

Millennium Challenge Corporation Malawi Threshold Program

**Final Malawi MCC TCP
(September 23, 2005 – September 30, 2008)**

Background

The Government of Malawi (GOM) and the Millennium Challenge Corporation (MCC) signed a Threshold Country Program (TCP) agreement on 23 September 2005, awarding \$20.9 million to Government of Malawi to prevent corruption and to improve fiscal management. The program comprised a multi-sectoral and cross-institutional approach, spanning a two to three year period and would enable Malawi strengthen the capacity of the legislative and judicial branches of government to address corruption, provide support for lead anti-corruption agencies, strengthen independent media coverage, and expand and intensify the work of civil society organizations (see Annex A). The program was championed by the GOM through the Ministry of Economic Planning and Development (MEPD).

The Malawi TCP program was a response to the new administration in Malawi elected in 2004 which clearly signaled its intention to fight corruption and improve fiscal management. Much as transparency and accountability institutions were put in place in the previous ten years of Malawi's democracy (1994-2004), their performance remained weak. Thus the Malawi TCP was consistent with the government agenda and rested on country ownership.

Design and Specific Outputs

The Malawi TCP addressed the problems of fiscal management and corruption through three spheres: prevention, oversight and enforcement/deterrence. Two contractors [Casals & Associates and the State University of New York] and two cooperating partners [Department of Treasury and Department of Justice] were engaged to address issues which to a large extent were complex and extensive across 16 major organizations and around 24 activities (see Appendix B). The Department of Treasury used five Advisors to run their activities with one Advisor being intermittent. The Department of Justice used two Resident Advisors; Casals & Associates and SUNY had each a Chief of Party, where the one for SUNY was local.

USAID/Malawi coordinated all the program activities through a Team Leader who also worked closely with USAID/Malawi management and the Embassy in Malawi and USAID/Washington and MCC/Washington.

The program delivered a number of outputs some of which were to be monitored and reported upon regularly. The agreed measurable specific outputs of the program and project components were:

- Generation of adequate Integrated Financial Management Information System (IFMIS) reports for ministries and National Assembly for adequate oversight.
- Enactment of an Anti-Money Laundering Legislation and establishment of a Financial Intelligence Unit (FIU) to champion implementation of the law

- Ensure that the National Assembly has control over its own budget to enable it to meet regularly according to its calendar.
- Establishment of a Media Council to instill professionalism in the media.
- Increase the number of civil society organizations testifying before National Assembly with emphasis on anti-corruption.
- Train budget officials, lawyers, police officers, prosecutors, investigators, procurement officers, auditors, journalists and bankers with focus on professionalism and anti-corruption.
- Establish an Internal Affairs Unit in the Malawi Police Service.
- Undertake Sovereign Credit Ratings for Malawi.

Assumptions

Assumptions were implicit other than explicit. A major assumption was that government would remain committed to the anti-corruption agenda through the life of the project. In addition, government was expected to take the lead in influencing policy and strategy as well as other development partners to benefit the Malawi TCP. Program specific issues too had to come into play such as fostering a combination of approaches to provision of technical assistance, that is, resident or intermittent. Above all, consultative approaches would be key in government continued buy-in.

Mobilization

The Treasury Participating Agency Program Agreement (PAPA) came first and was signed on January 9, 2006, three months after the signing of the Malawi TCP agreement. Second were the Justice PAPA and SUNY on March 1, 2006, followed by Casals & Associates on April 1, 2006. After undertaking assessments for various components of the program Treasury had its first Resident Advisor on the ground on March 29, 2006 (enforcement). He was followed by the Budget Advisor (April 7, 2006); Tax Advisor (June 11, 2006) and the Banking Advisor (February 12, 2007). The Debt Advisor remained intermittent through out implementation of the debt component till its completion June 2007. The Casals Chief of Party was in position by March end 2006 while that of SUNY was in position by February end 2006. In general, the start up delays ranged from three to six months.

Implementation

Implementation began in earnest after assessments were undertaken. However, there was more traction when some Technical Advisors became resident. The tasks aimed at delivering the specific outputs were awarded as follows:

Casals & Associates - Fiscal responsibility and rolling back corruption

SUNY - Legislative strengthening

Department of Justice - Criminal investigation and prosecutorial abilities

Department of Treasury – :

- Banking supervision
- Budgeting
- AML legislation and enforcement
- Tax administration

All of the specific measurable outputs were delivered except for a few legislation related items [Asset Declaration, Plea Bargaining and Access to Information bills] (see Results Reporting Table). There were other important outputs achieved, though not reported

regularly, such as, the establishment of the Internal Affairs Unit at the Malawi Police Service; the production of a legal skills manual for training of public officials, lawyers and paralegals; and the institutionalization of the degree program on supply chain management at the Polytechnic, a constituent college of the University of Malawi.

Successful implementation of the program was not without challenges. Some of the challenges, regularly reported as follow up issues were as follows:

Death of Speaker of Parliament/Enforcement Advisor/First Lady

First, the Speaker's death in 2005 affected SUNY start up as it took time to strike resonance with a new Speaker of Parliament. The locally sourced Chief of Party was however able to draw solid commitment from Parliament for reforms. Second, the enforcement advisor died in a tragic car accident in Zambia and this negatively affected FIU activities. Similarly, a local legal associate was able to get traction with the Ministry of Finance for support and progress continued to be registered. Third, the First Lady died in May 2007 and the entire TCP was negatively affected as well.

UNRESOLVED: Section 65/Political Impasse

The sitting President formed his own party, the Democratic Progressive Party (DPP) after noting resistance in the United Democratic Party (UDF) to governance reform and anti-corruption. About 40 Members of Parliament left their parties to join the DPP. Section 65, which is a constitutional provision, bars elected officials to change allegiance in the National Assembly by joining a party which did not sponsor them into power. This was compounded by the Supreme Court ruling in June 2007 that all such elected officials who crossed the floor be removed from office by declaring their seats vacant. The incumbent President would have borne the brunt of this provision if implemented. The issue resulted in an increasingly acrimonious working relationship between the branches of government, which affected passing of the national budget and TCP activities especially for SUNY. By September 30, 2008 the court ruling remained unimplemented and unresolved. This political impasse weakened government's ability to pass certain key pieces of legislation as well as delaying Parliamentary approval of appointments for some key positions.

RESOLVED: Rejection of the Director of the Anti-Corruption Bureau

The appointment of a Director for ACB ended up in a prolonged battle between the Executive and the Legislature, where his placement was rejected by an approval Committee of Parliament, seemingly on political grounds. The Executive maintained him in office for as long as the showdown went until he was indicted. During his time not much enforcement measures were implemented. Positively, a new appointed Director was accepted and is now in place.

UNRESOLVED: Rejection of the Director for FIU

An approval Committee of Parliament rejected an appointed Director for FIU on the grounds that he was not fit for the job. However, no valid reasons were given for the rejection and the FIU remains without a Director to date.

UNRESOLVED: Ex-President in Treason Case

There has been no marked progress on Dr. Bakili Muluzi's, treason case. Previously, Dr. Muluzi Muluzi, was accused of planning to illegally seize power; several senior United

Democratic Front (UDF) members, as well as a number of serving and retired army officers, were arrested. Reportedly, there does not appear to be sufficient evidence to lay formal charges against Mr Muluzi. Hence, without necessarily throwing out the case, the current arguments are on hold, given judicial procedural challenges.

UNRESOLVED: Leader of Opposition in Parliament Alleged of Wrong Doing

The Anti-Corruption Bureau commenced investigations against the Leader of opposition in Parliament after being accused of using public resources for a private visit to South Africa.

UNRESOLVED: Clerk of Parliament Alleged of Wrong Doing

Despite Parliament recommending her removal, the Clerk of Parliament remains in office. The President says that it is his prerogative to fire her and not Parliament. However, Parliament has yet to fully debate and pass a final removal resolution on the Clerk - given the confusion created by the Section 65 political impasse.

UNRESOLVED: Electricity Interconnection Bill Assent by the President

There has been no movement on the Electricity Interconnection Bill No. 8 of 2007, intended to facilitate access to electricity from the Mozambican power grid (with World Bank support) and on the report of the Commission of Enquiry mandated to investigate the assent to the Bill by the President before being passed by the National Assembly.

NEW: Preparations for the May 2009 Parliamentary and Presidential Elections

After protracted debate and constitutional referral over the contested appointments of election commissioners, the court has now adjudicated in favor of said appointments. Despite a reduced time frame, the Malawi Electoral Commission has commenced preparations for the May 2009 Parliamentary and Presidential elections. By September 30, 2008 MEC was in third phase of voter registration in the bid to come up with a complete new voters roll. A credible voter's register is a very important component for the conduct of free and fair elections. In the 2004 General Elections, the voter registration process had a number of shortcomings that resulted into the production of a flawed voters' register.

Summary: The overall status of program components' end dates as follows:

State University of New York: Extended from June 30 to August 31, 2008

Casals and Associates: Extended from March 31, to May 31, 2008

Department of Justice: Completed on February 28, 2008

Department of Treasury:

Budget: Completed on June 30, 2008

Banking: Completed on June 30, 2008

Enforcement: Extended from June 30 to September 30, 2008

Tax: Completed on January 31, 2008

Debt: Completed June 2007

Flow of Funds

Activity planning and implementation was consistent with requirements on the ground. Thus Casals & Associates had a cost extension (\$549,221); similarly with SUNY

(\$120,000) while Treasury had a no-cost extension. By September 30, 2008, the Malawi TCP shows an accrued expenditure of \$20,146,541 (refer table below) giving a pipeline gap of \$773,459. However, there is \$198,670 in miscellaneous MAARDS for the purchases of equipment items for several MCC TCP partners, which should be disbursed in the next 30-45 days. The Department of Justice and SUNY are expected to clear some outstanding expenses as they complete the financial closeout of projects. Lastly, USAID/Malawi intends to use \$50,000 of the remaining funds to contribute to the MCC TCP evaluation for Malawi. All four MCC TCP partners are currently completing their financial closeout activities. Once these final financial reports are submitted over the next two months, we will have a better idea of the amount of funds that will remain. However, recent discussions with the TCP partners indicate that approximately \$400,000 will remain after closeout.

The Malawi TCP program had uncommitted resources; and it also realized money from sale of household effects of Resident Advisors, amounting to a total of \$198,670. After getting MCC approval, the money was successfully programmed for additional activities within the TCP objectives. The Polytechnic (degree program), the FIU (suspicious transactions analysis) and Legal Aid Department (access to justice) in the Ministry of Justice benefited from the additional resources through procurement of computers and software, office furniture and equipment, and reference books. The status of the flow of funds is presented below:

Flow of Funds

MCC Funds Obligation Status as of September 30, 2008

Bilateral Obligation Instrument	Start and End Dates	Bilateral Obligations \$	--	Disbursements to Date \$	Accrued Expenditures as of 09/30/2008
SOAG 612-SO10	11/5/05 – 9/30/08	\$20,920,000.00	--	\$19,393,912.38	\$20,146,541.38

Sub-Obligations Status for Major Implementing Partners as of September 30, 2008

Implementing Partner	TCP Component Number	Total Estimated Cost (TEC) \$	Amount Sub-Obligated to Date \$	Disbursements to Date \$	Accrued Expenditures as of 09/30/08 \$
C&A	SO-612-DFD-I-07-03-00139-00	\$8,443,058	\$8,443,058	\$8,443,058.00	\$8,443,058.00
Justice	SO-612-690-P-00-06-00010	\$3,580,000	\$3,580,000	\$2,801,117.00	\$3,445,510.00
Treasury	SO-690-P-00-06-00018-00	\$5,445,833	\$5,445,833	\$5,445,832.55	\$5,445,832.55
SUNY	SO-612-DFD-I-00-04-00128-00	\$3,221,700	\$3,221,700	\$2,688,915.83	\$2,797,151.83
Team Building Associates		\$14,989	\$14,989	\$14,989.00	\$14,989.00
Data Quality Assessment		\$15,750	\$0.00	\$0.00	\$0.00
Miscellaneous MAARDS for the purchases for MCC TCP Partners*		\$198,670.00	\$198,670	\$0.00	\$0.00
TOTALS		\$20,920,000	\$20,904,250.00	\$19,393,912.38	\$20,146,541.38
Amount available for Sub-obligation		--	\$15,750	Comment: Funds sub-obligated as shared cost for Mission wide Data	

				Quality Assessment.
Of which uncommitted				Amount Available for Programming: \$0.00

* These are procurements for the Polytechnic, the Finance Intelligence Unit and Legal Aid Department in the Ministry of Justice.

Coordination

The Malawi TCP implementation arrangement was support by three committees two of them technical and one at policy level. An Implementing Partners (IP) only meeting was being held every two months under the Team Leader. Discussions at the IP meeting would feed into a Task Force on TCP meeting held quarterly. An overarching Steering Committee meeting headed by the Principal Secretary for the Ministry of Economic Planning and Development would then consolidate issues for policy action by Cabinet. Throughout TCP implementation, there was also close coordination between MEPD and the Ministry of Finance and the Office of the President and Cabinet.

Coordination between USAID/Malawi, Embassy, USAID/Washington and MCC/Washington played a significant role in the success of the Malawi TCP. Direction and guidance was timely, flexible and tailored to hierarchy of involvement.

Monitoring and Evaluation

The implementation coordination structure assisted in monitoring and evaluation. In addition, there was a result reporting table agreed to be reported upon consistently. This provided a good basis for measuring progress. However, there were other numerous outputs which the Mission or MCC could fall back on for reference under the TCP.

Reporting was done quarterly to MCC/Washington through USAID/Washington. On the ground all reports were vetted through Mission Management and the Embassy.

Internally, the MCC Team maintained project administration and performance evaluation plans to tract progress. In the case of the need to undertake a thorough monitoring and evaluation exercise, a complete list of other interested parties including development partners is put in Annex C.

Compact eligibility

Malawi successfully attained compact eligibility on December 12, 2007. Government has stepped up its commitment to put in place structures, offices and teams to manage the compact process. By September 10, 2008, a national conference was held on Malawi's constraints to economic growth and poverty reduction. USAID/Embassy have strongly encouraged Government of Malawi to remain focused and proactive on the MCC 'scorecard's' 17 critical indicators.

Lessons learned

Key lessons learned are as follows:

1. Local ownership during design of the Malawi TCP ensured continued local input during the life-of-project, enabling prompt resolution of constraints during TCP implementation.
2. The Malawi TCP was well aligned with government priorities such that it was accepted as a government program.
3. Plans were put in place for post-TCP sustainability such that government and the interested parties including donors continue to provide resources, human or capital to further implementation of some activities.
4. There was pro-active coordination between USAID/Malawi, USAID/Washington, the Malawi Embassy and MCC/Washington, which facilitated prompt resolution of problems/issues as they arose.
5. Contractors and partners engaged on implementation of the Malawi TCP performed equally well. One contributing factor was the presence of Advisors on the ground.

Conclusion

The Malawi TCP ended on September 30, 2008, having built capacities in various transparency and accountability institutions. However, some capacity constraints remain in selected institutions and the reform agenda is on-going. Currently, there is an assessment on capacity development for the public sector targeting accountability institutions of procurement, audit and financial management. The other focus area of the assessment dwells on program and project management. Such assessments are vital in view of potential large resources being expected under foreign aid and Compact in particular.

APPENDIX A: LIST OF MALAWI TCP PARTNERS

Government Partners

Office of the President and Cabinet
Ministry of Economic Planning and Development
Ministry of Finance
National Audit Office
Office of the Director of Public Prosecutions
Office of the Director of Public Procurement
Malawi Police Service
Ministry of Justice
The High Court
Malawi Law Commission
Reserve Bank of Malawi
Malawi Revenue Authority
Chancellor College, University of Malawi
National Assembly
Anti-Corruption Bureau
Polytechnic College

Private Sector

Bankers Association of Malawi

Media

Media Council of Malawi
Media organizations

Civil Society

Recipients of Small Grants Awards

APPENDIX B: IMPLEMENTING PARTNER TASKS

Casals and Associates

- Task 1: Integrated Financial Management Information System for the Government of Malawi
- Task 2: Professionalizing Public Procurement in Malawi
- Task 3: Strengthen the Capacity of the National Audit Office
- Task 4: Monitoring and Evaluation of GOM Implemented Projects as a Deterrent to Corruption
- Task 5: Building Legal Skills Capabilities
- Task 6: Professionalize Media a Tool of Aggregation of Opinion, Analysis and Dissemination of Information
- Task 7: Journalists and Media Professionals Better Prepared to Report on and Analyze Corruption and Exercise Oversight
- Task 8: Civil Society Integration into Anti Corruption Campaign
- Task 9: Credit Ratings as an Indicator of Malawi's Fiscal Management and Anti-Corruption Success

State University of New York

- Task 1: Recruit and Train Committee Department Staff/Build Capacity
- Task 2: Build National Assembly Oversight Capacity
- Task 3: Connect NA to GWAN and IFMIS (in partnership with Casals & Associates and Department of Justice)
- Task 4: Technical Assistance for Committees on MCC Initiative Legislation (in partnership with Casals & Associates and Department of Justice)
- Task 5: Technical Assistance to Legal Affairs Committee on rules and practices of NA related to oversight
- Task 6: Assist National Assembly Institutional Reform Efforts

Department of Treasury

- Task 1: Government debt issuance and management system
 - Development of Debt Management Office in the Ministry of Finance.
 - Improved cash flow forecasting in order to determine future borrowing requirements
 - Assistance related to dematerialization of government securities and the development of a book-entry registry
 - Improve data management system.
 - Coordinate debt operations.
 - Assist the Ministry of Finance prepare for sovereign credit rating missions.
 - Securitization of budget arrears.
- Task 2: Financial enforcement
 - The Government of Malawi is to establish a Financial Intelligence Unit(FIU) in accordance with the AML/CFT legislation
 - Support the Government of Malawi's amendment of the AML/CFT legislation and preparation of a national strategic plan in line with the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) Ministerial resolutions.
 - Disseminate information and perform advocacy related to the AML/CFT legislation in accordance with the Legal Committee of the National Assembly and with support of international and local expertise.
 - Work through the media and civil society to inform, educate and sensitize Malawian citizens to the importance and need for the AML/CFT legislation.
- Task 3: Budget policy and management
 - Assist the Ministry of Finance to reduce cash rationing and move towards a more stable budget execution process.
 - Integrate recurrent and development budget presentations

- Reduce arrears and domestic debt not approved in the annual budget.
- Improve methods for linking government priorities to the budget allocations and results produced.
- Build staff capacity in the budget presentation, monitoring and analysis through a variety of means, including staff interactions with peer professionals in neighboring countries.

Task 4: Financial Institutions policy and regulation

- Banking supervision
- Anti-money laundering risk-based bank examinations

Task 5: Tax policy and administration

- Create a corporate structure that maximizes the efficiency and effectiveness of MRA.
- Promotion of voluntary tax compliance to the highest degree possible.
- Develop information and communication technology systems that support MRA's business processes.

Department of Justice

Task 1: Building Malawi's prosecutorial abilities

Task 2: Increasing effectiveness of Malawi Police Service to address corruption related crimes

Task 3: Develop a best practices Declaration of Assets Law

Task 4: Build the skills of Chancellor College School of law staff in areas of law/legislation related to anti-corruption

APPENDIX C: OTHER IMPORTANT PARTIES

United States

USAID Washington, D.C.
MCC Washington, D.C.
Casals & Associates, Virginia
SUNY, Albany, New York
US Department of Justice, Washington, D.C.
US Department of Treasury. Washington, D.C.

Malawi: USG

U.S. Embassy/Malawi
USAID/Malawi

Malawi: Implementing Partners

Casals and Associates
State University of New York
Department of Treasury
Department of Justice

Malawi: Private Sector

Malawi Business Action Against Corruption

Malawi: Media

Malawi News Agency
Nation Publications
Blantyre Newspapers Limited

Malawi: Civil Society

Malawi Economic Justice Network

Malawi: Donors

UNDP
World Bank
DfID
British High Commission
Norwegian Embassy
European Union
CIDA
GTZ