Health Systems for Tuberculosis (HS4TB)

Creating an Enabling Environment for Contracting Health Services: A Policy Primer

MARCH 2024

This document is made possible by the generous support of the American people through the US Agency for International Development (USAID) contract no. 7200AA18D00025 task order no. 7200AA20F00009. The contents are the responsibility of Management Sciences for Health and do not necessarily reflect the views of USAID or the United States Government.

I. INTRODUCTION

Contracting[1] is a critical service delivery approach and governance tool in the health sector. By contracting health or health-related services from both nongovernmental organizations (NGOs) and the private commercial sector, governments can increase health system capacity, efficiency, and accountability, including in the delivery of tuberculosis (TB) services. Despite the common use of donor-funded contracts for TB services, few high TB burden countries have contracted TB services using domestic funds (and their own procurement rules), and governments may have an incomplete understanding of how to establish health-related contracting. This leaves these countries without an important tool that is needed to better manage their TB response.

Through a global study, the US Agency for International Development (USAID)'s Health Systems for Tuberculosis (HS4TB) project found that there is ample evidence for the importance of government contracting for health,[2] and several documents[3] available to guide the process of contracting. However, guidance is limited on how to establish contracting in the first place, including how to: mobilize political will; navigate the legal, policy, and governance environment; and leverage development partner support.

Contracting occurs when a contract is awarded to another party to deliver a set of predefined services. While the term "social contracting" is often used, we chose to use the broader term "contracting," which does not exclude contracting with the private sector.

Therefore, the purpose of this policy primer is to highlight the actions that are needed to create the enabling environment for contracting health services and are relevant to countries considering contracting or looking to improve their existing contracting practices. How these actions are sequenced and conducted is both opportunistic and unique to context. There are no generalized "how-to" steps or processes that countries ought to follow. This primer provides some ideas, useful resources, and questions to consider along this journey.

Figure 1 below illustrates the seven actions that are described in the following sections. Though numbered, it is not meant to imply that actions should be implemented in order. As noted above, every country has its unique path to contracting and may have a different starting point.

---

[1] We have focused on the establishment of service contracts, i.e., individual contracts with specific terms of reference for a specific organization to implement specific activities. This is in contrast to another form of health provider contracting out, in which general quality criteria are used to empanel large numbers of healthcare providers who then provide a broad range of health services under a national or social health insurance scheme.

[2] Legard, M. et al. 2009. The impact of contracting out on health outcomes and use of health services in low and middle-income countries. Cochrane Database of Systematic Reviews 2009, Issue 4. Art. No.: CD008133.
England, R. 2004. Experiences of contracting with the private sector: a selective review. DFID.
Loevinsohn, B. et al. 2005. Buying results? Contracting for health service delivery in developing countries. Lancet 2005; 366: 676–81. World Bank.

[3] A few examples include: Loevinsohn, Benjamin. 2008. Performance-Based Contracting for Health Services in Developing Countries: A Toolkit. Health, Nutrition, and Population Series. Washington, DC: World Bank.
A Guide to Contracting for Health Services During the COVID-19 Pandemic. World Health Organization. 2020.
Guidance note for the Analysis of NGO Social Contracting Mechanisms. The Experience of Europe and Central Asia. UNDP, 2019.

Figure 1. Actions to create an enabling environment for contracting health services

II. GETTING TO YES: HIGH-LEVEL POLITICAL WILL AND THE CASE FOR CONTRACTING

Reaching a majority agreement on the decision to contract selected health services, its purpose, and its benefits, requires making a clear and compelling case that will win over senior law- and policymakers as well as earn wider acceptance from the bureaucrats and private sector service providers who are essential to its implementation. In some countries, it requires a change in mindset in which work at the ministry of health becomes less about doing service delivery directly, and more about governing the process of service delivery by multiple public and private actors. Experience in other countries suggest ***Actions 1-4*** (as outlined below) help make the case for contracting, mobilize political will, and generate wider buy-in. Leading implementation of these actions is well suited to a small core team of colleagues from within government that understand how the health system is working (or not working) and are committed to improving it, possibly with the support of a technical working group or steering committee to convene diverse stakeholders, gather their inputs, and document decisions.

***Action 1:** Identify stakeholders, their incentives, and any perceived risks of contracting*

In the Western Cape province of **South Africa**, during the HIV/AIDS epidemic, regional health officials proactively engaged civil society to better understand their capacity and willingness to provide community-level services and consulted internally within government to understand what functions were not core business and could be more efficiently contracted out. The result was a lower cost service-delivery model by civil society organization that expanded access to services closer to communities.

Before a compelling case can be made for contracting, it is important to understand the country context, political economy of contracting and different audiences that will consider the case for contracting. There are multiple stakeholders within government (political, technical, administrative), sometimes with competing interests. The same holds true for stakeholders outside of government e.g., in the private commercial sector, NGOs, professional bodies, and communities. For both government and non-government stakeholders: what are their incentives and the risks and benefits they perceive in contracting? Do they see the need for contracting (see ***Action 2***)? Will they need tailored support or information to be ready to participate in it? Either as a formal study or as a more informal internal process, a stakeholder engagement assessment should map the key actors and document their incentives, concerns, and capacities to inform the design of a contracting strategy.

***Peer learning:** Within your country context, who are (or will be) the main stakeholders for contracting discussions and decisions? Which of them are expected to be supportive or opposed, or aware or not aware of the rationale for health services contracting? What are their incentives? How have or might these dynamics affect contracting decisions? How can their support be leveraged or their concerns addressed?*

***Potential output:** A list of stakeholders with a summary of their expected positions and interests.*

***Action 2:** Develop a clear and compelling rationale for contracting*

Contracting is a different way of conceptualizing healthcare delivery. For some, it may threaten existing incentives or provoke discomfort based on a belief that the government role in controlling service delivery is being diluted, or on a lack of understanding of how it can become a sustainable financing solution. This can lead to resistance. Successfully making the case for contracting requires a succinct and clear rationale. What is the problem that needs to be solved and how will contracting provide the necessary solution? If a clear rationale is not present, then moving forward with contracting will be difficult. The reasons to contract out vary: governments may need to add surge support, or to cover service gaps better addressed by community-based organizations, or to introduce performance-based approaches, or to reduce dependence on international donors. Those reasons should be determined specifically for the context and be documented in writing so they can be effectively circulated among policy influencers without being mischaracterized or misunderstood. The written rationale should be

Liberia's Ministry of Health successfully made the case for using donor-provided funds to contract out service delivery to NGOs (something that was controversial within a government that had very few resources of its own). The government had made a high-level commitment to rapidly scaling up access to a new Basic Package of Health Services after the war, but lacked the internal human resources to make that happen in a timely manner. This provided a clear justification for contracting out to other service-delivery organizations.

clear on what health system goal or target is not being met currently, and specifically how contracting will contribute to achieving it. Linking the solution that contracting provides to higher level national priorities that have wider political or public support, such as health financing reforms to increase efficiency or service delivery reorientation to increase private sector involvement, can be a helpful strategy.

Peer learning: *In your experience, what are the strongest arguments for contracting in your country? How have or might these change for different stakeholders and over time?*

Potential output: *A written, context-specific rationale for the adoption of health services contracting.*

Action 3: *Mobilize high-level political will for contracting*

Contracting reform is a deeply political, not just technocratic, process. The succinct and clear rationale for contracting (see ***Action 2***) needs to resonate with high-level policy makers and generate their willingness and commitment—their political will—to move forward with contracting. Their action could involve reaching out to other high-level government officials to secure a favorable legal determination on contracting-related regulations or a financial commitment to contracting.

High-level commitment from **India's** Minister of Health to stopping the HIV/AIDS epidemic, and a realization that non-government organizations were essential to reach HIV-related key populations, led to the establishment of a National AIDS Control Organization and 35 state AIDS prevention and control societies with the authority to contract HIV services.

It is also critical for these policy makers to publicly communicate their strong support for contracting as a means of achieving important health system goals, because the journey to successful contracting is very likely to encounter obstacles. This may include resistance from stakeholders with deep, often unseen, interests in maintaining the *status quo,* as well as delays due to ambiguities in the law, regulation, policy, and procedures. Powerful political leadership—political will—can overcome these barriers by providing approvals and flexibility to overcome operational challenges, with sanctions issued against those who fail to comply.

Peer learning: *What has "political will" for reform looked like, in practical terms, in your health sector? What strategies and actions have you used (or do you plan to use) to mobilize political will for contracting in your country? What worked, and what did not work? Has maintaining political will over time required additional strategies and new stakeholders?*

Potential output: *A list of strategies and actions that would generate, increase, or maintain political will for health services contracting.*

Action 4: *Generate and maintain wider stakeholder buy-in*

Although senior policy makers are essential to persuade and ideally to become champions of contracting, they are not the only government stakeholders that need to buy in. Civil servants implement policy decisions and their commitment to contracting —their political will—can be as essential as the senior politician's to operationalize and see the reform through. Procurement directors, financial controllers, legal counsel, health professional bodies, and many other stakeholders need to be persuaded of the case for contracting.

The **Liberia** Ministry of Health and Social Welfare engaged a number of stakeholders in the development of its contracting policy, including donors, technical experts from United Nations agencies, and NGO partners. Tailoring the rationale to highlight government stakeholder interests can be a helpful strategy, but addressing the concerns and suggestions of the much wider stakeholder environment outside of government requires ongoing communication and a deliberate stakeholder management plan that methodically engages these less obvious stakeholders to ensure that they feel—and actually are—consulted in potentially big changes to their health system.

Supportive stakeholders can help to engage and persuade others, and those with valid concerns—e.g., about increased workload, changes in mandate, and capacity constraints—should feel that their feedback is being addressed. Others might decline to support reform for reasons that are less valid, including interagency rivalry, and loss of status or influence. In this context, it is important to know when to call upon a high-level policy maker, and the hierarchy they oversee, to help achieve agreement and cooperation. Throughout this process, cultivating and maintaining relationships is extremely important. Identifying contracting ambassadors or champions that have such relationships inside and outside of government, and using them to introduce the approach and rationale, can be a very effective component to a stakeholder management plan. Finally, contracting cannot be solely a government vision: potential contractor organizations also need to be consulted, on board and supportive.

Peer learning: *In addition to the few leaders driving contracting reforms, what types of broader stakeholders have been or should be involved in your country? How has their buy-in been achieved and maintained, or what steps should be taken to achieve this? Have there been key stakeholders who were not supportive of contracting and, if so, how did you manage to secure their buy-in?*

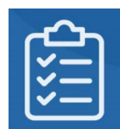
Potential output: *A list of strategies and actions that would generate, increase, or maintain broader buy-in for health services contracting.*

Useful resources related to mobilizing political will and making the case for contracting:

- Odendaal WA, Ward K, Uneke J, Uro-Chukwu H, Chitama D, Balakrishna Y, Kredo T. Contracting Out to Improve the Use of Clinical Health Services and Health Outcomes in Low- and Middle-Income Countries. Cochrane Database Syst Rev. 2018 April
- Loevinsohn B, Harding A. Buying results? Contracting for health service delivery in developing countries. The Lancet 2005; 366: 676–81.
- Abramson W. Contracting for Health Care Service Delivery: A Manual for Policy Makers. John Snow Inc. 2004
- Mutasa, Ronald Upenyu, A. Venkat Raman, Anagha Khot, Manu Bhatia, Gyorgy Bela Fritsche, Di Dong, Lung Vu, and Sapna Surendran. Private Sector Engagement for Tuberculosis Elimination: India's Journey from Pilots to National Scale-up (2012–2021). The World Bank, 2023.
- Engaging and Mobilizing Stakeholders for TB Service Contracting in Bangladesh: Case Study (HS4TB Bangladesh, 2024)

III. ASSESSING AND SHAPING THE LEGAL, POLICY, AND GOVERNANCE ENVIRONMENT

Contracting health services involves public procurement, establishing legally valid and binding contracts, payment of service providers with public funds, and managing and monitoring performance under the contracts. Such an expenditure of public funds must be consistent with national health policy and contribute to the achievement of health goals within a transparent and accountable governance and oversight environment. The legality and policy compliance of contracting can be achieved by deliberate actions (***Actions 5 & 6***) in both assessing and shaping the legal, policy and governance environments, as described below.



Action 5: *Assess laws, regulations, and policies for contracting health services*

Assessing whether there is a legal and policy basis for contracting, and the gaps or barriers that need to be addressed, can require as few as one or two careful professionals.

For the legal and regulatory basis, a pragmatic first step is to read the national procurement law, which is usually available online, for any language that might explicitly permit or prevent contracting in the health sector or other sectors such as education where contracting might already be used as a tool.

It is time-consuming and politically challenging to pass new laws or amend existing ones, so the national procurement law is unlikely to be changed for a single activity in one sector. Therefore, if the national procurement law appears to prohibit contracting of health services, then the pathway to contracting will be challenging. However, in a rapid

> In **Bangladesh**, due to the ambiguity and multiplicity of laws governing NGOs, it took a while to determine whether the law permits contracting of NGOs and then to define a policy statement that would clarify the way forward.

review of procurement laws, we have found most do not include such prohibitive language. They also may not explicitly list health services as a contracting category but usually do provide a clear explanation of national procurement standards, authorities, and processes that the health ministry must comply with when contracting.

National health laws should also be reviewed for prohibitions to contracting, but they usually prescribe responsibilities and authorities and do not include specific provisions on how services should be provided or purchased. Every country's legal framework is different, and some are complex, so diligence and thoroughness are necessary during the legal assessment process.

Assessing the policy landscape should start with a close review of the national health policy and most recent health sector strategic plan (as well as the national health financing and procurement policy for the ministry of health), for any language related to the role, inclusion, contracting, or provision of public funds to private for-profit or not-for-profit organizations for service provision. Often some provisions exist in a national health policy or strategy that permit contracting, and it is unlikely that any language explicitly prohibits it.

After completing the review of legal and policy documents, the next step is to seek out and engage key informants (the ministry of health's procurement director, finance director, chief of clinical services, any association of private health care providers, etc.) for their perspectives. If they have a clear opinion on either the legal or policy aspect, ask what document or practice it is based on, and who else could provide further information.

The resulting legal and policy assessment must be well-documented and clearly organized, with the key findings of what exists and what is missing neatly summarized for review. Such a review will very likely include the legal office within the ministry of health and possibly within other government ministries.

Peer learning: *Has there been a legal, regulatory and policy review related to health services contracting in your country? If not, what would be a practical approach to implement this? Are there or have there been legal, regulatory, or policy barriers or enablers to contracting in your country? How were they identified?*

Potential output: *A list of conclusions from a legal, regulatory and policy review on health services contracting, or a plan to conduct such a review.*

Action 6: *Shape the legal, policy, and governance environment*

The previous step, **Action 5**, culminated with the findings of a legal and policy assessment that determined what exists and what is missing. For most high-level policy makers and political leaders to feel comfortable that moving forward with contracting is not a legal or political risk, and for functionaries within government to feel secure in implementing contracting, it is essential to provide the legal and policy underpinnings for contracting. In the absence of explicit legal provisions addressing contracting, what is permissible is subject to interpretation. Consider encouraging the high-level policy makers in health to use their influence to obtain a formal legal interpretation. Something as simple as an opinion letter from a government authority that states it sees no legal hinderance to contracting can provide the legal basis needed to move forward.

> In **Liberia**, both the Minister of Finance and Minister of Justice provided a letter supporting the legal and policy basis for contracting after the Minister of Health explained his plans for contracting at a cabinet meeting and that he needed their support to achieve the country's ambitious health goals.

Covered by a legal opinion, high-level policy makers will be more comfortable, on an interim basis, releasing to the health sector a statement or signed letter informing stakeholders of the government's intention to contract based on the clear rationale that has been established. To ensure that contracting is part of policy moving forward, subsequent revisions to national health policies and development of strategic health plans can explicitly include contracting to entirely close any policy gap that exists.

For governance, joint steering or oversight committees with possible donor participation might be a good idea initially, when stakeholders are still gathering information, opinions, and support, and when a formal body might help to sign off on specific steps or decisions in the roadmap to the first procurement pilot. But generally, government officials and functionaries prefer to use existing structures whenever possible to avoid the proliferation of committees, many of which are composed of the same people. Whatever the governance approach, a contracting roadmap (see resource list below for one example) may help to keep concepts and agreed actions organized, although any such plan will need to be very adaptive to changing circumstance and opportunities.

Similarly, and with an eye toward sustainability, existing country systems for procurement, financial and contract management, and monitoring and evaluation, should be prioritized and strengthened to fulfill their role in the contracting process. Decisions about which entity should allocate funding for contracting, design the scope of work, sign contracts, and disburse payments should be adapted to the administrative context of the individual country. These decisions evolve along the way, and contracting governance often becomes more decentralized and less donor-dependent over time.

Peer learning: *What actions have been or will need to be taken to achieve a conducive legal, policy, and governance environment for contracting in your country?*

Potential output: *A list of actions that are needed in order to clarify and generate confidence in the legal, policy and governance environment for health services contracting.*

Useful resources related to assessing the environment for contracting:

- Outsourcing and Social Contracting in Bangladesh: Framework for Assessment and Planning for Transition from External to Domestic Funding. USAID Health Systems for Tuberculosis (HS4TB) Project. 2022 [note the key informant questionnaires in the annexes]
- Roadmap and Action Plan for Contracting of Tuberculosis Services in Bangladesh 2023–2028. USAID Health Systems for Tuberculosis (HS4TB) Project and Health Economics Unit of the Ministry of Health, Bangladesh. 2022
- Social Contracting Guidelines for HIV Services in Vietnam. Center for Health and Research Development, USAID Health Policy Plus Project. 2019
- Cenac, Veronica, and Lucien Govaard. Social Contracting Toolkit: a Guidance Note for Decision-Making for Country Implementation of Social Contracting. Caribbean Community (CARICOM) Pan Caribbean Partnership against HIV and AIDS (PANCAP). 2021.

IV. DETERMINE THE ROLE OF DEVELOPMENT PARTNER SUPPORT

For contracting to progress, country commitment and leadership are prerequisites, but development partner (DP) support can also be helpful. DPs can provide technical assistance to the government. They can also prepare NGOs for government-led contracting, both by funding service packages that can be easily transitioned to government contracts, and by building the capacity of the private sector to compete for, and deliver on, government contracts.

Action 7: *Use development partner support strategically*

The succinct rationale for contracting and the high-level political will that ***Actions 2 & 3*** describe and that were useful in shaping the legal and policy environment under ***Action 6*** are also useful for mobilizing DP support. More supportive DPs (those whose agenda is explicitly to support the ministry's agenda) can be engaged in bilateral discussion on the government's rationale for contracting. DPs might vary in terms of the technical areas where they are best suited to contribute, and the timeline required to marshal that support. Target DP support at activities that are not in the national budget, such as providing technical assistance to support the legal and policy review process described under ***Action 6***, financing the strengthening of internal government systems and processes that are essential to contracting (such as procurement and contract management), or supporting piloting of contracting before governments put their own funding towards scaling it up.

Peer learning: *How has or could your country strategically use development partner support?*

Potential output: *A brief but explicit strategy for using development partner support.*

V. CONCLUSION

The rationale and design of health services contracting should address the interests and concerns of a wide range of stakeholders inside and outside of government. A firm legal and policy grounding for contracting is important and can be achieved when senior policy makers exercise their political will to ensure it is in place. These issues are not linear (e.g., making the case for contracting might be strengthened by the legal and policy review) and are likely to be iterative. Experiences (good and bad) might affect political will, unidentified vested interests emerge, and policy may evolve in unforeseen directions. Navigating this dynamic environment requires a clear vision of what the country is striving to attain through contracting, and a shared commitment within the health sector to achieve it.

Additional resources related to health services contracting:

- Guidance Note for Analysis of NGO Social Contracting: The Experience of Europe and Central Asia. United Nations Development Program. 2019
- Loevinsohn, Benjamin. 2008. Performance-Based Contracting for Health Services in Developing Countries: A Toolkit. Health, Nutrition, and Population Series. Washington, DC: World Bank.
- A Guide to Contracting for Health Services During the COVID-19 Pandemic. World Health Organization. 2020.

About HS4TB

The USAID Health Systems for Tuberculosis (HS4TB) project seeks to transform the way country leaders and health system managers understand and work toward TB control and elimination. HS4TB is a five-year USAID contract focusing on health systems priorities that most directly support achievement of TB outcomes, with a focus on health financing and governance in the USAID TB priority countries. The project helps countries increase domestic financing, use key TB resources more efficiently, build in-country technical and managerial competence and leadership, and support policy formation and dissemination. HS4TB is led by Management Sciences for Health (MSH) in partnership with Open Development.

Contact Information

For more information on USAID's HS4TB project, contact: Kamiar Khajavi, Project Director (kkhajavi@msh.org)