



ADAPTATION FUND

AFB/PPRC. 34/13
10 September 2024

Adaptation Fund Board
Project and Programme Review Committee
Thirty Fourth Meeting
Bonn, Germany, 8-9 October 2024

**CANCELLATION OF THE READINESS PACKAGE GRANT FOR THE
NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY (NEMA) OF
KENYA**

Background

1. Under the Adaptation Fund's readiness programme, eligible accredited implementing entities (IEs) wanting to support other countries that wish to access the Fund's resources through the Direct Access modality, can apply for readiness package grants (RPGs) as intermediaries on behalf of those countries.

2. The purpose of the RPGs is to provide enhanced support for accreditation by simultaneously employing a suite of tools to advance the delivery of climate finance through Direct Access. This includes enabling the recruitment of fiduciary, governance and other experts to support entities navigating the accreditation process to effectively address technical gaps and challenges, complete the process and obtain accreditation with the Fund. It is expected that this peer support, and particularly peer support delivered through South-South Cooperation, will effectively lead to obtaining accreditation with the Fund in the shortest possible time. Capacity-building support through South-South Cooperation could also help strengthen national capacity and sustainability.

3. At its thirty-sixth meeting the Adaptation Fund Board (the Board) had discussed the pilot phase of the RPGs and establishing the grant as a standing funding window under the Fund's readiness programme. Having considered the recommendation of the Project and Programme Review Committee, the Adaptation Fund Board (the Board) decided:

- a) To approve the Readiness Package Grant as a standing window and replacement to South-South Cooperation Grants under the Readiness Programme to provide support for the accreditation of a National Implementing Entity (NIE) of the Fund.

(...)

- f) To also request the secretariat to notify all accredited implementing entities of this decision by the Board on the Readiness Package Grant and South-South Cooperation Grants.

(Decision B.36/25)

4. At its thirty-sixth meeting, the Board had also discussed the possibility of allowing up to two NIEs to be accredited per country. Having considered the comments and recommendation of the Project and Programme Review Committee, the Board decided:

- a) To enable the accreditation of up to two National Implementing Entities (NIEs) per country for eligible developing-country Parties, and to request the secretariat to reflect that change in the Operational Policies and Guidelines (OPG) and to submit the revised OPG for consideration by the Board at its thirty-seventh meeting;
- b) To strongly encourage countries to make use of the direct access modality of the Adaptation Fund in order to enhance national capacity and country ownership, including, whenever possible, through the accreditation of NIEs and the submission of projects through the same.

(Decision B.36/42)

5. It should be noted that during the intersessional period between the thirty-seventh and thirty-eighth meetings of the Board, and subsequent to decision B.36/42 by the Board had, through decision B.37-38/14 decided to make the RPGs available per NIE.

6. At its fortieth meeting, the Board had discussed including more IEs in the role of intermediary for the delivery of support for the accreditation of NIEs via RPGs. Having considered the comments and recommendation of the Project and Programme Review Committee, the Board decided:

- a) To extend the role of intermediary in the delivery of support for the accreditation of an NIE via the readiness package grant to all accredited implementing entities of the Fund;
- b) To require that all accredited implementing entities of the Fund that wish to deliver support for accreditation of a national implementing entity via the readiness package grant meet the following eligibility requirements:
 - i) Have an “active accreditation” status with the Adaptation Fund;
 - ii) Have experience advising or organizing relevant accreditation or capacity building support for institutions, organizations or other entities in developing countries at the national, subnational or local level to receive climate finance for adaptation projects and programmes;
 - iii) Have experience implementing an Adaptation Fund project or programme and have submitted at least one project performance report, thereby demonstrating its commitment to adhering to the Fund’s fiduciary standards and operational policies and guidelines;
- c) To request the Adaptation Fund Board secretariat to update the website and notify all accredited implementing entities of the above decision by the Board.

(Decision B.40/60)

7. The secretariat launched a call for project proposals intersessionally between the forty-first and forty-second meetings of the Board and accredited national implementing entities (NIEs) were given the opportunity to submit applications for technical assistance grants whilst all accredited IEs were given the opportunity to submit applications for readiness package grants on behalf of eligible¹ countries.

¹ All developing country Parties to the Kyoto Protocol and Paris Agreement under the United Nations Framework Convention on Climate Change (UNFCCC) that wish to have an NIE accredited with the Fund are eligible to receive the readiness package grant, including those that had previously accessed the SSC grant. The grant is available as a once off grant per NIE.

8. The Board received an RPG proposal from the National Environment Management Authority (NEMA) of Kenya on behalf of the government of Kenya, for the accreditation of a second NIE in Kenya.

9. Following the technical review of the grant proposal for accreditation support through the readiness package carried out by the secretariat and the Project and Programme Review Committee (PPRC), and having considered the recommendation of the PPRC, the Adaptation Fund Board, during the intersessional period between its forty-first and forty-second meetings decided to:

- a) Approve the proposal for the readiness package grant of US\$ 149,342.52 submitted by the National Environment Management Authority (NEMA) on behalf of the government of Kenya;
- b) Approve the funding of US\$ 149,342.52 for implementation of the readiness package grant for the accreditation of a second national implementing entity in Kenya as requested by NEMA; and
- c) Request the secretariat to draft an agreement with NEMA as the national implementing entity acting as intermediary for the requested support for accreditation.

(Decision B.41-42/6)

5. As mandated by decision B.26-27/19 and decision B.26-27/20 an agreement was prepared for signature between the Board and NEMA. According to the Operational Policies and Guidelines of the Fund², notification of the decision by the Board to approve the RPG project proposal was sent to NEMA on 22 January 2024. It should be noted that NEMA's accreditation was due to expire on 30 May 2024.

6. On 8 April NEMA had informed the secretariat that it was facing delays in signing the Adaptation Fund legal agreement due to their internal approval processes.

7. On 30 May 2024 the secretariat had not yet received a signed agreement from NEMA. On 10 June the secretariat held a meeting with NEMA, representatives from Kenya's National Treasury, and from the office of the designated Authority (DA) in which NEMA was informed that according to paragraph 58 of the Fund's Operational Policies and Guidelines, failure by an implementing entity to sign the agreement within four months from the date of notification of the approval of the project proposal would result in the funds being cancelled.

8. On 10 June, the secretariat held a meeting with NEMA in which it informed NEMA that the Board had at its thirty-fourth meeting, through decision B.34/3, approved the updated reaccreditation process for IEs including the categories of accreditation status and the subsequent consequences to IEs of the accreditation status as described in document AFB/B.34/5. Therefore, since NEMA's accreditation had expired on 30 May 2024, the NIE was not eligible to receive new funding until it had successfully completed the reaccreditation process to obtain the status of

² Operational Policies and Guidelines (amended in March 2016), paragraph 48

“Accredited”. The table outlining the accreditation status and subsequent implications to the IE as per document AFB/B.34/5 are presented in Table 1 below:

Table 1: Implications of a status of an Implementing Entity

Category of accreditation/ Accreditation status	Eligible to submit a new funding proposal	Eligible to participate in AF activities as IE	Eligible to be included in AF communications
(1) “Accredited”	Yes	Yes	Yes
(2) “In Re-accreditation Process”	No	Yes	Yes
(3) “Not Accredited”	No	No	No

9. During the meeting on the 10th of June, the secretariat therefore informed NEMA that due to the failure of the NIE to sign the legal agreement within four months of receiving the notification of grant approval, and due to the NIE’s accreditation having expired on 30 May, the RPG would be cancelled.

10. Following the meeting, the secretariat had started preparation of the current document for consideration by the Board. However, on 18 July, the designated authority (DA) for Kenya had, via the NIE candidate seeking accreditation as the second NIE for Kenya, sent a letter seeking to clarify the challenges NEMA was facing to sign the legal agreement and receive funds directly from the Adaptation Fund Trustee. In the letter, the DA had requested an exemption to permit funds to be transferred from the Adaptation Fund Trustee to the central bank of Kenya. In their letter, the DA had explained that the request for exemption was due to the country’s requirements for fund transfers from international sources, which are governed by Kenya’s Public Finance Management Act (2012). The act requires all government entities including NEMA, to obtain a special waiver from the Cabinet Secretary at National Treasury to receive direct fund transfers from donors and development partners. As such the National Treasury would be expected:

- to be the signatory to the Adaptation Fund legal agreement instead of NEMA,
- to receive the readiness package grant transfer into a Consolidated Fund managed by Kenya’s Central Bank as stipulated in the regulations of the Public Finance Management Act.

11. It should be noted however, that the Adaptation Fund legal agreement requires the signatory of the agreement to be an authorized signatory from the accredited implementing entity (IE) and on the issue of funds transfer, for the IE to have an implementing entity grant account for direct funds transfer to the implementing entity.

12. Following the letter from the DA, the NIE candidate seeking accreditation as the second NIE for Kenya had indicated to the secretariat via email that it was actively seeking an alternative intermediary to support it to navigate the accreditation process of the Fund. The NIE candidate had expressed that upon cancellation of the grant, it would resubmit the RPG application via another intermediary.

Proposed course of action

13. The Operational Policies and Guidelines of the Fund in paragraph 58 state that:

If an implementing entity does not sign the standard legal agreement within four (4) months from the date of notification of the approval of the project/programme proposal, the funds committed for that project/programme will be cancelled and retained in the Trust Fund for new commitments.

14. Paragraph 9 of document AFB/B.34/5 approved by the Board through decision B.34/3, presents Table 1 above and states that:

the status of an implementing entity will determine the entity's eligibility to submit a new funding proposal, to participate in the Adaptation Fund activities as an implementing entity, and to be included in the Adaptation Fund communications. Regarding the eligibility to submit a new funding proposal, only the IE whose accreditation is valid and has not expired is eligible to access financial resources of the Fund.

10. Following amendment of the terms of reference of the Project and Programme Review Committee (PPRC) approved through decision B.26/42, the PPRC advises the Board in tasks related to project/ programme review, including reporting, and making recommendations to the Board on project and programme approval, cancellation, termination, suspension and on any other matter under its consideration, and for providing recommendations and advice to the Board thereon.

11. According to paragraph 58 of the Operational Policies and Guidelines, NEMA has not signed the standard legal agreement with the Board within four months from the date of notification of the approval of the proposal (22 January 2024).

12. In addition, according to paragraph 9 of document AFB/B.34/5 approved by the Board through decision B.34/3, NEMA is not eligible to access financial resources from the Fund because it does not currently have the status of "Accredited" with the Fund.

Recommendation

13. The PPRC may wish to recommend to the Board to consider to:

- (a) Cancel the grant submitted by the National Environment Management Authority (NEMA) to support accreditation of a second National Implementing Entity in Kenya, approved by decision B.41-42/6, in accordance with paragraph 58 of the Operational Policies and Guidelines and decision B.34/3 for Parties to access resources from the Adaptation Fund; and
- (b) Request the secretariat to notify NEMA and the Government of Kenya of the decision by the Board in paragraph (a) above.

ANNEX 1:

**LETTER FROM KENYA DESIGNATED AUTHORITY
CLARIFYING KENYA'S FUNDS FLOW MODALITY**



REPUBLIC OF KENYA

**MINISTRY OF ENVIRONMENT, CLIMATE CHANGE & FORESTRY
State Department for Environment & Climate Change
Office of the Principal Secretary**

Telegrams: "NATURE", Nairobi
Telephone: 254-20- 2730808/9
Fax: 254-20- 2734722
Email : psoffice@environment.go.ke

N.H.I. F BUILDING
RAGATI ROAD
P. O. BOX 30126-00100
NAIROBI

When replying, please quote:

Ref. No: MEF/EMC/1/5

16th July, 2024

Mr. Antonio Navarra

Board Chair

The Adaptation Fund Board

Mail stop: N 7-700

1818 H Street NW

Washington DC 20433, USA

Dear

Mr. Navarra,

RE: CLARIFICATION ON KENYA'S FUNDS FLOW MODALITY

As the National Designated Authority, I endorsed the National Environment Trust Fund to seek accreditation from the Adaptation Fund to be Kenya's second National Implementing Entity (NIE). I am cognizant of the Adaptation Fund's Operational Policies and Guidelines for Parties to Access Resources, which require funds to be disbursed directly into an NIE's Bank Account.

The mobilization of funds by any Kenyan Government Entity from international partners is guided by the Constitution of Kenya (Chapter 12), the Public Finance Management Act (2012), and the attendant 2015 Regulations (Section 71). The legal framework (see attached brief) outlines the funds flow modality, whereby Development Partners' funding is channeled through a Consolidated Fund at the Central Bank of Kenya and disbursed to a Project Account at the NIE or Executing Government Entity.



KENYA'S LEGAL FRAMEWORK FOR GRANTS FUNDS' FLOW

1. **Constitution of Kenya, 2010:** Chapter 12 of the Constitution of Kenya on Public Finance establishes the Consolidated Fund into which shall be paid ALL money raised or received by or on behalf of a national government. This is to enable the Government of Kenya to monitor and account for all external resources received or raised from her development partners.
2. **Public Financial Management Regulations, 2015**
 - Section 71 (1) states that upon approval by the Cabinet Secretary, an Accounting Officer may receive any grants, donations, sponsorship made in favour of the government entity,
 - Section 71 (2) All cash grants, donations, or sponsorships shall be deposited in the Consolidated Fund operated by the Central Bank of Kenya. The Consolidated Fund is a repository of all Funds received or raised by the government.
 - Section 76(1): For the purpose of disbursement of project funds from the donor to the Consolidated Fund, there shall be opened and maintained a project account for every project at Central Bank of Kenya, into which all funds shall be kept, and such an account shall be known by the name of the project for which it is opened and each project shall maintain only one bank account.
 - For the purposes of transparency and accountability in the utilization of project funds, the National Implementing Entity and/or Executing Entities shall open a dedicated Project Bank account through which funds will be disbursed from the Central Bank of Kenya.