CBOs private sector based on CFPs		53,000	53,000
Support to mainstreaming in public sector institutions		8,000	8,000
Operating costs	**9533**	**0**	**9,533**
CACCs Operational Costs	5,129		5,129
DTCs Operational Costs	1,622		1,622
FO Operational Costs	282		282
Monitoring and evaluation	1,500		1,500
Operational research	1,000		1,000
Unallocated			**4,242**
Total	***29,758***	***81,000***	***115,000***

Annex 9: Financial Management and Disbursement Arrangements

KENYA: Total War Against HIV and AIDS Project

Financial Management Assessment Summary

1. This assessment covers the financial management functions of the project's implementing entities. The assessment is carried out in accordance with Bank financial management operational guidelines[13]. The purpose of the project's financial management assessment is to determine whether the financial management system is capable of producing timely, understandable, relevant, and reliable financial information that would allow the Bank, other donors and Government to plan and implement the project, monitor compliance with agreed procedures, and appraise progress towards its objectives. The assessment aimed at: (a) ensuring that effective institutional risk management arrangements are in place by project effectiveness and (b) determining the project's readiness to adopt report-based disbursement, the preferred method of disbursement for the region's Multi Sector AIDS Program (MAP) projects.

2. The overall conclusion of the assessment is that financial management arrangements for the project satisfy the Bank's minimum requirements[14] and are adequate to provide, with reasonable assurance, accurate and timely information on the status of the project required by IDA. The financial management risk is rated modest given that most of the project's proposed institutional arrangements have been implemented satisfactorily. Institutional arrangements comprise (i) the establishment of acceptable financial management systems; and (ii) safeguards that respond to country and project level fiduciary risks of weak governance and corruption.

Country Issues

3. ***Financial management reforms.*** Through the Public Financial Management Reform Strategy, the Government remains committed to strengthening fiduciary safeguards with a view to achieve economy, efficiency and effectiveness in the use of public funds. With the support of a number of development partner-assisted initiatives, including the IDA-funded Institutional Reform & Capacity Building Project (IRCBP), Government is seeking to rapidly enhance the financial accountability framework, particularly through strengthening legislation related to public financial accounting, audit and independent oversight.

4. ***Diagnostic reviews.*** The most recent piece of diagnostic work that provides an up to date critical assessment of issues that may impact on this operation is an

[13] "Financial Management Practices in World Bank-Financed Investment Operations" issued by the Financial Management Sector Board on November 2, 2005.
[14] As provided under Operational Policy/Bank Policy OP/BP 10.02

ongoing Country Integrated Fiduciary Assessment (CIFA). The assessment, together with the current Country Assistance Strategy (CAS) that was effected in May 2004 review Government's performance since the last Country Financial Accountability Assessment (in 2001) and CAS (in 1998). A recurring theme is that policy changes agreed under past and ongoing projects have not been implemented consistently. Project implementation has generally been slowed down by constraints in the flow of resources and limited absorptive capacity arising from bureaucratic processes in Government.

5. ***Portfolio review***. The 2005 Country Portfolio Performance Review (CPPR) follow-up review highlighted Government's commitment to improving portfolio performance. Agreement was reached on several key issues, some of which have been applied in the design of this operation. These include actions to improve audit compliance, closer monitoring of project performance by MOF and improvements in the flow of project resources.

6. ***Forensic audits.*** The findings of forensic audits of Government commissioned forensic audits of selected projects in the country portfolio (November 2004 and June 2005) include the following financial management related issues: (i) projects were generally not controlled using a balancing general ledger system that was fully integrated and regularly reconciled with the rest of the government's central accounting system; (ii) project designs did not identify fraud risks and fraud risk management was not an integral part of each project; (iii) senior government oversight of the projects was weak; (iv) management accounts and project quarterly reports reflect levels of activity but do not necessarily identify major issues so that they can be actioned; and (v) lessons learned and best practices are not shared among similar projects or passed into the wider government structure.

Project Description and Financial Management Arrangements

7. The project development objective is to assist Kenya to expand the coverage of targeted HIV and AIDS prevention and mitigation interventions through: (i) sustaining the improved institutional performance of the NACC and (ii) supporting the implementation of the Kenya National AIDS Strategic Plan. The project will be implemented by the National AIDS Control Council, a body corporate whose governance structures include a Council comprising various stakeholders. The Council includes an Audit and Finance Committee. NACC has a full fledged management structure headed by a Director, with the Financial Management function headed by a Deputy Director, Finance & Administration. It also has an internal audit function that ultimately reports to the Council Audit Committee.

8. The Project will, as much as possible, rely on mainstream Government financial management systems as modified in the National AIDS Control Council (NACC) institutional arrangements. It will also build on existing systems relied upon during implementation of an ongoing IDA – financed project, KHADREP.

9. ***Implementing agency***. Financial resources will be included in the

Government budget and channeled from Ministry of Finance to the Office of the President (OP) for onward remittance to NACC. Accountability will be monitored through the same channel and ultimately included in the Government financial reporting system. This arrangement is consistent with IDA-funded projects in Kenya.

10. ***Planning and budgeting.*** Budgeting for the project has been undertaken centrally by NACC in consultation and with extensive detailed input by the respective implementing entities. The budget is based on the Government Medium Term Expenditure Framework (MTEF). Proposed periodic reporting guidelines require periodic activity, cash flow and procurement projection, analysis and review on an ongoing basis, included in quarterly FMRs that will form the basis of requests for reimbursement of funds.

11. ***Books of account and list of accounting codes.*** The project's accounting records will be maintained on NACCs computerized accounting system, *Great Plains Dynamics*™. The codes relating to the project are integrated in the NACC's Chart of Accounts that matches the classification of financial statements.

12. ***Internal controls and financial management guidelines.*** The project's internal controls are based on the NACC's established accounting and internal control systems and documented in financial operations manual and guidelines. The manual has recently been revised and is subject to review by IDA.

13. ***Internal audit.*** There are ongoing initiatives at the Government Internal Auditor General's department to realign the functioning of internal audit along best practice guidelines issued by the international Institute of Internal Auditors, including implementation of systems compliance and risk based approach. The effectiveness of internal audit is expected to be complemented by the institution of NACC Audit Committees that will support the demand for internal audit services and follow-up of internal audit findings.

14. ***External audit.*** Under Kenyan legislation, the responsibility to audit all Government funds and activities is vested in the Kenya National Audit Office (KNAO), which is mandated to subcontract such services in the event of capacity or other constraints. There have been significant improvements in the office's ability to ensure timely auditing and reporting. The office is considered to be sufficiently independent, applying internationally acceptable auditing guidelines and therefore, acceptable to IDA. The KNAO will confirm to the Bank that the audits of the TOWA will cover grants made to CSOs, NGOs, etc.

15. ***Interim financial statements.*** The form and content of interim financial statements was agreed during project negotiations. Primary contents will comprise: (i) financial accountability reports, including a statement of sources and uses of funds by funding source, a statement of uses of funds by project activity/component; and fund balance statements supported by bank statements; (ii) physical progress (output monitoring) report; and (iii) a procurement plan and progress report. The reports will cover all project activities, including Government counterpart funding, resources

provided by other Development Partners and non-cash contributions wherever reasonably quantifiable.

16. As interim financial statements will form the basis of periodic funding disbursements by IDA, they will include a detailed report of projected cash requirements for each ensuing 6 months period supported by: (i) a procurement progress report and related cash flow projection; (ii) disclosure of procurement contracts subject to and not subject to IDA prior review; and (iii) fund balance statements supported by certificates of bank balances and bank reconciliation statements.

17. ***Annual financial statements.*** NACC financial statements shall be prepared in accordance with International Public Sector Accounting Standards (which *inter alia* includes the application of the cash basis of recognition of transactions). Indicative formats of interim financial statements were agreed during negotiations. IDA funding agreements require the submission of audited financial statements[15] within six months after the year-end.

18. ***Disbursement arrangements***. The project has adopted the *report-based* method of disbursement using interim financial statements as the basis of requesting and accounting for funds. Requests for disbursement by IDA will be made on the basis of approved work plans and cash flow projections for eligible expenditures. IDA will make advance disbursements in agreed proportions from the proceeds of respective Credits into the project Special Account to expedite project implementation. Advances will be used by the borrower to fund eligible project expenditures and evidenced in quarterly financial statements. The project will also use the *direct payment* method of withdrawing funds, involving direct payments to suppliers for works, goods and services upon the borrower's request. Payments may also be made to a commercial bank for expenditures against pre-agreed special commitments. Direct payment amounts will be included in quarterly financial statements.

19. The IDA Disbursement Letter will stipulate the minimum application value for direct payment and special commitment procedures as well as detailed procedures to be complied with under respective funding arrangements.

20. ***Flow of Funds***. Funds flow arrangements for the project shall be as follows: (i) IDA will make an initial advance disbursement from the proceeds of the Credit by depositing into the Borrower-operated Special Account; (ii) Actual expenditure will be reimbursed through submission of Withdrawal Applications and against Interim Financial Statements; and (iii) GOK counterpart funds and transfers from the Special Account (for payment of transactions in local currency) will be deposited in the Project Account in accordance with GOK exchequer control and funding

[15] Audits to be guided by "Guidelines: Annual Financial Reporting and Auditing for World Bank-Financed Activities" dated June 30, 2003.

arrangements.

21. The following bank accounts will be used to channel project resources:

- *Special Account.* GOK will establish a US dollar special account that will receive dollar deposits/transfers from the credit account. This account will be managed by MOF in accordance with GOK procedures for the management of offshore bank accounts.

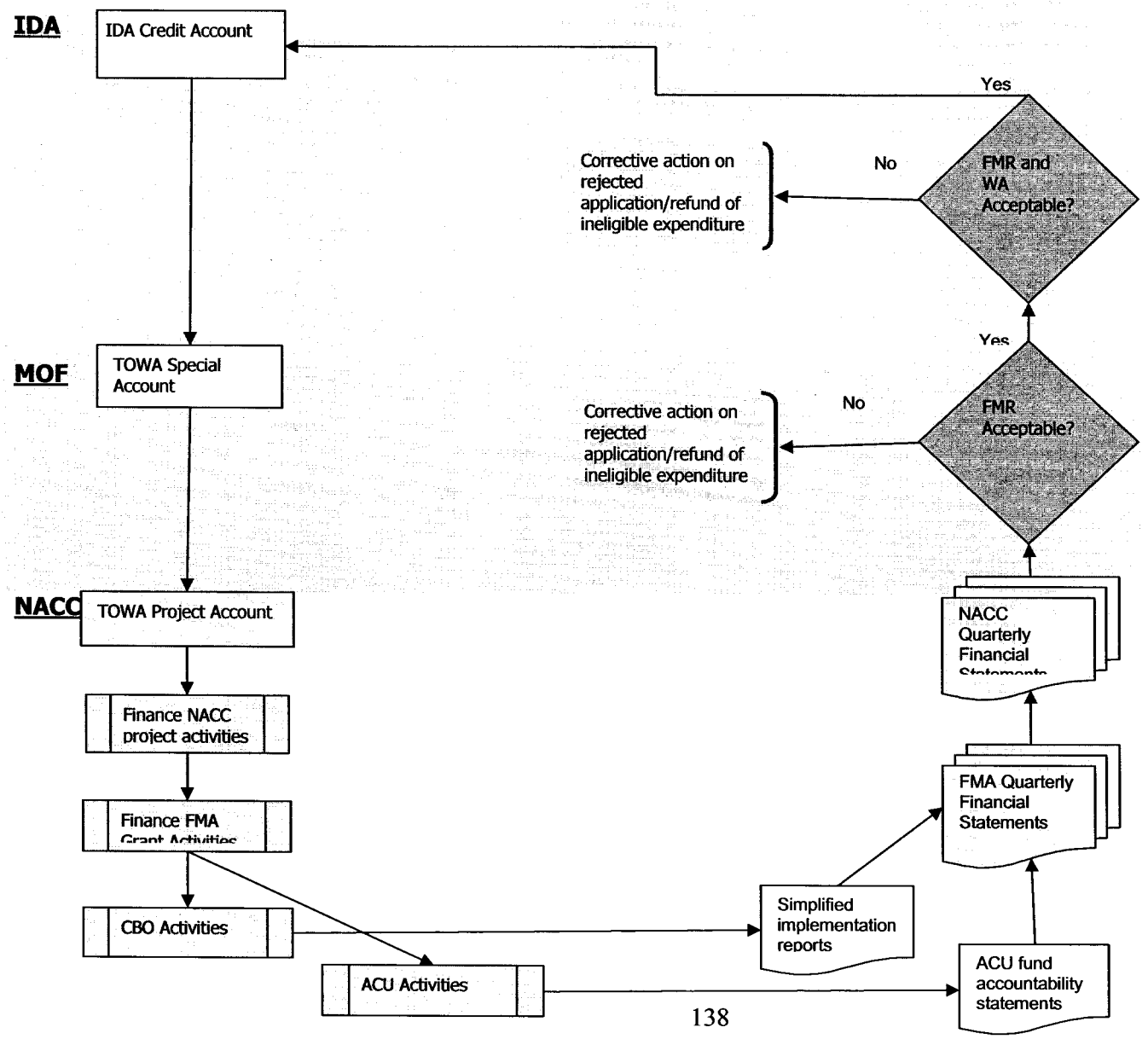
- *Project Account.* A local currency project account in a local bank would be opened to form the primary source of finance for project activities and will be managed directly by NACC. Remittances from the Special Account will flow through the OP Paymaster General account, again in line with GOK procedures. The initial deposit by the Government into the Project Account would be Ksh 20 million.

Respective bank accounts are expected be operational by credit effectiveness. Initial cash flow forecasts upon which the advance disbursement will be made from the IDA Credit should also be prepared by the same date.

22. ***Counterpart funds.*** The OP will ensure advance availability of counterpart funding contribution by depositing amounts equivalent to estimated quarterly cash requirements into the project account. Counterpart funds will be allocated through the normal central government budgetary process.

23. ***Remedies for non compliance.*** If ineligible expenditures are found to have been made from Special Account, the borrower will be obligated to refund the same. If the Special Account remains inactive for more than six months, IDA may reduce the amount advanced. If ineligible expenditures are found to have been made from the Special Account, the borrower will be obligated to refund the same. If Special Accounts remain inactive for more than six months, IDA may reduce the amount advanced. IDA will have the right, as to be reflected in the funding agreement, to suspend disbursement of the funds if significant terms of funding agreements, including reporting requirements, are not complied with.

Illustrative Funds Flow and Accountability Arrangements



IDA will replenish the Special Account quarterly based on approved FMRs and Withdrawal Applications.

MOF will review quarterly FMRs on the basis of which Withdrawal Applications will be prepared and submitted to IDA.

The FMA collates FM accountabilities of CBOs and ACUs for submission to NACC where they are consolidated into a project FMR.

Financial Management Assessment Findings

24. ***Risk management and internal control arrangements.*** A number of significant fund accountability weaknesses and fraud/corruption risks observed in KHADREP are attributed to the absence of an effective institutional risk management function. The following institutional arrangements have been established to address risk management concerns:

(a) *Institutional risk management.* NACC has recently carried out a comprehensive institutional risk assessment and developed a mitigation action plan contained in the Institutional Risk Management Policy Framework. The NACC Council is responsible for monitoring implementation of the framework and action plan.

(b) *Role of NACC Council oversight committees.* The mandate, composition and functioning[16] of financial management sub-committees of the NACC Council have been instituted. The Committees are staffed with appropriately experienced persons and meet regularly, at least once each quarter. They have operational charters approved by the NACC Council and which are assessed as consistent with Corporate Governance best practice guidelines[17].

- The Audit Committee has included in its mandate: (i) responsibility for operationalisation of the Risk Management Policy Framework; (ii) monitoring and ensuring timely effectiveness of audit and operational review recommendations of various fiduciary oversight responsibilities including, internal and external auditors, Government project monitoring agencies and IDA review and supervision missions; (iii) overseeing the effectiveness of accounting and internal control standards, policies and practices; (iv) ensuring compliance with legal covenants and terms of funding agreements; and (v) monitoring the performance of key internal audit staff and contractors against approved performance contracts.

- The Finance Committee has included in its mandate: (i) responsibility for comprehensive review of Interim Financial Statements; (ii) approval of periodic operational budgets and monitoring financial performance; (iii) reviewing and approving annual financial statements, and (iv) monitoring the performance of key financial management staff against approved performance contracts.

(c) *Internal audit function.* An independent and effective internal audit arrangement responsible for oversight of the activities of the NACC accounting and internal control functions, the activities of the FMA, ACUs, DTCs and CBOs has been established. The

[16] Based on Government Treasury Circular No 16/2005 titled "Establishment and Operationalisation of Audit Committees in Public Service" dated October 4, 2005.
[17] As recommended by the Institute of Internal Auditors.

function is also required to conduct independent institutional risk management on an ongoing basis, monitoring compliance with laid down policies and procedures, and reviewing and recommending enhancement of accounting and internal controls. For enhanced effectiveness, it is proposed that this function be carried out under partnership between the NACC Internal Auditor and Government Internal Auditor General and be supported by external technical support as and when required. External support will mainly be in (i) the oversight of periodic risk assessment and audit planning processes; and (ii) operational quality assurance. The Internal Audit function ultimately reports directly to the Council Audit Committee, presenting reports on, at least, a quarterly basis.

(d) *Oversight role of CACCs and DTCs.* Project oversight, monitoring and supervisory roles of CACCs and DTCs, including reporting arrangements have been set out in simplified operations manuals. CACCs and DTCs are excluded from handling CBO and other project implementation funds other than their own administrative support resources.

25. ***Public disclosure and anti corruption hotlines.*** Given the dispersion of the project's activities and the adoption of simplified community based fiduciary arrangements proactive and innovative internal control and oversight functions have been developed and adopted to address associated risks. The following practical arrangements for public oversight have been established:

- Public disclosure of information regarding: (i) criteria for selection of beneficiary entities to which funds are disbursed; (ii) periodic listings of beneficiary entities including their location, amounts and purpose for which funds are disbursed; (iii) details of fund accountability defaulting entities; and (iv) sharing of experiences of best practice beneficiary entities. Arrangements include prominent disclosure of such information in the media and public bulletin boards at all possible locations and regular update of information.

- Anti-corruption and complaints handling arrangements including toll free communication lines have been established with explicit arrangements for collation of information, follow-up action and public reporting. The collation and follow-up responsibilities are vested in Internal Audit and overseen by the Council Audit Committee.

26. ***Funds flow and accountability arrangements.*** While it is intended that reliance be placed, as far as possible, on mainstream Government funds flow arrangements, the following system weaknesses have been identified and addressed:

(a) *Hiring of a financial management agent.* In order to facilitate the disbursement of funds and monitor accountability by all grant fund recipients, NACC will contract a financial management agent (FMA) under mutually agreed terms of reference. The terms of reference have been reviewed and cleared by IDA and procurement is in progress. FMA contracting is a credit effectiveness condition.

(b) *Simplification of accounting processes*. Unnecessarily long fund remittance and payment processes have been reviewed in order to improve efficiency, effective control and timeliness. Key considerations in the process include: (i) adoption of simplified accountability guidelines and procedures for CBOs; (ii) realigning the role of technical oversight function from involvement in routine transaction processing to conducting independent reviews; (iii) developing effective accountability follow-up processes by consolidating the responsibility under the FMA; and (iv) active involvement of CACCs in the follow-up of accountabilities by CBOs. NACC has also developed benchmark processing timelines to be adopted and monitored.

(c) *Operation of the Special Account.* Bureaucratic delays in the remittance of project funds from the Special Account through CBK, MOF, OP and ultimately to the Project Account have be reviewed and unnecessary approval processes eliminated.

(d) *Financial statements reporting.* Quarterly financial reports[18] have been identified as the preferred basis of funding disbursement. This method is already adopted by the KHADREP. Envisaged difficulties have been addressed as follows:

- Collation of monthly accountabilities. Given the large number of reporting entities, it is critical that the capacity of reporting units to prepare comprehensive, yet simplified and standardized monthly statements of expenditure and fund balances is developed as soon as possible. Under this arrangement, it is expected that the FMA collates and submits implementing entities' financial accountability and project implementation progress information on a timely basis. This responsibility had been included in the FMA terms of reference.

- Quarterly financial statements preparation capacity. NACC's capacity to prepare and submit quarterly financial reports has been enhanced by the recent employment of appropriately qualified and experienced personnel. A training plan is in place and complied with. The plan also provides for capacity building of DACC, CACC and CBO personnel.

(e) *Financial management manual*. NACC's accounting and internal control procedures are documented in a Financial Management Manual. The manual incorporates MOF financial management guidelines. The manual has recently been revised to take account of proposals in this assessment, notably: (a) the role Council Committees and internal audit; (b) arrangements for public disclosure of information and anti corruption hotlines; (c) the revised role of CACCs and DTCs; and (d) the revised responsibility of the FMA. The manual also includes simplified guidelines for operations of DTCs, CACCs and CBOs. It has been subject to review and approval by the IDA.

(f) *Independent audit arrangements.* Under Kenyan legislation, the responsibility to audit all Government funds and activities is vested in the Kenya National Audit Office

[18] Based on "Financial Monitoring Reports for World Bank Financed Projects: Guidelines for Borrowers" published by IDA on November 30, 2002.

(KNAO), which is mandated to subcontract such services in the event of capacity or other constraints. Due consideration will be taken of the KNAO capacity and commitment to ensuring compliance with Government and Development Partners' requirements for timely auditing and reporting. There has been significant improvement in the office's ability to ensure timely auditing and reporting of donor-funded projects' financial statements. The KHADREP audit has, however, suffered from an inefficient substantial outsourcing of CBO audits that had threatened timeliness of reporting and the quality of reviews. The Controller & Auditor General's confirmation of agreement to place reliance on the work of internal audit and other internal review mechanisms, subject to the effectiveness of independent internal oversight arrangements, will be discussed and agreed ahead of Project effectiveness. Written confirmation from the KNAO that it accepts responsibility for auditing the grant awards will be a condition of disbursement for the respective sub-component of the TOWA.

27. ***Financial management action plan*** - The outcome of this review is included in a financial management improvement plan comprising actions to be completed prior to credit effectiveness and ongoing actions to be followed up during project implementation.

Risk Assessment and Mitigation

28. ***Financial management risk*** is rated modest given that most of the project's proposed institutional arrangements have been implemented satisfactorily. Institutional arrangements comprise (i) the establishment of acceptable financial management systems; and (ii) safeguards that respond to country and project level fiduciary risks of weak governance and corruption.

29. The summary of the assessment of country, implementing entity and project-specific risks and proposed mitigating arrangements is as follows:

30. ***Inherent Risk.*** Risks associated with the environment in which the project is situated.

Risk	*Preliminary Risk Rating*	*Risk Mitigating Measures incorporated in Project Design*	*Conditionality*	*Residual Risk Rating*
Country level				
1. Corruption	S	• Government has prepared a governance action plan that has been considered and is being monitored. • Development of an institutional risk management policy framework and independent oversight by the NACC Council.	None.	M
2. Poor governance	S	• Government and sector-specific anti corruption action plan to be considered and monitored. • Development of an institutional risk management policy framework and independent oversight by the NACC Council.	None.	M
3. Weak judiciary	S	• Government and sector-specific anti-corruption action plan to be considered and monitored. • Development of an institutional risk management policy framework and independent oversight by the NACC Council.	None	M
Entity level				
4. Delayed flow of funds	S	• Employment of an independent financial management agent to manage disbursements to grant recipients and monitor fund accountability. • The 2005 CPPR action plan is monitored on a quarterly basis.	Contracting of a financial management agent is an **effectiveness condition.**	M
5. Weak management capacity	S	• Employment of appropriately qualified and competent management staff. • Employment of an independent financial management agent to manage disbursements to grant recipients and monitor fund accountability.	Contracting of a financial management agent is an **effectiveness condition.**	M

6. Ineffective oversight functions	S	• Development of an institutional risk management policy framework and independent oversight by the NACC Council. • Effective project internal audit function using a risk based audit approach and supported by an Audit Committee.	None.	M
Project level				
7. Lack of prior project implementation experience by the implementing entity	M	8. Employment of appropriately qualified and competent management staff.	None	M
9. Lack of desired staffing at the implementing entity	S	10. Development of an organization chart and employment of appropriately qualified and competent management staff.	None	M
Overall Inherent Risk	**S**			**M**

31. ***Control Risk.*** The risk that the project's financial management system is inadequate to ensure project funds are used economically and efficiently and for the purpose intended.

Risk	***Preliminary Risk Rating***	***Risk Mitigating Measures Incorporated in Project Design***	***Conditionality***	***Residual Risk Rating***
Budgeting				
1. Failure to properly prepare and effectively monitor periodic budgets.	S	• Project budgeting included in Government MTEF budget framework. • Budget execution to be monitored through quarterly financial statements.	Interim financial statement reporting arrangements and formats agreed during project **negotiations**.	M

Accounting				
2. Misuse of and failure to account for project funds	S	• Accounting and internal control procedures established and documented in Operations Manuals. • Institution of independent and effective internal audit and risk management function. • Quarterly financial statements to be used as the basis of disbursement.	Interim financial statement reporting arrangements and formats agreed during project **negotiations**.	M
3. Accountability and reporting difficulties owing to the project's multiple accounting units and diverse communities' participation.	S	• Employment of an independent financial management agent to manage disbursements to grant recipients and monitor fund accountability. • Project reporting guidelines and timelines included in the FM manual. • Implementation to be monitored by the NACC Council.	Contracting of a financial management agent is an **effectiveness condition.**	M
4. Weak management information systems.	M	• NACC has a functional integrated financial accounting system. • Project reporting guidelines and timelines included in the FM manual. • Quarterly financial statements to be used to monitor accountability. • Implementation to be monitored by the NACC Council	Interim financial statement reporting arrangements and formats agreed during project **negotiations**.	L
Internal Control				
5. Internal Audit	S	Institution of independent and effective internal audit and risk management function.	None.	M

6. Internal control policies and procedures.	S	Project accounting and reporting guidelines included in the FM manual.	None	M
Funds Flow				
7. Delayed funds flow.	S	Employment of an independent financial management agent to manage disbursements to grant recipients and monitor fund accountability.	Contracting of a financial management agent is an **effectiveness condition.**	M
Financial Reporting				
8. Accountability and reporting difficulties owing to the project's multiple accounting units and diverse communities' participation.	S	• Streamlining and coordination of quarterly financial statement reporting arrangements included in FMA TOR. • Project reporting guidelines and timelines included in FM manuals. • Implementation to be monitored by the NACC Council.	Contracting of a financial management agent is an **effectiveness condition**	M
9. Delayed finalization and submission of annual financial statements.	M	Government financial reporting regulations and guidelines consistent with IDA requirements and consistently applied.	None.	M
Auditing				
10. Weak audit capacity at the National Audit.	M	• Arrangements for reliance on internal audit work to ensure effective coverage	Confirmation of project audit arrangements, including adequate	M

Office		of CBO activities. • The capacity of KNAO has improved significantly and is being monitored.	coverage of CBO activities agreed during **negotiations.**	
Overall Control Risk	**S**			**M**

32. ***Detection risk***. The risk that a material misuse of loan proceeds fails to be detected.

Risk	***Preliminary Risk Rating***	***Risk Mitigating Measures Incorporated in Project Design***	***Conditionality***	***Residual Risk Rating***
1. Misuse of and failure to account for project funds.	S	• Institution of independent and effective internal audit and risk management function. • Interim financial statement reporting arrangements included in project design.	• Interim financial statement reporting arrangements and formats agreed during project **negotiations**	M
Overall Detection Risk	**S**			**M**

Conditionality

33. Actions agreed upon **during Project negotiations.**

	Action
a)	Quarterly financial monitoring reporting arrangements are in place and formats have been agreed.
b)	Project independent audit arrangements have been confirmed.

34. Action required **prior to credit effectiveness**:

	Action
a)	Completion of contracting of the Financial Management Agent.

35. Action required following credit effectiveness:

	Action
a)	Compliance with the Financial Management capacity building plan covering all levels.

Implementation Support Plan

36. Based on the outcome of the financial management risk assessment, the following implementation support plan is proposed. The intensity of supervision will be increased as necessary in the first year of the project.

FM Activity	Frequency	FM Deliverable
Desk reviews		
a) Interim financial statements review	Quarterly	Financial statements review report
b) Audit report review	Annually	Audit review report
On site visits[19]		
c) Review of controls	Four monthly[20]	Clearance of FM effectiveness conditions. FM review report
d) Transaction reviews	Annually	FM review report
Capacity building support		
e) In-house FM training sessions	Six monthly[21]	Delivery of training sessions
f) Participation in regional specialized training workshops	Annually	Information on available training programs

[19] Respective reviews will be based on mutually agreed terms of reference

[20] These will include a specific follow-up of FM effectiveness conditions that comprise the underlying reason for a Substantial FM risk rating.

[21] To be based on existing arrangements in conjunction with the Loan and Procurement Departments

37. The objectives of the implementation support plan aims at ensuring that strong financial management systems is maintained throughout the project life. In addition, Detailed Financial Management Reviews will be carried out regularly to ensure that expenditures incurred by the project continue to remain eligible.

Annex 10: Procurement Arrangements

KENYA: Total War Against HIV and AIDS Project

A. Procurement Environment

1. Kenya's first National Procurement Law (The Public Procurement and Disposal Act 2005) was passed by Parliament in October 2005 came into force in January 2007. The Regulations supporting the Law were also published by the Minister for Finance in January 2007. Prior to the coming into force of the Law, procurement under the public sector had been governed by a set of Regulations (the Public Procurement Regulations 2001) issued by the Minister for Finance in 2001 and amended in 2002.

2. The Public Procurement and Disposal Act (2005) creates a central Public Procurement Oversight Authority (PPOA) to replace the Public Procurement Directorate (PPD) created under the Regulations (2001) in the Ministry of Finance. The Act also establishes the Public Procurement Complaints, Review and Appeals Board (the Appeals Board) which had been in operation since 2001. In addition, all public procuring entities have a Procurement Unit and a Tender Committee which are responsible for the implementation of procurement process of the procuring entities. The Executive Officers of the procuring entities together with their Tender Committees are accountable for the procurement decisions of their entities.

3. Public Procurement in Kenya is recognized as a very important process via which over 70% of public funds (excluding staff emoluments, debt servicing and other statutory payments) are spent. A major challenge in Kenya is to ensure sound and efficient public procurement systems that ensure value for money, efficiency in service delivery and transparency, including providing equal opportunity to the bidding community. It also recognizes that corruption in public procurement is a major issue in Kenya as it is very erosive of public funds intended for public good and its resultant economic growth.

4. Among the overarching features of the Procurement Law towards promoting transparency and accountability of public procurement decisions include specific provisions for administering security-related procurement which has hitherto been vulnerable to corrupt practices. In addition, the Government has established a number of complimentary anti-corruption legislative and administrative instruments. In 2003, it enacted an Anti-Corruption and Economic Crimes Act which creates the Kenya Anti-Corruption Commission (KACC) – an independent body corporate with immense powers relating to the fight against corruption, accountable to Parliament, and the Kenya Anti-Corruption Advisory Board (KACAB). The KACAB members were drawn from the civil society, professional bodies, trade unions, and religious sectors, vetted by Parliament and appointed by the President. In the same year, a Public Officer Ethics Act was passed and enforced. This Act provides for Codes of Conduct and Ethics for all public officers to enhance ethics and integrity in the Public Sector and govern the wealth declaration process. The Government introduced Performance Contracting for public agencies

(parastatals in 2004/05 and Government Ministries and Departments in 2005/06). Chief Executives of all public agencies are required to sign Performance Contracts on behalf of their respective agencies. One aspect of performance contracting, which every agency is assessed on, is the initiation of anti-corruption measures to curb corruption.

5. Under its Governance Action Plan, the Government has included implementation of the following procurement reform actions:

- inject sunshine principles in bidding and procurement contracts including: (i) ensuring all Ministries, Departments and agencies publish the inform on contracts required by law on a Government website; and (ii) ensuring the website is working effectively and is accessible to the public;
- introduce a Vetting System to pre-qualify companies interested in bidding for Government contracts to address the issue of conflict of interest;
- establish a mechanism for reporting and enforcing the current provision of the law on "Blacklisting" companies; and
- introduce e-procurement.

B. Procurement Institutional Arrangements

6. Procurement under the project will be carried out at three levels:

- the national level by public institutions, namely NACC and ACUs,
- through non-public organizations, i.e. NGOs, CBOs, CSO, FBOs and private sector organizations (PSOs) at the district level; and
- at the constituency level, by units of the public institutions and through NGOs, CBOs, CSOs, FBOs, and PSOs.

Of the public institutions, the NACC is the implementing entity for the Project and accountable for the procurement decisions under the Project. ACUs will implement activities through budget releases by NACC against an agreed annual workplan. In addition to its responsibility for the implementation of its own procurement, NACC will oversee procurement implementation in the districts and constituencies by the DTCs and CACCs respectively, as well as well as by ACUs and non-public organizations contracted by the NACC. The NACC and its local offices will administer procurement processes and award contracts in accordance with the procurement provisions of DCA, Public Procurement Regulations (2006), and the Project Operations Manual. NACC, DTCs and CACCS will contract and provide grants to non-public institutions on the basis of the latter's eligibility to apply for implementation of sub-projects and evaluation criteria of proposals laid down in the Project Operations Manual. DTCs and CACCs will not handle any major procurement.

C. Procurement Risk Assessment and Mitigation

7. An assessment of the capacity of the NACC Secretariat (based on the lessons learned from its performance in procurement implementation under the KHADREP Project) was carried out during Project appraisal to implement procurement actions for the Project. The assessment reviewed the organizational structure for implementing the Project and the interaction between the Project's staff responsible for procurement and the Ministries and agencies for administration and finance. The capacity assessment of NACC Secretariat rates the procurement risk "high"

8 Because of their size and geographically spread in the country, it was not possible to carry out capacity assessment of DTCs or CACCs in procuring their requirements, selecting eligible and technically qualified non-governmental organizations, or reviewing proposals to be submitted by the organizations.

9. The key issues and risks concerning procurement for implementation of the project have been identified and are tabulated in Table 10-1. The recommended mitigation actions are also presented in Table 10-1.:

Table 10-1: Procurement Risks and Recommended Mitigation Measures

Item Assessed	Assessment Null/ Poor/ Fair/ Satisfactory	Major Weaknesses (Aspects where procurement risk is low are excluded from the matrix)	Risk Assessment prior to Mitigation Low/ Ave/ High	Actions Proposed	Proposed Completion Date
A. Procurement Unit Capacity					
1. Procurement capacity (Professional knowledge and Experience in procurement procedures).	Poor	• Lack of experience in Bank procurement procedures. • Lack of professional knowledge and practical experience in the procedures for hiring contractors and consultants, or procuring specialized or high-valued goods.	High	• Organize a training workshop at the Bank's Kenya Country Office for all procurement staff of the two implementing agencies (for at least one full day). • Procurement staff who will be directly involved in the procurement implementation of the project components will have formal training with a regional training institution (i.e. ESAMI and GIMPA).	The training at the Country Office: prior to project effectiveness. Formal training: after the one-day workshop, but as early as possible.
2. Size of procurement staff.	Poor	• NACC Procurement Unit is staffed with two procurement officers.	High	• Hire a short-term procurement consultant at NACC.	Before project effectiveness.
B. Operations Procurement Documents					
1. SBD for NCB contracts.	Poor	• Public entities use National SBDs that were produced on the basis of the Public Procurement Regulations (2001), and not cleared with the Bank.	High	• Produce National SBDs on the Public Procurement and Disposal Act (2005), and clear them with the Bank. • In the mean time, adapt the Bank's SBDs.	As early as possible.
2. RFP for selection of consultants.	Poor	• There is no National Standard RFP.	High	• Produce a National SRFP on the Public Procurement and Disposal Act (2005), and clear it with the Bank. • In the meantime, adapt the Bank's SRFP.	As early as possible. Starting with the first consultancy contract.
3. Procurement Manual for CDD sub-projects.	Satisfactory	• There is an Operations Manual to guide contracting for sub-projects.	High	• The Operations Manual is acceptable to the Bank for selection of CBOs and NGOs. The OM should be reviewed for revision as and when conditions change.	Done

C. Procurement Process Administration and Contract Management					
1. Process Administration	Poor	• Delays in procurement process decisions common in the public sector.	Low	• Set up service standards for completion of procurement process decisions, and a tracking system for monitoring compliance to the agreed service standards. An independent procurement monitoring agency will be hired.	Condition of Project effectiveness to hire the PMA.
2. Contract management	Poor	• Poor contract management or lack of capacity in contract management.	High	• Prepare a monitoring system of fulfillment of contractual obligations by both parties. Work to be done by independent procurement monitoring agency to be hired.	Throughout project implementation period
3. Record keeping of procurement documentation	Poor	• Procurement documents filed under various subject files and kept by different units within each the procurement entity.	High	• Introduce a proper procurement filing system on contract by contract basis, preferably under the custody of the Procurement Unit. Work to be done by independent procurement monitoring agency.	Immediately after Project commencement.
D. Procurement Audits	High	• Apart from the Bank Procurement Post Reviews PPRs), the Government does not carry out procurement audits.	High	• Hire o an independent procurement monitoring agency (PMA) (to verify that procurement is carried out in accordance with agreed regulations and procedures) o an independent compliance verification agent (CVA) (to check compliance at all levels with the laid down rules in the approval of proposals); o an independent performance auditor (o assess and compare the results verifiably achieved with the results claimed). • The Public Procurement Oversight Authority to conduct procurement audits in addition to Bank's PPRs.	Condition of Project effectiveness. Condition of Project effectiveness. By December 31, 2007. Throughout the Project implementation period.

D. Procurement Arrangements

10. Procurement for the proposed project would be carried out in accordance with the World Bank's "Guidelines: Procurement under IBRD Loans and IDA Credits" current edition; and "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" current edition, and the provisions stipulated in the Legal Agreement as well as in accordance with the Kenya Government Public Procurement and Disposal Act, 2005, Public Procurement and Disposal Regulations, 2006 and Project Operations Manual. The various items under different expenditure categories are described in general below. For each contract to be financed by the Credit, the different procurement methods or consultant selection methods, the need for pre-qualification, estimated costs, prior review requirements, and time frame are agreed between the Borrower and the Bank in the Procurement Plan. The Procurement Plan will be updated at least annually or as required to reflect the actual project implementation needs and improvements in institutional capacity.

(a) Procurement of Works: (US$1 million)

11. No major works contracts are expected to be financed under the project. However minor works such as repairs or renovations of existing buildings that may be considered necessary for achieving the project implementation objectives will be eligible for funding under the Credit. Minor works will be carried out through contracts awarded in accordance with procedures set forth in the Project Operations Manual submitted to and agreed with IDA prior to negotiations. Works with an estimated value above US$250,000 per contract will be procured through International Competitive Bidding (ICB). No works of this magnitude were proposed during the appraisal. Works with an estimated value of US$250,000 or less may be procured through National Competitive Bidding (NCB), and those below US$50,000 through shopping.

(b) Procurement of Goods: (US$24.6 million)

12. Goods procured under this Project will include IT equipment, other office equipment and office furniture, TB testing kits, condoms, and malaria diagnostic kits. To extent possible, goods (other than medical goods) that could be procured from one supplier would be grouped into contract packages, and packages estimated to cost above the equivalent of US$250,000 would be procured under **ICB** procedures. Goods (other than medical goods) contracts estimated to cost between US$50,000 and US$250,000 will be procured in accordance with the NCB procedures. **Limited International Bidding** may be used when there is only a limited number of known suppliers in the world. Procurement through ICB or LIB procedures will be based on the Bank's Standard Bidding Documents (SBDs). National Standard Bidding Documents and forms acceptable to the Bank may be used for awarding contracts through NCB or shopping procedures, the latter of which could be used for items less than US$50,000. ICB contracts estimated to cost equal to US$150,000 equivalent or above for goods per contract and all direct contracting will be subject to prior review by the Bank.

13. **Direct Contracting Procurement of Goods:** Any disruption in the procurement process for health commodities can lead to major stock-outs and put people at risk of dying or contracting of HIV. In June 2006, UNFPA had to respond to assist the Government to avoid a total stock-out of condoms, due to delays in executing a WB funded tender. This was a huge reputational risk for both the NACC and the Bank; and, without the UNFPA response, more people would have become infected with the HIV virus. The procurement of pharmaceuticals (TB drugs, anti-malaria drugs) and medical devices (condoms) is also highly complex, because of the quality and strict regulatory requirements, and the need to ensure continuous availability. Given the risks already identified of the ability of the government to execute these procurements; the project proposes to use sole-source procurement method through UN agencies. These would include procurement of condoms from UNFPA of the amount of US$12 million, procurement of Anti-TB drugs from Global Drug Facility (GDF) for the amount of US$ 4million and malaria bed nets from UNICEF for the amount of US$4 million. These procurement arrangements are subject to prior approval by the Bank. As specified in the PAD earlier, the use of UN agencies is considered a temporary approach. By the fourth year onwards, the Government's procurement system, which is expected to be strengthened under the Kenya Health SWAp, will take over.

(i) Condoms. As discussed earlier in the PAD, the HIV and AIDS pandemic has contributed significantly to the poverty of Kenyans, with 1.3 million people infected and over 100,000 additional new people becoming infected every year. Condoms, (a medical device, and thus highly regulated), has shown to prevent HIV and is considered a key public health intervention for reducing new HIV infections. In addition condoms are also important for sero-discordant couples (where one partner is HIV positive and the other HIV negative). The procurement of condoms requires extensive knowledge of quality assurance to be maintained in the manufacturing and shipping process, which is significantly different from other healthcare products. Condoms can degrade if not appropriately formulated and packaged. They require strict quality control procedures to ensure LOT-to-LOT consistency, all of which needs to be translated in appropriate specifications and ability to understand and monitor audit reports. If poor-quality condoms are procured, it could lead to inadequate protection and negative publicity, and could destroy the credibility of the HIV prevention program.

The UNFPA is the largest procurer of condoms globally and has extensive in-house knowledge about condom quality assurance requirements and the condom marketplace, as manufacturers' ability to assure quality over time can vary. In addition, it also achieves significant savings through competitive pricing due to high volumes. It provides high quality condoms that strictly adhere to WHO guidelines and specifications and has sound quality control mechanisms in place to ensure delivery of quality products to the client countries. It provides the value-added service of independent pre-inspection testing prior to shipment of the condoms. It has a web-based ordering and tracking system that provides visibility of the procurement order to at least its UNFPA field offices. Other additional services that UNFPA provides through its headquarter and country programs include on-going technical support as required, such as, assisting in forecasting, developing financial gap analysis to sharing the list of suppliers etc. In Kenya, UNFPA has the track record of supplying condoms to the

Government. Just in the last year, UNFPA procured 24 million condoms on behalf of the Government in response to a condom shortage.

(ii) Anti-TB drugs. As discussed earlier in the PAD, around 30 percent of TB patients are HIV-positive. The threat of Multi-Drug Resistant (MDR) and Extensively -Drug Resistant TB (XDR) especially among People Living With HIV/AIDS (PLWAs) is a growing concern. In the case of anti-TB drugs, it is important to ensure that the full course of eight months is readily available in order to reduce the risk of MDR or XDR. Given the need to ensure continuous availability at all times, a most predictable, reliable procurement method and agency needs to be used that will ensure continuous availability and best price.

GDF is the largest procurer of TB drugs globally. It secures affordable anti-TB drug prices through pooled procurement, standardization, prompt payment polices and innovative procurement strategies, linking demand for drugs to supply and outsourcing all its services on a competitive basis. As the result, GDF is able to get much better prices from manufactures than an individual country. The products are of a high-quality that are either prequalified under the WHO TB Prequalification Project, or are approved for supply through a transparent, independent expert committee, pending prequalification. This step is absolutely essential in ensuring that only high quality, effective products are being delivered to TB patients. The packaging of the products is specially designed to ensure ease of use from a patient perspective and also protect against damage and humidity. GDF also provides a web-based ordering and tracking system that GDF clients can use for monitoring the status of its order and finally, GDF provides a holistic approach to procurement including value-added service of technical assistance to areas such as; product selection, drug forecasting, quality assurance and registration. In Kenya, GDF has been supplying TB drugs for the country the past 3 years.

(iii) Bed nets. Recent studies in *Lancet* clearly show the link of malaria and HIV. The project will provide free long-lasting bed nets for PLWA. Currently there are three manufacturers in the market that provide ITN. However, the number of manufacturers coming onto the market is growing and it is difficult to keep pace with the new developments in this product category. Given the fact that the ITN are pesticide treated, it is important to have an understanding of the integrated approach to vector control management and also the rules and regulations that govern the importation of pesticides.

UNICEF brings both the programmatic experience and country presence. UNICEF is also the world's biggest procurer of ITN and therefore has the leverage with the manufacturers in terms of pricing and availability. The latter is especially important as the demand for ITN far exceeds the supply which often results in long waiting time. UNICEF also has a track record of procuring ITN for Kenya. In 2006, the agency sourced for the Ministry of Health 3.4 million nets at the total cost of US$16.5 million.

(c) **Procurement of Consulting Services: (US$9.2 million)**

14. **Selection of Consultants:** Consulting services, including a Financial Management Agent, an independent procurement monitoring agency, an independent performance auditor, external auditors, and an independent compliance verification agent costing US$4.2 million will be procured.

15. The World Bank's standard Request for Proposals (RfP) documents will be used with appropriate forms of contract (Lump-sum, Time-based, and simplified contracts for short-term assignment and individual consultants). Proposal evaluation reports shall be prepared using the World Bank's Sample Form of Evaluation Report for the selection of consultants. The methods that will be used for selection of consultants include:

16. **Quality and Cost Based Selection** (QCBS): QCBS will be used under such circumstances when: (a) the type of service required is common and not too complex; (b) the scope of work of the assignment can be precisely defined and the TOR are clear and well specified; and (c) the staff time, the assignment duration, and other inputs and cost required of the consultants can be estimated with precision. Contracts for which short lists may consist exclusively of local consultants will be determined in the procurement plan on the basis of its nature and an availability of firms. NGOs and CBOs may be hired to provide services related to the implementation of community micro-projects in the project districts in accordance with paragraph 3.16 of the Consultants' Guidelines, and on the basis of the eligibility criteria and proposal evaluation criteria set forth in the Project Operations Manual.

17. **Selection Based on Consultants' Qualifications** (CQ): CQ may be used for assignments costing equal to or less than US$100,000 equivalent and for which the full-fledged preparing and evaluating proposals would be not justified.

18. **Quality Based Selection** (QBS): QBS may be used for assignments such as: (a) complex sector and multidisciplinary studies; (b) important and far-reaching strategy studies; (c) assignment in which consultant organizations with different cost structures are required to compete; (d) when the scope of work, the duration of the assignment; and (e) the TOR require a degree flexibility.

19. **Fixed Budget Selection** (FBS): FBS would be appropriate when the budget cannot be exceeded; and the objective and the TOR are very precisely defined.

20. **Least Cost Selection** (LCS): LCS may be used for assignments of a standard and routine nature such as financial audits and other repetitive services that are estimated to cost equal to or less than US$100,000.

21. **Single-Source Selection** will be applied only in exceptional cases when selection of consultants through competitive process is not practicable and upon Bank's concurrence of the decision on the Single-Source Selection method.

22. **Selection of Individual Consultants**: Consultants for services meeting the requirement of Section V of the Consultants' Guidelines will be selected under the provisions for the *Selection of Individual Consultants (IC)* method. Individual Consultants will be selected through comparison of

job description requirements against the qualifications of those expressing interest in the assignment or those approached directly.

23. Consultancy services estimated to cost US$100,000 or more per contract and direct contracting selection of consultants (firms) for assignments estimated to cost US$50,000 or more will be subject to prior review by the Bank.

24. Contracts for which short lists may consist exclusively of local consultants will be determined in the procurement plan on the basis of its nature and an availability of firms.

(d) **Operating Costs: (US$9.7 million) and Training (US$1.1 million)**

25. Other sundry Project implementation related expenses that are eligible for funding under the project will be procured using NACC's administrative procedures in accordance with the Public Procurement & Disposal Act (2005). Incremental operating costs include expenditures for maintaining equipment and vehicles, fuel, office supplies, utilities, consumables, travel per diems and allowances, travel and accommodation (excluding salaries of officials).

(e) **Selection of NGOs, FBOs, CSOs and private sector: (US$64.9 million)**

26. NACC, DTCs and CACCs will contract and provide grants to non-public institutions on the basis of the latters' eligibility to apply for implementation of sub-projects in line with procedures and evaluation criteria of proposals laid down in the Project Operations Manual.

(f) **Procurement by non-governmental organizations:**

27. Procurement under Grants to non-governmental organizations (including civil society organisations, community-based organisations, faith-based organisations and private sector entities) will be carried out with well-established private sector or commercial practices that have been determined by the Bank to be acceptable to it. These principles are covered in the Operations Manual already developed and agreed upon.

E. <u>Bank's Review Thresholds</u>

28. **Works and Goods** valued at the equivalent of equal to US$150,000 per contract or more will be subject to prior review of the Bank. Consultancy contracts for consulting firms costing the equivalent of US$100,000 or more, and for individual consultants contracts estimated to cost the equivalent of US$50,000 or more, will subject to the Bank's prior review. All contracts procured through Direct Contracting, regardless of their value, are subject to prior review by the Bank.

29. **All other contracts** will be subject to post-review and procurement audit by the Bank. All implementing agencies will maintain accurate records of all procurement activities and documents related to the Program. The procurement files will be maintained for review by the Bank's supervision missions and independent auditing, including consolidating procurement activities into Quarterly and Annual Progress Reports.

F. Procurement Plan

30. The Borrower, at appraisal, developed a procurement plan for project implementation which provides the basis for the procurement methods. This plan has been agreed between the Borrower and the Project Team on March 7, 2007and is available at the NACC. It will also be available in the project's database and in the Bank's external website. The Procurement Plan will be updated in agreement with the Project Team annually or as required to reflect the actual project implementation needs and improvements in institutional capacity.

G. Frequency of Procurement Supervision

31. In addition to the prior review supervision to be carried out from Bank offices, supervision missions will visit the field to carry out post review of procurement actions at least once every six months.

H. Details of the Procurement Arrangements Involving International Competitive Bidding

(a) Goods, Works, and Non Consulting Services

32. The following is a list of contract packages to be procured under various non-ICB and direct contracting procedures:

1	2	3	4	5	6	7	8	9
Ref. No.	**Contract (Description)**	**Estimated Cost (US$)**	**Procurement Method**	**P-Q**	**Domestic Preference (yes/no)**	**Review by Bank (Prior / Post)**	**Expected Bid-Opening Date**	**Comments**
1.	Printing of Policy Guidelines **(under multiple contracts)**	165,000	**Various methods**	**N/A**	**No**	**Post**		
2.	Printing IEC Materials **(under multiple contracts)**	640,000	**Various methods**	**N/A**	**No**	**Post**		

(b) *Consulting Services*

33. The following is a list of consulting assignments with short-list of international firms.

1	2	3	4	5	6	7
Ref. No.	**Description of Assignment**	**Estimated Cost (US$)**	**Selection Method**	**Review by Bank (Prior / Post)**	**Expected Proposals Submission Date**	**Comments**
1.	FMA	3,650,000	QCBS	Prior	6/6/07	
2.	Independent Compliance	1,000,000	QCBS	Prior	6/6/07	

	Verification Agent					
3.	Procurement Monitoring Agent	250,000	QCBS	Prior	6/6/07	
4.	Performance Auditor	1,250,000	QCBS	Prior	9/6/07	
5.	External Auditor	1,000,000	QCBS	Prior	9/6/07	

Annex 11: Compliance with Repeater Project Requirements

KENYA: Total War Against HIV and AIDS Project

Compliance with basic repeater requirements[22]

1. Prior to the governance review conducted in June 2005, the on-going KHADREP was rated as satisfactory. Challenges noted in implementation progress were largely resolved in 2004, with the NACC's fulfillment of a jointly developed action plan to address indicated bottlenecks. The impact of the project has exceeded envisioned targets in a number of critical areas, and there are no unresolved environmental, social, or safeguards problems. However, in recent months, with the detailed focus and exploration of governance issues, the depth of governance and corruption challenges have become increasingly evident.

2. The TOWA Project would be continuing in its role as "financier of last resort," and consequently would only be financing critical implementation gaps that other agencies are unable and/or unwilling to support. The proposed operation would be a critical follow-on contribution towards long-term national development goals, which would not be feasible to achieve merely through supplemental funding.

Compliance with MAP repeater requirements[23]

3. During the Project Concept Note (PCN) review on February 8, 2005, Bank management concurred that the proposed project design follows requires established for "repeaters" under the Multi-Country HIV and AIDS Program (MAP) for Africa. The National HIV and AIDS strategy has been finalized through a broad, national, participatory process. The methodology for the development of the framework has systematically included a wide range of stakeholders, including those at the community level. The new strategy combines a five-year "vision" document and an annual results framework. The signing and official launch of this strategy constitutes a core project effectiveness condition.

4. The NACC exists as a coordinating and facilitating (rather than an implementing) body, and there will be an FMA tasked with grants-making for the MAP funds. Under the TOWA Project, the FMA role will be extended to handle all public sector disbursements, in addition to continuation of civil society and private sector grants. An independent NACC committee supports various "harmonization" activities, such as the current development of a database of civil society organizations and their financing, the development of a technical assistance plan, and attention to harmonized procedures and forms. There has been substantial recent progress on the development of a national M&E system, with a national M&E framework drafted and launched and a detailed implementation manual completed. Disbursements under KHADREP are on track and accelerating, with overall disbursements already higher than in any other MAP projects in the Africa Region.

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[22] OPCS Guidelines.

[23] MAP2 Repeater Requirements, AIDS Campaign Team for Africa (ACTAfrica), 2004.

Annex 12: Project Preparation and Supervision

KENYA: Total War Against HIV and AIDS Project

	Planned	Actual
PCN review	February 8, 2005	February 8, 2005
Initial PID to PIC	February 11, 2005	February 11, 2005
Initial ISDS to PIC	March 17, 2005	March 17, 2005
Appraisal	August 2-15, 2005	October 17-28, 2005
Negotiations	April 11-12, 2007	April 11-12, 2007
Board approval	June 5, 2007	
Planned date of effectiveness	October 1, 2007	
Planned date of mid-term review	September 15, 2009	
Planned closing date	December 31, 2011	

Key institution responsible for preparation of the Project:
National AIDS Control Council, Kenya

UNAIDS staff collaborating with the World Bank to jointly prepare this Project included:

Name	*Title*	*Unit*
Kristan Schoultz	Country Coordinator	UNAIDS, Kenya
Annalisa Trama	Program Officer	UNAIDS, Kenya
Jane Kalweo	Program Officer	UNAIDS, Kenya

Bank staff and consultants who worked on the project included:

Name	*Title*	*Unit*
Michael Mills	Lead Economist/Task Team Leader	AFTH1
Sheila Dutta	Senior Health Specialist/Co-Task Team Leader	AFTH1
Albertus Voetberg	Lead Health Specialist	AFTHV
Wacuka Ikua	Senior Operations Officer	AFTH1
Adam Lagerstedt	Senior Health Specialist	AFTH1
Son Nguyen	Senior Health Specialist	AFTH1
Joseph Valadez	Senior Monitoring & Evaluation Specialist	HDNGA
Donald Whitson	Consultant (M&E)	HDNGA
David Wilson	Senior Monitoring & Evaluation Specialist	HDNGA
Moses Wasike	Financial Management Specialist	AFTFM
Dahir Warsame	Senior Procurement Specialist	AFTPC
Nightingale Rukuba-Ngaiza	Senior Counsel	LEGAF
Christine Onyango	Consultant	LEGAF
Stella Manda	Coordinator, AIDS & Education	AFTH1
Elizabeth Ashbourne	Senior Operations Officer	AFTHV
Randa El-Rashidi	Operations Officer	HDNSP
Jean Jacques de St. Antoine	Lead Specialist	AFTH1
Donald Bundy	Lead Specialist	HDNED
Shiyan Chao	Senior Economist	ECSHD
Jacomina de Regt	Lead Specialist	AFTSD
Alison Rosenberg	Lead Partnership Specialist	AFRVP
Susan Stout	Manager	OPCRX

Eva Jarawan	Lead Specialist	AFTH3
Paul Francis	Senior Social Scientist	AFTS2
Nyambura Githagui	Senior Social Development Specialist	AFTS2
Christopher Walker	Lead Specialist	AFTH1
Didem Ayvalikli	Operations Officer	AFTHV
Joy Mukaire	Consultant (M&E)	HDNGA
Richard Matikanya	Consultant (M&E)	HDNGA
William Wiseman	Economist	AFTH3
Debbie Peterson	Program Assistant	AFTH1
Victoria Fofanah	Program Assistant	AFTH1
Monica Okwirry	Program Assistant	AFCE2

Bank funds expended to date on Project preparation:

1. Bank resources: US$300,000
2. Trust funds: No direct TF expenditure (although financial and technical support from the Global HIV/AIDS Monitoring and Evaluation Team (GAMET) is gratefully acknowledged).
3. Total: US$300,000

Estimated Approval and Supervision costs:

1. Remaining costs to approval: US$0
2. Estimated annual supervision cost: US$100,000 (detailed below)

Supervision Strategy for TOWA

1. The overall TOWA supervision strategy will adopt the concept of a rolling intensive Country Program/Portfolio Review (CPR). This approach is intended to establish a "living" process whereby responsible government units (such as the NACC), oversight ministries (Office of the President, in this case) and the World Bank maintain a monthly forum wherein issues are discussed, actions are agreed, and follow-up takes place on a continual basis. The envisioned outcome of this approach would include: (a) the concerns of Kenyan authorities and development partners to accelerate project strengthened implementation and more timely financial disbursements, with respect to HIV and AIDS prevention and mitigation; (b) the performance contracts of the ministries/departments concerned; (c) strengthened supervision, including timely attention to fraud and other relevant risks; and ultimately (d) achievement or improvement of demonstrable development results within an agreed timeframe.

2. The supervision and implementation support for the proposed TOWA project will be conducted from the World Bank offices in Nairobi, London, and Washington, D.C. Missions will continue to be conducted jointly with UNAIDS. Additionally, other key development partners will be invited to participate in missions to ensure the complementarity of interventions, enhance existing strong partnerships, and facilitate inter-linkages of programs (as appropriate). Other Bank staff working on Kenya would also provide implementation support, in particular staff working on education, community-driven development, agriculture, and transport projects.

3. The Project will require intensive supervision given its multi-level and multi-sectoral implementation arrangements, innovative approach. The continuing challenge posed by

governance with additionally increase supervision demands. It is envisioned that two major implementation support missions will take place annually (typically in November and June). The November mission will be planned to overlap with the JAPR process. Technical experts, particularly with respect to M&E, will schedule interim missions to Nairobi to continue on-going intensive support. Given the very weak progress in this area over the five years of KHADREP implementation, very close oversight on M&E progress under TOWA will be required.

4. Multiple skills for supervision will be needed on a regular basis, while others will be required on an *ad hoc* basis. A core supervision team will comprise staff addressing the major interventions financed by the project. The core team will include the following: (i) TTL; (ii) health specialists; (iii) operations specialist; (iv) M&E specialist; (v) community response specialist; (vi) financial management specialist; and (vii) procurement specialist. Non-core members, or technical experts that will be required on an *ad hoc* basis, will likely include: human resources management specialist, IEC/BCC specialist, social protection specialist (particularly with respect to OVC issues), school health specialist, in addition to sector specialists as needed.

Supervision Plan (per fiscal year)

	Role	*Staff Weeks*
Core Team:		
	Task Team Leader (London)	4
	Health Specialist (Nairobi)	6
	Operations Specialist (Nairobi)	6
	Health Specialist (HQ)	4
	M&E Specialist(s)	8
	Community Development Specialist (Nairobi)	2
	Financial Management Specialist (Nairobi)	3
	Procurement Specialist (Nairobi)	3
Other Technical Experts:		
	Human Resources Management Specialist	2
	IEC/BCC Specialist	2
	Social Protection Specialist	2
	Total Staff Weeks:	*42*

Annex 13: Documents in the Project File

KENYA: Total War Against HIV and AIDS Project

World Bank Documents

1. Project Concept Note
2. Minutes from Project Concept Note Review Meeting
3. Minutes from Project Informal Review
4. Aide-Memoire from Identification Mission (December 2004)
5. Aide Memoire from Preparation Mission, (March 2005)
6. Aide Memoire from Pre-Appraisal Mission, (August 2005)
7. Kenya Country Assistance Strategy
8. Kenya Human Development Brief (September 2004)
9. Waste Management Plan
10. Fiduciary Risk Assessment for Government of Kenya Health projects
11. Decision Meeting Minutes, October 13, 2005
12. Country Team Project Informal Review Minutes, February 20, 2007
13. Financial Management Assessment Report (October 25, 2005)
14. Aide-Memoire from Appraisal Mission (November 2005)

Government Policy Documents

15. Kenya National HIV and AIDS Strategic Plan, 2005/06-2009/10
16. Investment Program for Economic Recovery Strategy for Wealth and Employment Creation 2003-2007
17. Ministerial Public Expenditure Review (February 2006)
18. NACC Operations Manual (2007)

Annex 14: Statement of Loans and Credits

KENYA: Total War Against HIV and AIDS Project

Active Projects		Last PSR Supervision Rating		Original Amount in US$ Millions						Difference Between Expected and Actual Disbursements [a/]	
Project ID	Project Name	Development Objectives	Implementation Progress	Fiscal Year	IBRD	IDA	Grant	Cancel.	Undisb.	Orig.	Frm Rev'd
P083250	KE-Financial & Legal Sec TA (FY05)	MU	U	2005		18			16.33389	4.780996	2.881652
P082396	KE-Agricultural Productivity Prj (FY04)	MS	MS	2004		40			15.68863	11.02158	
P078058	KE-Arid Lands 2 SIL (FY03)	S	S	2003		120			81.6221	-6.852067	
P066486	KE-Decentr Reprod Hlth & HIV/AIDS (FY01)	U	U	2001		50			28.1327	21.92565	23.88387
P078209	KE-Dev Learning Centre LIL (FY04)	S	MS	2004		2.7			1.612224	0.6417234	
P087479	KE-Edu Sec Sup Project (FY07)	#	#	2007		80			81.41742	6.6666667	
P083131	KE-Energy Sec Recovery Prj (FY05)	S	S	2005		80			76.96264	41.643704	0.25097
P082378	KE-Free Primary Edu Supt (FY03)	S	S	2003		50			0.185476	-2.281722	
P072981	KE-GEF W KE Int Ecosys Mgmt SIL (FY05)	MS	S	2005			4.1		3.074236	0.1542358	
P090567	KE-Inst Reform & CB TA (FY06)	S	S	2006		25			21.96291	8.3843752	
P095050	KE-NRM SIL (FY07)	#	#	2007		68.5			69.40618		
P049618	KE-Nairobi Wtr & Swg Inst Rst SIL (FY04)	S	MS	2004		15			7.00706	6.1586643	
P085414	KE-Natl STATCAP Dev	#	#	2007		20.5			21.28635		
P082615	KE-Northern Corridor Trnsprt SIL (FY04)	MS	MS	2004		207			187.4565	92.013439	
P074106	KE-W Kenya CDD/Flood Mitigation (FY07)	#	#	2007		86			87.21037		
P085007	MSME Competitiveness	S	MS	2005		22			19.68011	10.611374	
Overall Result						884.7	4.1		719.0387	194.86862	27.0165

KENYA

Statement of IFC's

Held and Disbursed Portfolio

As of 07/31/2006

(In US Dollars Millions)

		Held				Disbursed			
FY Approval	Company	Loan	Equity	Quasi	Partic	Loan	Equity	Quasi	Partic
2000	AEF AAA Growers	0.18	0	0	0	0.18	0	0	0
1997	AEF Ceres	0.93	0	0	0	0.93	0	0	0
1997	AEF Deras Ltd.	1	0	0	0	1	0	0	0
2000	AEF Lesiolo	2.5	0	0	0	2.5	0	0	0
1998	AEF Locland	0.08	0	0	0	0.08	0	0	0
2000	AEF Magana	0.6	0	0	0	0.6	0	0	0
1997	AEF Redhill Flrs	0.28	0	0	0	0.28	0	0	0
2005	BARCLAYS BK KEN	10	0	0	0	0	0	0	0
1982	Diamond Trust	0	0.8	0	0	0	0.8	0	0
	GTFP Barclays Ke	14.31	0	0	0	14.31	0	0	0
	GTFP I & M BANK	2.71	0	0	0	2.71	0	0	0
2001	Gapco Kenya	12.78	0	0	0	7.78	0	0	0
2005	IM Bank	3	0	0	0	3	0	0	0
	IPS(K)-Allpack	0	0.36	0	0	0	0.36	0	0
	IPS(K)-Frigoken	0	0.06	0	0	0	0.06	0	0
	IPS(K)-Prem Food	0	0.11	0	0	0	0.11	0	0
1994	Intl Hotels-Ken	0.86	0	0	0	0.86	0	0	0
1996	K-Rep Bank	0	1	0	0	0	1	0	0
1999	K-Rep Bank	0	0.43	0	0	0	0.12	0	0
2006	Kingdom Hotel	20	0	0	0	0	0	0	0
2005	Kongoni	1.96	0	0	0	1.96	0	0	0
2000	Mabati	2.5	0	4.5	0	2.5	0	4.5	0
2004	Magadi Soda Co.	22	0	4	0	18.9	0	4	0
2005	Magadi Soda Co.	2.5	0	0	0	0.57	0	0	0
1994	Panafrican	10.28	0	0	0	10.28	0	0	0
1996	Panafrican	15.55	0	0	0	15.55	0	0	0
2006	Panari Center	6.3	0	1	0	0	0	0	0
1972	TPS EA Ltd.	0	0.04	2.2	0	0	0.04	2.2	0
2000	Tsavo Power	9.91	0.83	0.85	13.91	9.91	0.83	0.85	13.91
	Total Portfolio:	140.23	3.63	12.55	13.91	93.9	3.32	11.55	13.91

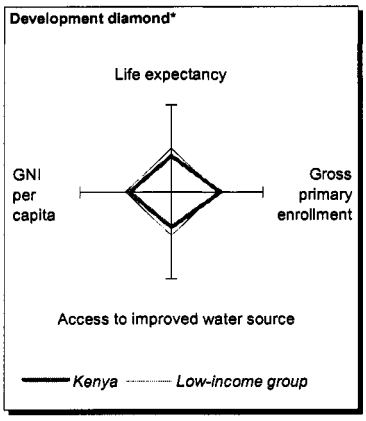
Approvals Pending Commitment

		Loan	Equity	Quasi	Partic
2006	Greenlands	2.07	0	0	0
2005	Barclays-Kenya	10	0	0	0
2006	Adv Bio-Extracts	6	0	3	0
Total Pending Commitment:		18.07	0	3	0

Annex 15: Country At A Glance

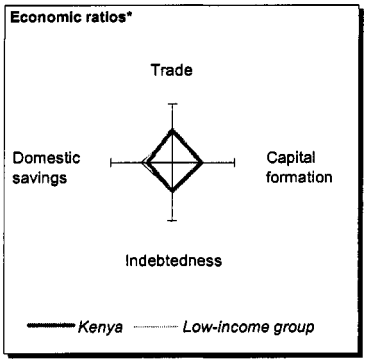
KENYA: Total War Against HIV and AIDS Project

POVERTY and SOCIAL	Kenya	Sub-Saharan Africa	Low-Income
2005			
Population, mid-year *(millions)*	34.3	741	2,353
GNI per capita *(Atlas method, US$)*	530	745	580
GNI *(Atlas method, US$ billions)*	18.2	552	1,364
Average annual growth, 1999-05			
Population *(%)*	2.2	2.3	1.9
Labor force *(%)*	2.6	2.3	2.3
Most recent estimate (latest year available, 1999-05)			
Poverty *(% of population below national poverty line)*	..	..	..
Urban population *(% of total population)*	21	35	30
Life expectancy at birth *(years)*	48	46	59
Infant mortality *(per 1,000 live births)*	79	100	80
Child malnutrition *(% of children under 5)*	20	29	39
Access to an improved water source *(% of population)*	61	56	75
Literacy *(% of population age 15+)*	74	..	62
Gross primary enrollment *(% of school-age population)*	111	93	104
Male	114	99	110
Female	108	87	99



KEY ECONOMIC RATIOS and LONG-TERM TRENDS

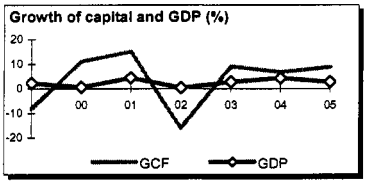
	1985	1995	2004	2005
GDP *(US$ billions)*	6.1	..	16.1	18.0
Gross capital formation/GDP	25.3	..	18.3	25.4
Exports of goods and services/GDP	25.3	..	26.2	24.7
Gross domestic savings/GDP	20.5	..	12.6	19.2
Gross national savings/GDP	18.4	..	16.9	23.6
Current account balance/GDP	-6.9	..	-1.4	-6.0
Interest payments/GDP	2.7	..	0.4	..
Total debt/GDP	68.1	..	42.4	..
Total debt service/exports	39.2	30.4	8.5	..
Present value of debt/GDP	..	..	31.3	..
Present value of debt/exports	..	..	118.0	..



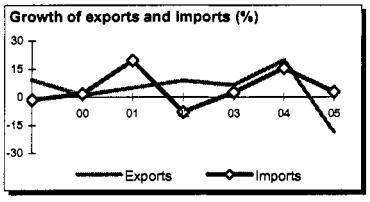
	1985-95	1995-05	2004	2005	2005-09
(average annual growth)					
GDP	3.2	2.4	4.3	2.8	4.8
GDP per capita	-0.1	0.1	2.0	0.4	3.9
Exports of goods and services	7.4	3.1	19.8	-18.5	13.6

STRUCTURE of the ECONOMY

	1985	1995	2004	2005
(% of GDP)				
Agriculture	32.6	..	26.8	27.4
Industry	19.1	..	17.2	17.8
Manufacturing	11.7	..	11.1	12.4
Services	48.3	..	56.1	54.9
Household final consumption expenditure	62.1	..	70.4	69.8
General gov't final consumption expenditure	17.5	..	17.0	11.0
Imports of goods and services	30.1	..	31.8	30.9



	1985-95	1995-05	2004	2005
(average annual growth)				
Agriculture	1.6	2.8	1.4	0.7
Industry	3.3	1.3	3.4	1.4
Manufacturing	4.0	0.8	4.1	1.4
Services	4.2	2.6	5.3	1.6
Household final consumption expenditure	3.7	2.8	4.2	9.7
General gov't final consumption expenditure	7.0	0.7	-0.6	3.0
Gross capital formation	0.1	5.2	6.8	8.8
Imports of goods and services	8.9	4.5	15.3	2.8



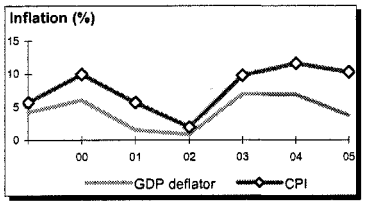
Note: 2005 data are preliminary estimates.

This table was produced from the Development Economics LDB database.

* The diamonds show four key indicators in the country (in bold) compared with its income-group average. If data are missing, the diamond will be incomplete.

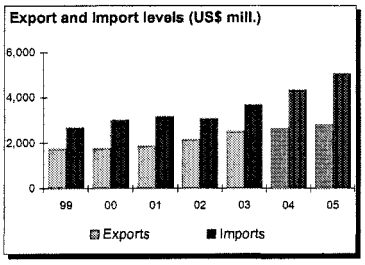
PRICES and GOVERNMENT FINANCE

	1985	1995	2004	2005
Domestic prices				
(% change)				
Consumer prices	13.0	1.6	11.6	10.3
Implicit GDP deflator	8.3	..	6.9	3.7
Government finance				
(% of GDP, includes current grants)				
Current revenue	24.2	..	21.1	21.4
Current budget balance	0.8	..	2.2	1.4
Overall surplus/deficit	-4.0	..	2.1	-2.9



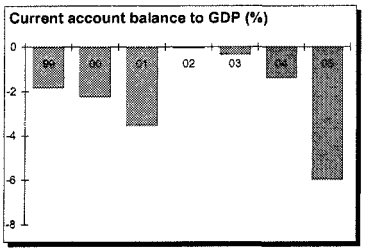
TRADE

	1985	1995	2004	2005
(US$ millions)				
Total exports (fob)	940	1,924	2,641	2,820
Petroleum	118	95	3	3
Coffee	281	282	101	111
Manufactures	108	467	599	619
Total imports (cif)	1,486	2,666	4,358	5,065
Food	112	96	185	185
Fuel and energy	461	401	955	901
Capital goods	340	995	1,183	1,601
Export price index *(2000=100)*	104	96	100	101
Import price index *(2000=100)*	109	93	111	110
Terms of trade *(2000=100)*	96	103	90	92



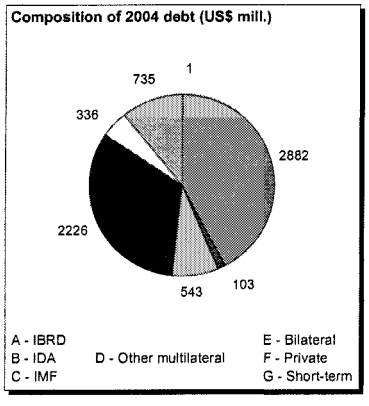
BALANCE of PAYMENTS

	1985	1995	2004	2005
(US$ millions)				
Exports of goods and services	1,552	2,948	4,207	4,843
Imports of goods and services	1,850	3,542	5,114	6,572
Resource balance	-297	-594	-907	-1,729
Net income	-209	-320	-130	-110
Net current transfers	81	404	817	767
Current account balance	-425	-509	-220	-1,073
Financing items (net)	518	381	473	1,200
Changes in net reserves	-92	129	-253	-127
Memo:				
Reserves including gold *(US$ millions)*	417	473	1,563	2,043
Conversion rate *(DEC, local/US$)*	16.4	51.4	79.2	75.6



EXTERNAL DEBT and RESOURCE FLOWS

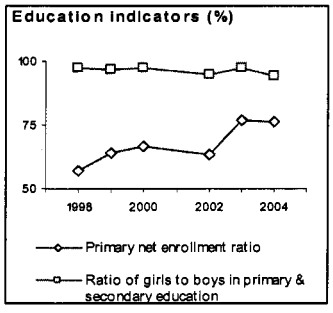
	1985	1995	2004	2005
(US$ millions)				
Total debt outstanding and disbursed	4,181	7,309	6,826	..
IBRD	751	435	1	0
IDA	409	1,977	2,882	2,663
Total debt service	621	904	364	..
IBRD	85	144	5	1
IDA	5	24	73	77
Composition of net resource flows				
Official grants	195	242	373	..
Official creditors	135	274	6	..
Private creditors	8	-163	-111	..
Foreign direct investment (net inflows)	29	32	46	..
Portfolio equity (net inflows)	0	6	3	..
World Bank program				
Commitments	6	65	354	..
Disbursements	113	159	79	34
Principal repayments	35	110	57	55
Net flows	77	49	22	-21
Interest payments	55	58	22	23
Net transfers	22	-8	0	-44

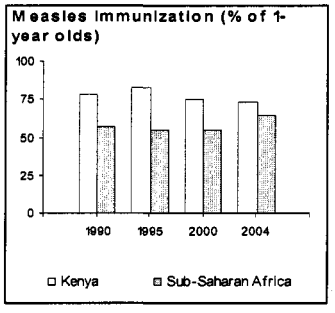


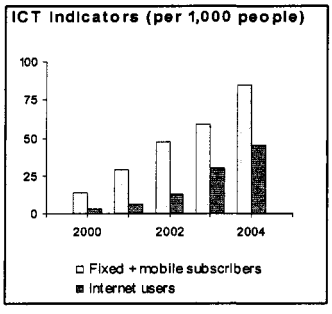
Note: This table was produced from the Development Economics LDB database. 8/13/06

With selected targets to achieve between 1990 and 2015
(estimate closest to date shown, +/- 2 years)

	Kenya			
Goal 1: halve the rates for $1 a day poverty and malnutrition	**1990**	**1995**	**2000**	**2004**
Poverty headcount ratio at $1a day (PPP, % of population)	33.5	*22.8*	..	..
Poverty headcount ratio at national poverty line (% of population)	..	*52.0*	..	..
Share of income or consumption to the poorest quintile (%)	..	*6.0*	..	..
Prevalence of malnutrition (% of children under 5)	..	*23*	21	*20*
Goal 2: ensure that children are able to complete primary schooling				
Primary school enrollment (net, %)	..	..	67	76
Primary completion rate (% of relevant age group)	..	..	..	92
Secondary school enrollment (gross, %)	*28*	..	39	48
Youth literacy rate (% of people ages 15-24)	..	..	..	80
Goal 3: eliminate gender disparity in education and empower women				
Ratio of girls to boys in primary and secondary education (%)	*94*	..	98	94
Women employed in the nonagricultural sector (% of nonagricultural employment)	21	27	34	*39*
Proportion of seats held by women in national parliament (%)	1	*3*	4	*7*
Goal 4: reduce under-5 mortality by two-thirds				
Under-5 mortality rate (per 1,000)	97	111	117	120
Infant mortality rate (per 1,000 live births)	64	72	77	79
Measles immunization (proportion of one-year olds immunized, %)	78	83	75	73
Goal 5: reduce maternal mortality by three-fourths				
Maternal mortality ratio (modeled estimate, per 100,000 live births)	..	..	1,000	..
Births attended by skilled health staff (% of total)	50	45	*44*	*42*
Goal 6: halt and begin to reverse the spread of HIV/AIDS and other major diseases				
Prevalence of HIV (% of population ages 15-49)	..	..	..	*6.1*
Contraceptive prevalence (% of women ages 15-49)	*27*	*33*	*39*	*39*
Incidence of tuberculosis (per 100,000 people)	108	..	..	619
Tuberculosis cases detected under DOTS (%)	..	56	46	46
Goal 7: halve the proportion of people without sustainable access to basic needs				
Access to an improved water source (% of population)	45	..	*62*	..
Access to improved sanitation facilities (% of population)	42	..	*48*	..
Forest area (% of total land area)	6.5	..	6.3	*6.2*
Nationally protected areas (% of total land area)	..	..	..	8.0
CO2 emissions (metric tons per capita)	0.2	0.3	0.3	*0.2*
GDP per unit of energy use (constant 2000 PPP $ per kg of oil equivalent)	2.2	2.2	2.0	*2.1*
Goal 8: develop a global partnership for development				
Fixed line and mobile phone subscribers (per 1,000 people)	7	10	14	85
Internet users (per 1,000 people)	0	0	3	45
Personal computers (per 1,000 people)	0	1	5	13
Youth unemployment (% of total labor force ages 15-24)	..	..	..	..







Note: Figures in italics are for years other than those specified. .. indicates data are not available. Draft 17 - 8/9/06

Development Economics, Development Data Group (DECDG).

Annex 16: MAPS
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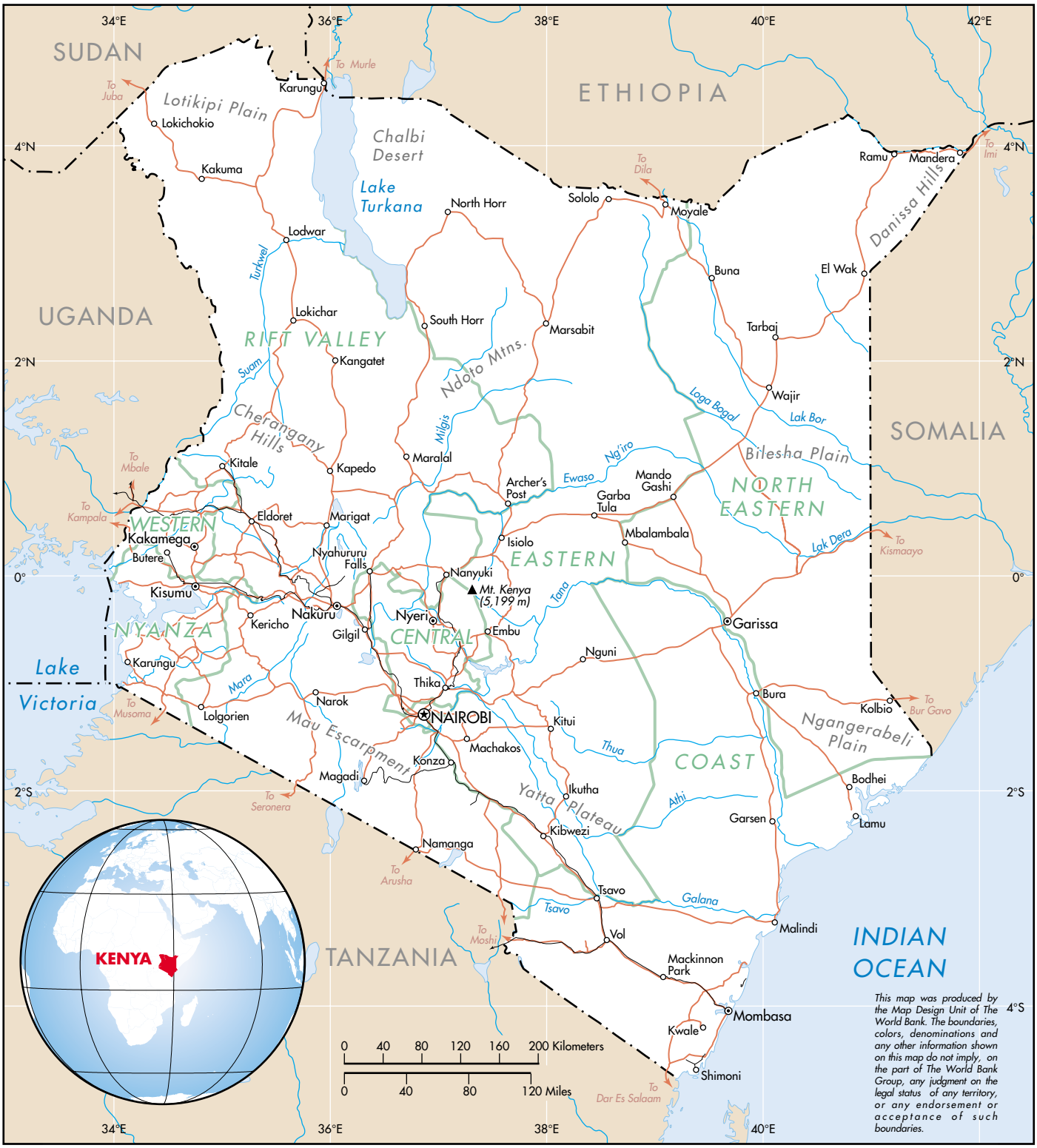

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