

Non-citizen advisers in Papua New Guinea

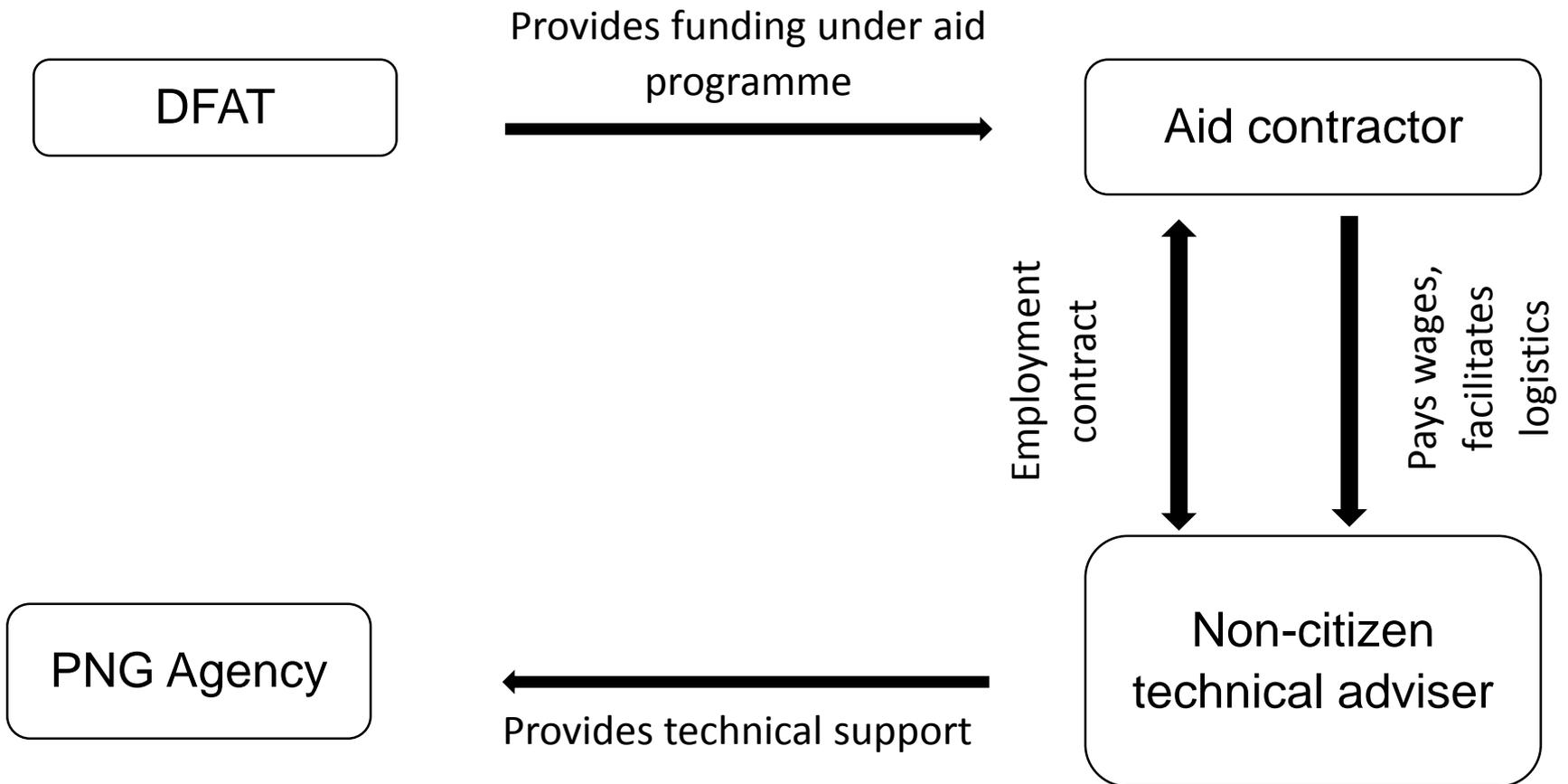
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Background

- Based on an Issues Paper that is in press at the PNG National Research Institute, co-authored by Michael Anderson, Joachim Luma and myself;
- Australia has long provided non-citizen advisory support to PNG;
- Advisory support has been criticised by the PNG government and other commentators;
- The PNG government introduced a new law to impose tighter control over advisers and terminated the placements of a number of Australian advisers seconded from Australian Government Departments.

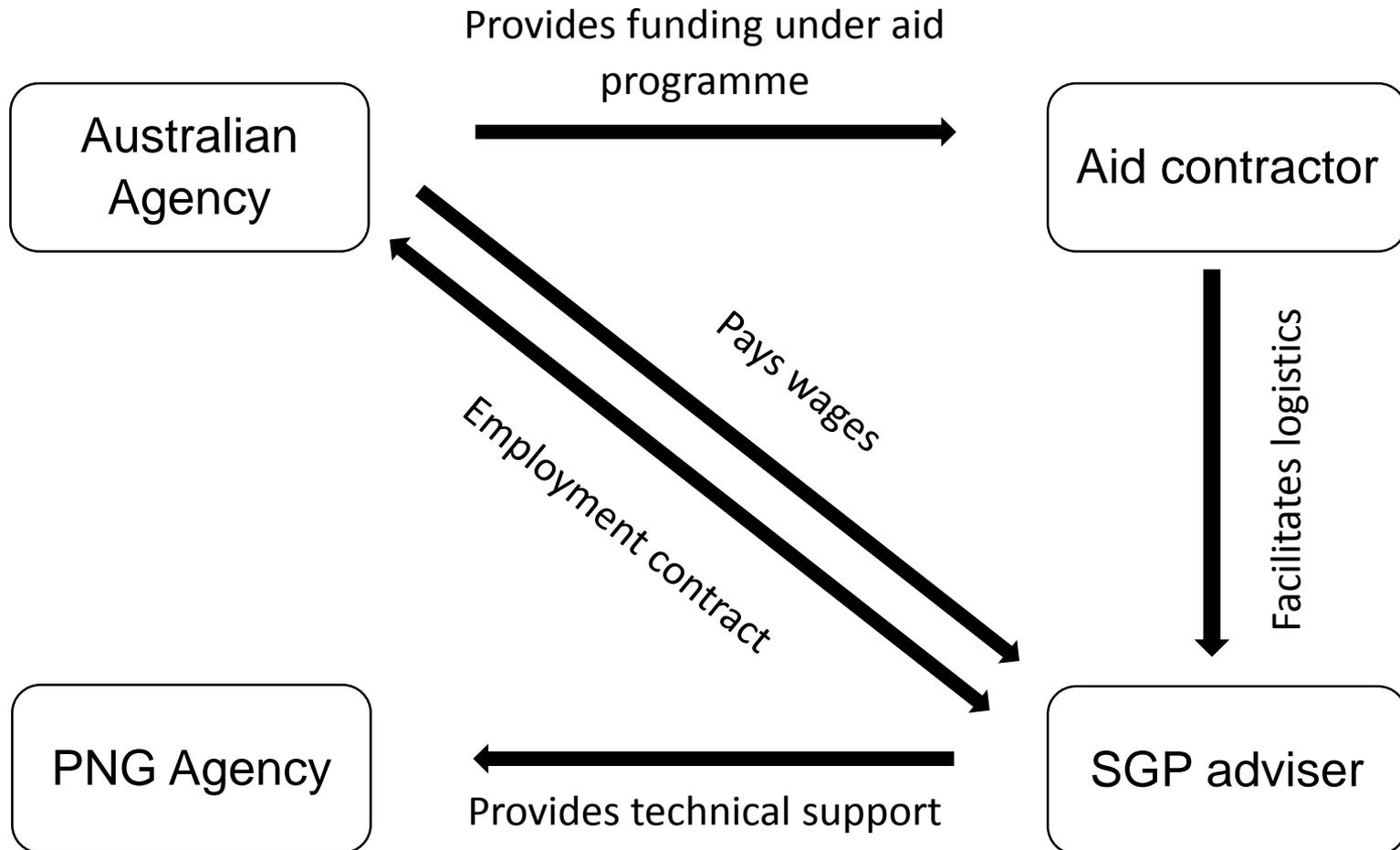
Model of Australian non-citizen technical advisers employed by aid contractors



The Strongim Gavman Program (SGP)

- The SGP started in July 2009 as a whole-of-government engagement program with Australian Government Agencies providing capacity building and advice to counterpart PNG Government Agencies;
- Australian federal public servants are deployed to PNG under the SGP;
- It evolved from the Enhanced Cooperation Programme (ECP) which began in 2004.

Model of SGP advisers



Concern about heavy reliance on technical assistance

- The Australian aid programme in PNG has become heavily reliant on technical assistance through non-citizen technical advisers;
- At the time of the 2010 Review of the PNG-Australia Development Cooperation Treaty (1999), 62% of Australia's assistance to PNG was allocated towards technical assistance which was more than double the global average;
- According to the Review, the most controversial aspect of Australia's aid program to PNG was its heavy reliance on technical assistance.

Direct engagement of non-citizens in PNG's public service

- Many non-citizens are directly engaged to work for the PNG Government;
- The legal framework for their engagement is the *Public Employment (Non-Citizen) Act 1978* and the *General Order 11*;
- Non-citizens who are directly engaged are employees of the PNG Government and occupy in-line positions;
- They are paid a base salary equivalent to the local salary grade, and also receive an International Market Allowance;
- The number of directly engaged non-citizens is not known. Anecdotally, the majority are from the Philippines and India, and work in Health and Education.

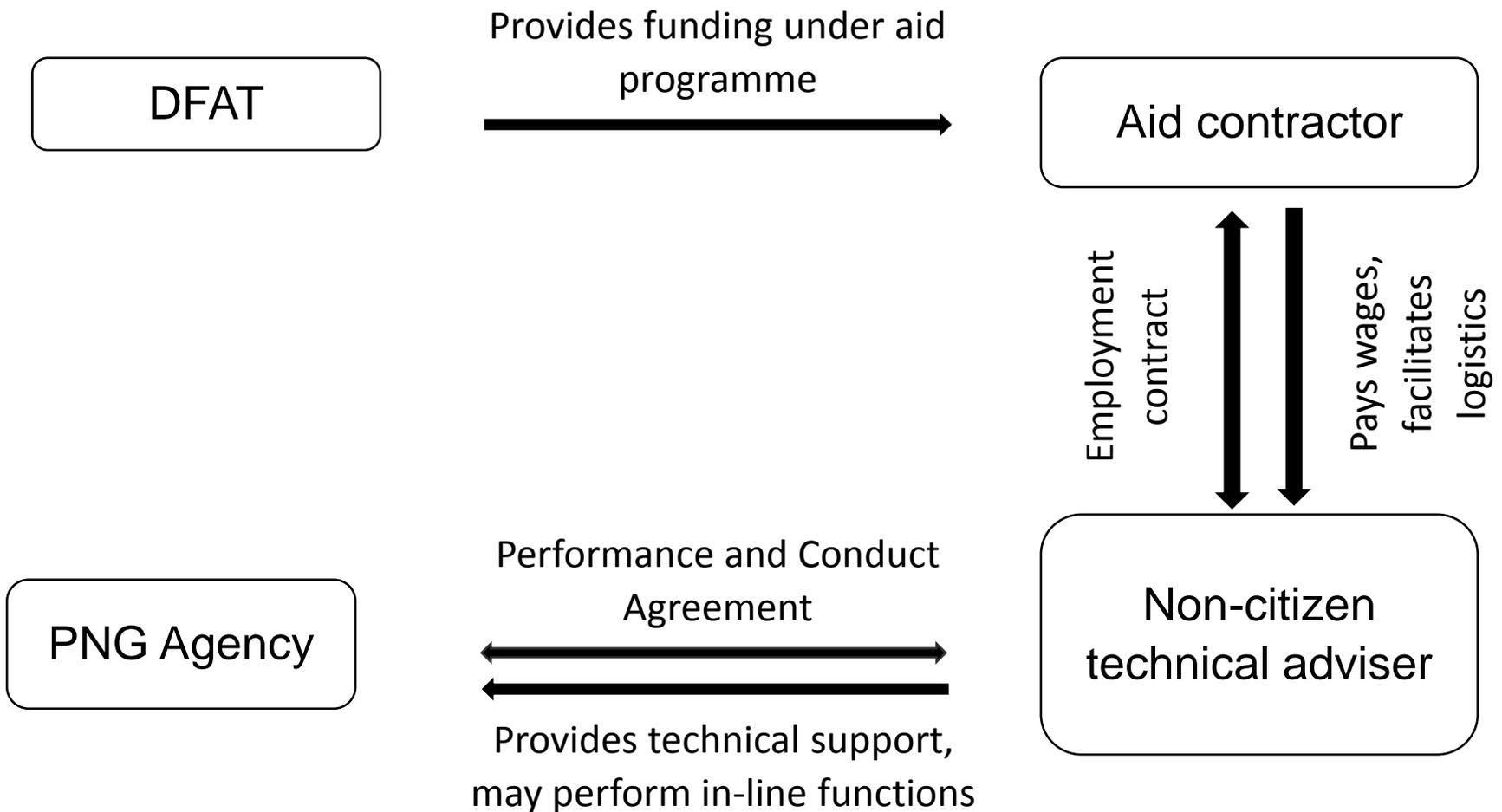
Political directions of the PNG Government in 2015

- On 30 July 2015, the Prime Minister of PNG, Peter O'Neill, said in Parliament that non-citizen advisers working in government departments were "... making our nationals quite lazy. ... Sometimes the advice given to the Government are [sic] not in the best interest of the nation";
- The Prime Minister announced that the Government had decided that the contracts of all foreign consultants and advisers contracts would end by December 31, 2015;
- His position softened over time and the PNG Government then indicated it would expel "foreign government employees" from the public service which resulted in the departure of the SGP advisers deployed within Central Government Agencies.

The initial and new Regulation

- The *Public Employment (Engagement of Non-Citizen Technical Advisers) Regulation 2015* came into effect on 1 January 2016;
- Under this Regulation, non-citizen advisers have to sign a “Work Performance and Conduct Agreement”. They are subject to the PNG public service code of conduct and must take the public service oath of loyalty;
- Taking into account concerns from development partners, a new regulation was developed by PNG’s Department of Personnel Management;
- The new Regulation came into effect on 1 September 2016. It simplifies the arrangements: Advisers now have to sign a one-page Performance and Conduct Agreement. Instead of taking the oath of loyalty to the PNG Government, a special purpose Code of Conduct for non-citizen technical advisers has been introduced.

Model of Australian non-citizen technical advisers employed under new Regulation



Key aspects of the new Regulation

- 1. “Performance and Conduct Agreement”:** This is the centrepiece of the Regulation. It creates a legal link between the non-citizen technical adviser and their PNG Agency Head. It requires the adviser to:
 - Comply with a Code of Conduct;
 - Be accountable to his or her Agency Head for their work performance; and
 - Develop the capacity of their PNG counterparts;
- 2. National sovereignty:** Employees of foreign governments are not permitted to be engaged as technical advisers in Central Government Agencies. They can be engaged under an “Institutional Partnership arrangement” (IPA);
- 3. Possibility of in-line functions:** The Regulation provides that non-citizen technical advisers may perform in-line functions.

Current ways of engaging non-citizens in PNG

- 1) Direct engagement of non-citizens: in-line positions;
- 2) Employment of advisers by aid contractors: possibility of some in-line functions under new Regulation;
- 3) Engagement of Australian public servants under Institutional Partnership Arrangements: no in-line functions.

Proposed model: In-line employment co-funded by aid provider

