



THE OFFICE OF THE INSPECTOR GENERAL



The Global Fund to Fight AIDS, Tuberculosis and Malaria

EXECUTIVE SUMMARY

FINAL REPORT OF INVESTIGATION OF INDIA HIV/AIDS (ROUNDS 4 AND 6) FUNDS TRANSFERRED TO THE POSITIVE SUPPORT FOUNDATION (PSF)

Investigations Report No.: GF-OIG-11-010

Issue Date: 31 October 2011

I. EXECUTIVE SUMMARY

1. This report presents the results of an investigation by the Investigations Unit of the Office of the Inspector General (OIG) of the grants disbursed to the Indian Network for People Living with HIV/AIDS (INP+), a sub-recipient (SR) of the Global Fund's Round 4 and Round 6 disbursements. The OIG was first notified of allegations of financial mismanagement within INP+ in March 2010. In the months that followed, the OIG - at the Global Fund Secretariat's and Country Coordinating Mechanism's (CCM's) request - deferred its own investigation, pending an independent fiduciary review of INP+ by an audit firm selected by the CCM. This fiduciary review confirmed that INP+ violated the relevant grant and sub-grant agreements by transferring grant funds to a closely affiliated organization, Positive Support Fund (PSF), which failed to use these monies for program related purposes. However, lacking a forensics component, the review was not able to determine: 1) the full amount of loss to the Global Fund; 2) all of the parties responsible for the loss; 3) a full account of their acts and uses of funds; 4) the location of the misappropriated and remaining funds. The review did not place the Organization in the best possible position to seek and affect recoveries.

2. In February 2011, OIG launched its own investigation of INP+'s transfers to PSF in order to identify: (a) the amount of the Global Fund funds transferred from INP+ (the SR) to PSF in violation of the grant and sub-grant agreements; (b) the location of misappropriated funds so that recoveries could be achieved; (c) the full nature and extent of the fraud, abuse and/or mismanagement of Global Fund funds; and (d) the identification of all persons responsible for the aforesaid acts. On the basis of this investigation, the OIG has found credible and substantive evidence that, at least, US\$ 872,000 of grant funds were misappropriated and should be returned to the Global Fund, and as much as the entire amount transferred to PSF, US\$ 1.28 million. Further, on the basis of the totality of evidence identified during its investigation, OIG confirmed the independent audit's finding that PSF failed to provide grant-related services as required under the terms and conditions of the grant. The investigation has also revealed that grant funds were transferred to a shell corporation, controlled by a principal of the sub-recipient, Mr. KK Abraham, and that some of the funds were thereafter used for purposes personal to him.

3. As set forth herein, the investigation concludes that substantive and credible evidence has been identified that Mr. KK Abraham purposefully took advantage of his position, first as President and then as General Secretary of INP+, to effectuate individual control over approximately US\$ 1.28 million in grant funds, through engineering transfers of such grant resources and donor funds to PSF, an organization which he controlled as its President and a lifelong Board Member, and for which he was the primary signatory on the entities bank accounts. He then used the funds unilaterally in the manner he deemed appropriate, which on a number of occasions benefited himself, and his associates, personally. The transfer of project funds from INP+ to PSF violated the terms of the Global

Fund's Grant Agreement with PFI, and INP+'s Sub-Grant agreement with PSF, since these funds were not used for program purposes as required under those Agreements and, in part, for the benefit of Mr. Abraham. As these funds were not used for program purposes, but rather for, among other things, Mr. Abraham's personal benefit, his personal projects, and for his associates, transfers of project monies by INP+ to PSF constituted a misappropriation of grant funds.

4. The OIG found various other forms of fraud, abuse, and mismanagement within INP+ and PSF: First, the leadership of INP+ concealed and misrepresented its contributions to PSF. Direct contributions to PSF were either underreported or not reported at all in INP+'s annual reports. INP+ failed to report transfers to PSF in its annual reports until December 2009—more than three years after the first transfer to PSF was executed, and only two months *after* complaints surfaced regarding transfers to PSF. Moreover, even when INP+ reported transfers, it underreported the amount of these transfers by approximately US \$750,300.

5. Further, INP+ provided auditors with incomplete financial information. In addition, the leadership of INP+ executed a scheme to route funds to PSF via fictitious "donations" from its officers and other private individuals.

6. Second, the OIG found credible and substantive evidence that PSF paid for utilities, rent and other costs related to an apartment owned and occupied by the general secretary of INP+ and president of PSF, KK Abraham, and his associate and PSF consultant, MK Shah. Third, the investigation found that compensation paid to certain staff members (whom the independent audit had identified as unqualified and overcompensated) was underreported to the Global Fund. Fourth, the OIG found that PSF provided few services since its inception, failing to meet any of the 9 objectives set forth in its Memorandum of Association. Fifth, there were significant overlaps between the leadership of INP and that of PSF—most prominently, that Mr. Abraham served as President or General Secretary of INP+ as well as President of PSF during the relevant periods. Significantly, Mr. Abraham was the sole individual with primary authority in both entities to make most, if not all, management decisions, and was a signatory to bank accounts for both entities. The investigation has identified credible evidence that Mr. Abraham was a driving force behind creating PSF, served as its most senior officer, and made the significant substantive decisions in both entities, including how funds were to be expended. These facts and circumstances created a conflict of interest, and were in breach of the terms of the grant agreement.

7. Sixth, the investigation has identified that grant funds were utilized to purchase a parcel of land without consent of the Board, knowledge and consent by the Principal Recipient and disclosure to the Global Fund, and this transaction was effectuated by Mr. Abraham, and at his direction. On 15 November 2008, Mr. Abraham, the president of PSF purchased a plot of land situated at Vele, Tai Wai, Dist. Satara purportedly in his capacity as head of PSF, without approval from the PSF's Board. Between November 2008 and March 2009, at Mr. Abraham's direction and under his authority, PSF made payments of

US\$ 72,888¹ relating to the purchase of this land. Mr. Abraham has represented to the OIG that he intended to build a hospital on the land. However, to date no construction of the hospital has been carried out. Based on a document recovered from Mr. Abraham, it is well established that Global Fund grant funds were used to pay for the land.

8. The investigation has also revealed that Mr. Abraham used PSF funds to pay for the rent and renovation of his personal residence, including carpentry work, painting and polishing furniture, as well as furnishings, such as a glass mirror for the bathroom, wash basin, mattresses, meeting table and chairs, sofa, safety entrance door, collapsible gate for balcony, and a supply of gas geysers.

9. The OIG also found evidence that INP+ retaliated against whistleblowers and other critics of PSF by disaffiliating two SLNs and removing a board member from office without merit after they raised concerns about the function and funding of PSF.

10. Finally, the OIG found that the Principal Recipient, Population Foundation of India (PFI), failed to fulfill its oversight responsibilities of the sub-recipient, INP+, and did not act with energy and enthusiasm to make appropriate changes and obtain recoveries of lost sums, when the malfeasance was identified. Indeed, despite multiple requests, PFI did not effectuate proper change in INP+ management, did not exercise proper control and fiduciary oversight of this SR, and failed to require misappropriated grant funds to be returned once the misappropriation was identified and the location of some of the diverted funds were identified by the OIG.

On the basis of the totality of evidence, the OIG concludes that there is credible and substantive evidence of (a) an improper transfer of Global Fund funds constituting a violation of the grant agreement; and (b) a scheme existed, that was orchestrated by and at the direction of Mr. Abraham, who used his position at INP+ to convert Global Fund grant monies for his personal gain through improper and unauthorized transfers to PSF and subsequent use of such funds for his own purposes. In light of these findings, the OIG recommends that: (1) the Global Fund's Secretariat immediately seek to recover all outstanding losses, at least US\$ 872,000, the losses that the Global Fund and the grant programs suffered as a result of INP+'s transfer of funds to PSF and subsequent misuse; (2) Global Fund grant funds that continue to sit in accounts that are owned and/or controlled by PSF's leadership are immediately returned to the Organization; (3) PSF immediately liquidate the properties that it has purchased with Global Fund grant funds, or execute a proper property transfer from Mr. Abraham to INP+, so that the sub-recipient retains true ownership of the property; (4) the Global Fund require PFI (the PR) to condition any future cooperation with INP+ on a clear demonstration that it has: (i) reimbursed the Global Fund for the losses to Global Fund grant funds; (ii) separate Mr. Abraham from his position and barred him from any activity related to GF grants; (iii) held accountable any other individuals who may be found to be responsible for the fraud and abuse described in this report; and (iv) implemented robust internal controls to prevent future fraud and abuse; (5) prevent and bar co-mingling of funds from multiple donors by ensuring that future

¹ INR 3.28 million

grant agreements require all PRs and SRs to deposit grant proceeds in dedicated Global Fund accounts; and (6) require that LFAs, CCMs and other fiduciary control bodies verify the use of overheads charged to Global Fund grants, and conduct more effective oversight during the course of the grants.