



Investing in our future

The Global Fund

To Fight AIDS, Tuberculosis and Malaria

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GF/B23/12
For Information

REPORT OF THE FINANCE AND AUDIT SUB-COMMITTEE REGARDING OIG MATTERS

PURPOSE:

The Finance and Audit Committee (FAC) together with invited representatives from other Board Committees (“the FAC Sub-Committee”) considered Office of the Inspector General (OIG) matters on 22 March 2011. This report provides an update to the Board on OIG matters reviewed by the FAC Sub-Committee and records the deliberations of the FAC Sub-Committee in regard to oversight of OIG matters going forward.

PART 1: INTRODUCTION

1.1 The Sub-Committee met on 22 March 2011 to review OIG reports issued since the last meeting in October 2010, to consider the progress update from the OIG, and an update from the Secretariat on the Global Fund's response to fraud. As decided at the 14th meeting of the FAC (GF/B21/13) the FAC leadership invited a member of each of the other committees to attend the sessions of the FAC meetings on OIG matters. At the meeting, there were representatives from the Portfolio and Implementation Committee (Pradeep Kakkatill), Market Dynamics and Commodities Ad-Hoc Committee (Shanelle Hall via conference call) and Ethics Committee (Karlo Boras). Representatives from the Policy and Strategy Committee, the Affordable Medicines Facility-Malaria Ad-Hoc Committee were unable to attend. A representative from the US Government attended this meeting as an observer. Representatives from the Offices of the Chair and Vice-Chair of the Board were unavailable to attend this meeting. Mr. Bill Parr from the WPRO Constituency made concerted efforts to join by teleconferencing facilities.

1.2 This report contains the following topics for Board Information:

Part 2: Mali Investigation Report

Part 3: OIG Progress Report

Part 4: Results with Integrity - The Global Fund Response to Fraud

Part 5: Sub Committee Considerations of Parts 3 and 4

Part 6: Discussion on OIG Matters

1.3 It was noted that many of the items discussed were sensitive and any breaches of confidentiality may impact the safety of staff and the success of any investigation.

PART 2: MALI INVESTIGATION REPORT

Information

2.1 The Sub-Committee noted that the investigation report into the Mali Tuberculosis and Malaria grants was nearing finalization and was made available to FAC Sub-Committee members at the meeting in hard copy in redacted form. This was to ensure that the report did not jeopardize the domestic investigation in Mali or prejudice due process in relation to any Global Fund Secretariat policies regarding staff. Further details on the report are discussed in Part 3.

2.2 As the Sub-Committee needed time to properly review the report, it was decided that the Chair and Vice Chair of FAC would review the un-redacted version of the investigation report with a view to further guiding the FAC on the actions required in order to make a recommendation to the Board in line with the disclosure policy regarding whether the FAC approves the redactions proposed by the OIG, or the report is to be released in full.

2.3 The subsequent recommendation by the FAC to the Board concerning the release of this report is contained in the report of the FAC to the Board (GF/B23/6, part 3).

3.1 The Sub-Committee noted the OIG view that the Associated Press article of 23 January 2011 was factually misleading. The OIG noted that rather than being lauded for being transparent, the Global Fund came under undue criticism and that the issues the Global Fund was facing was common to all donors and entities operating in these risky environments. The OIG also reiterated to the Sub-Committee concerns around attempting to extrapolate on misuse of funds across the entire portfolio based on the results of completed audits and investigations.

Audit

3.2 It was noted that since the last OIG progress update (GF/FAC15/02), that two reports had been issued by the OIG. The Rwanda audit report (GF-OIG-10-003) and the Lessons Learned report (GF-OIG-11-001).

3.3 The Sub-Committee acknowledged the positive findings of the Rwanda audit report, noting that the OIG did not identify any misuse of funds, that the programmatic results were impressive and that funds have been used to strengthen national systems. While some weaknesses were identified at SR levels and in terms of PR oversight of SRs, this report was evidence of good practice that should be shared with a proactive communication from the Global Fund on this report.

3.4 The Sub-Committee noted the impressive work on the Lessons Learned report prepared by the OIG. A number of issues were highlighted from the Lessons Learned report in the OIG progress update which was based on the seven most recent audit reports.

- i. **Results Reported** - while the Global Fund has contributed to a massive scale up in interventions, it also operated in countries with often weak monitoring and evaluation systems. Accordingly, the efforts by the Global Fund on data quality such as onsite data verifications and data quality audits had noted some data quality issues. The OIG and the Secretariat have agreed, moving forward, to jointly review the Fund's approach to results, and the OIG will continue to examine results as part of its program performance audits.
- ii. **High Risk Expenditure and Activities** - it was noted that there were risks related to procurement and supply management costs such as inadequate forecasting, deficient procurement processes, leakage from the distribution chain; and evidence of non-compliance with the Global Fund quality assurance policies. Training related costs along with cash based payments and weak accounting systems continued to pose high risks which could be reduced through implementation of a number of actions recommended by the OIG.
- iii. **Record-keeping, accounting, and co-mingling of funds by Principal Recipients** - poor record keeping, insufficient, unacceptable or non-existent accounting systems, along with co-mingling of funds with other sources of funds and the use of joint and multiple bank accounts have been identified as problems leading to misuse of funds and an inability to track expenditures and to identify the true uses of grant funds. These issues also complicate the work of auditors and investigators and contribute to significant delays in completion of reports.

- iv. **Lack of Cooperation with Audits and Investigations** - The OIG highlighted that in countries under investigation, the Secretariat should link further disbursements (with the exception of disbursements for *life-saving activities*) to a commitment by recipients and national authorities to cooperate with the OIG and show a good faith effort to pursue meritorious cases of fraud and financial misappropriation. The OIG described several circumstances in which lack of cooperation has had negative consequences on investigations in progress.
- v. **In country oversight: The role of the Local Fund Agent (LFA)** - through a number of completed and on-going audits and investigations, the OIG has identified numerous instances where the LFA has missed significant issues and fraud schemes. The OIG recommends fees be refunded and LFAs replaced in these cases. The Secretariat have replaced ten LFAs in the last year and clarified the scope of work to ensure that they address fraud risks in future. In several cases, the OIG Investigations Unit has engaged with LFAs to train them in identifying evidence of fraud in expenditure documents, resulting in a marked increase in the identification of fraudulent invoicing, and an increase in referrals by LFAs to the OIG.
- vi. **Financial controls, environmental risks and recipients' ability to manage funds** - The OIG expressed serious concerns that many Principal Recipients lack the capacity to properly manage grants, which in turn raises questions about the effectiveness of the oversight structures. The OIG noted that the Global Fund should give consideration to: (a) the relevance of its existing model given the environment that the Global Fund is often operating in, (b) to ensuring that risk management is part and parcel of the grant making process, (c) to amending KPIs focused on speed and volume of disbursements, (d) to establishing minimum acceptable capacity standards for PRs, and (e) to enforcement of policies and guidelines that have not been implemented at country level.
- vii. **Strengthening oversight mechanisms** - The OIG, in various audits and investigations, has found that the CCM lacks accountability, invariably suffers from conflicts of interest, and has limited time, interest or expertise, to perform its oversight role.

Investigations

3.5 The Sub-Committee noted that currently approximately 75% of audits are leading to subsequent investigations, and that, as of 10 March 2011, there were 129 cases referred to the OIG for investigation of which 32 are currently under active investigation. It was noted that there has been a significant increase in referrals from the Global Fund Secretariat and LFAs.

3.6 The Sub-Committee noted in relation to the investigation of the Mali Tuberculosis and Malaria grants that, between 2004 and April 2010, certain senior officials and staff in the programs' financial management and implementing agencies with the active support or knowledge of some of the regional Ministry of Health offices, together with third party vendors and suppliers, engaged in widespread schemes to misappropriate Global Fund program resources and funds.

3.7 The Sub-Committee noted that the year-long OIG investigation found that US\$4.1 million of the funds investigated were lost through criminal acts of fraud and financial misappropriation, while a further US\$1.1 million of the funds represent a loss in violation of Global Fund Grant Agreement provisions.

3.8 The Sub-Committee noted the labor intensity of the investigation with over 1,000 people interviewed and more than 50,000 pages of documentation analyzed, and that computer, data and file management systems had to be created because record and document keeping was very poor. These circumstances significantly lengthened the time for completion of the investigation.

3.9 The excellent cooperation between the OIG with the Investigating Judge appointed by the Malian authorities was acknowledged, along with the significant support provided by the OIG to the Judge. To date fifteen individuals have been detained, pending prosecution and trial in connection with the domestic investigation, and this result was achieved as a result of the close cooperation of the OIG and the Investigating Judge.

3.10 The Sub-Committee noted that the OIG is currently investigating 17 cases of drug theft in 13 countries in Africa. It further noted that drug theft is not a problem only affecting Global Fund grants but is a long-standing problem in drug delivery in a number of locations throughout the world and acknowledged the work undertaken by both the Secretariat and OIG to work with partners to tackle this issue.

Other Progress Update Matters

3.11 The OIG updated the Sub-Committee on the evolution of the audit process, in particular the approach to debriefing key stakeholders in-country on initial findings and recommendations to allow immediate corrective actions to be taken while the audit report is being finalized.

3.12 The OIG also highlighted that instances where PRs attempt to investigate allegations of misuse themselves without informing the OIG first can complicate and jeopardize the chances of reliable and relevant results and can incur significant costs on ineffective actions. Further, disclosure of audits commissioned by PRs prematurely has negative consequences on further follow on efforts by the OIG, who often need to come in to do further work to identify the full nature and extent of the misuse, quantify losses, identify responsible parties and position the Global Fund to seek full recoveries.

3.13 The OIG noted that little progress has been made with UNDP towards agreement for disclosure of information in the possession of UNDP that is relevant to OIG audits and investigations, and that in Togo, the OIG is not getting critical information it needs on the drug thefts there.

3.14 The OIG continues to work in collaboration with counterparts such as the World Bank's Office of Institutional Integrity, UNOPS and the European Anti-Fraud Office (OLAF). The OIG is also closely collaborating with USAID on the issue of theft of drugs.

3.15 The OIG noted that the Code of Conduct for recipients, duly endorsed by the Ethics Committee with inputs from the Portfolio and Implementation Committee, will now be submitted to the EMT for approval. Following the EMT meeting of 12 April 2011, the EMT raised concerns about the code of conduct and it was subsequently decided that the Code will be subject to further discussions between Global Fund senior management, the OIG and the Chairs of the PIC, the Ethics Committee and the FAC.

3.16 In relation to the depth of investigations, the OIG noted that without deep investigations, the identification of the full amount of the loss, the identification of all responsible parties, and acceptance of referrals to national authorities is a much less likely prospect as national Prosecutors, typically, are more willing to pursue cases if evidence is provided which supports allegations.

PART 4: RESULTS WITH INTEGRITY - THE GLOBAL FUND'S RESPONSE TO FRAUD

4.1 The Global Fund Secretariat outlined to the Sub-Committee the Global Fund's six layers of assurance which included the internal control mechanisms of the PR, LFAs, External Audits, Secretariat, OIG and the Governance Structures.

4.2 The Sub-Committee noted that, of the US\$ 44 million in fraudulent, unsupported, or ineligible expenditure, 63 percent of this amount related to four countries in which the Global Fund has taken significant action to safeguard funds, pursue recoveries of the misused funds and provided evidence to local authorities to enable them to proceed with criminal investigations.

4.3 The Sub-Committee noted the actions that are underway to reinforce the Global Fund's approach to fraud prevention and detection, namely:

- i. Updating the scope of work of LFAs to further strengthen their focus on fraud risks and actual fraud.
- ii. Introduction of annual country and PR risk assessments which will then result in PR risk management plans, including fraud risks
- iii. More in depth monitoring of high risk activities during implementation
- iv. Training of LFAs in collaboration with the OIG on best practice in identifying fraud and assessing program activities that are prone to fraud.
- v. The systematic follow up to OIG recommendations, noting that the overwhelming majority have been either fully or partially completed.
- vi. The strengthened approach to high risk activities such as training through the introduction of training plans and increased LFA verification and spot checks.
- vii. The Global Fund Secretariat and the Office of the Inspector General have taken a leading international role in addressing drug theft, working with law enforcement, sister agencies and drug manufacturers to investigate claims of theft.
- viii. A senior-level working group within the Global Fund Secretariat is currently taking stock of a number of *Operational Finance Issues* and recurring risk trends across the portfolio. Many of these issues relate to those referenced in the Lessons Learned Report (GF/OIG-11-001) discussed above. Relevant guidelines and policies are currently being adjusted to provide a more detailed operational framework for dealing with these specific topics
- ix. In early 2010, the Secretariat embarked on a *Reform Agenda for a More Effective and Efficient Global Fund*, large parts of which focus on improving the Global Fund's approach to risk and fraud. Additional measures have recently been added to the reform agenda in order to further reduce risks of misuse of funds.
- x. Strengthening of the CCM role in relation to grant oversight.
- xi. Enhanced attention to quality assurance, through (a) the introduction of a dedicated Quality Unit (April 2011) to ensure consistency of grant-related deliverables, and (b) through the codification of standard operating procedures capturing best practices in grant management.

- xii. Accelerated implementation of the Country Team Approach, allowing for a better coordination of expertise around grant-management decisions, interactions with recipients, and management of key risks in the programs. Thirteen country teams were rolled out in October 2010. A further twenty country teams were established in March 2011, with the aim of arriving at country teams for more than forty countries by June 2011.
- xiii. During the negotiations of Round 10 grants, the Secretariat will be seeking to strengthen the fiduciary controls of implementers by reprogramming grant funds.
- xiv. The Secretariat is working to improve its own capacity in relation to fraud prevention and detection - including through Standard Operating Procedures on budget and expenditure reviews and improved attention to “red flags” (i.e.: risks of fraud). The creation of a Global Fund “Rapid Response” team will reinforce the Secretariat’s capacity to deal with identified instances of misuse; and comprehensive training on fraud risks will be delivered to staff, Country Coordinating Mechanisms, and Principal and sub-recipients.
- xv. The Board also decided, in December 2010, to reinforce the Office of the Inspector General adding a number of investigators and increasing its budget for 2011 to handle the growing number of investigations and referrals.

4.4 The Director of Strategy Policy and Evaluations (SPE) brought to the attention of the Sub-Committee, the significant work on the issue of data quality, notably the 92 percent of eligible grants that had undergone On-Site Data Verification (OSDV), the results of this work and that of the Data Quality Audits (DQA), along with the Secretariat’s efforts to improve data quality and strengthen monitoring and evaluation systems.

PART 5: SUB-COMMITTEE CONSIDERATIONS OF PARTS 3 AND 4

5.1 The Sub-Committee considered both the OIG reports and Secretariat paper together.

Depth of Investigations

5.2 In relation to the issue of depth of investigations, the Sub-Committee did not discuss this in any detail but believes this issue should be considered by the High Level Panel¹. Issues that the High Level Panel might wish to consider are:

- i. Whether it is required that the OIG work continue until court-ready information is prepared, or whether the OIG’s work should stop earlier once the Global Fund understands the full scope of the issues. The latter course of action would imply turning over the investigation work to national authorities at an earlier stage than at present.
- ii. Whether handing over investigations at an earlier stage would restrict the ability to fully quantify the misuse of funds in an unacceptable way?
- iii. Whether the current approach to investigations is in line with best practice?

¹ The OIG disagrees with the FAC sub-Committee and does not think that any questions on the depth of investigations should be raised with the High Level Panel.

Role of UNDP

5.3 The Sub-Committee considered the current difficulties created in terms of the restrictions placed on the work of the OIG as a result of the lack of access to information, documents, records and audit reports. It further noted that the most realistic position that UNDP would take would be to treat the Global Fund like a UN member state, which would allow for in camera review of audits, but no access to audit working papers. It was noted that under the current mandate of the OIG, this would not be considered sufficient but that FAC might need to advise the Board to accept this and release the OIG of the need to seek higher levels of assurance.

5.4 The Sub-Committee noted the essential role that UNDP currently has with the Global Fund. The Sub-Committee wished to gain assurances on the audit practices of UNDP, and were willing to explore options such as presentation to the FAC by the Head of the Office of Audit and Investigations, and discussions with UNDP on lifting the confidentiality restrictions on their audits.

5.5 The Sub-Committee also requested assurances from the Global Fund Secretariat on the status of transition plans for UNDP grants.

5.6 It was recognized that additional work was required before taking this issue to the Board, and the Chair of the FAC committed to liaising with UNDP on this matter.

Other matters

5.7 The representative from the PIC noted that PIC discussions emphasized the need to balance fiduciary and programmatic needs to ensure that, in strengthening fiduciary controls, flexibility to manage grants effectively is not lost.

5.8 The Sub-Committee noted that it was also important that communication and information sharing on best practice such as the Rwanda report was encouraged.

5.9 The Sub-Committee commended the OIG and the Secretariat on the collaboration in relation to addressing the issues of drug theft.

5.10 The Sub-Committee noted that the PIC was dealing with issues of technical and management assistance and suggested that the issue of technical and management assistance from the fiduciary perspective be considered by the PIC, where they could consider the important information included in the OIG reports and the Secretariat paper on Results with Integrity.

5.11 The Sub-Committee noted that going forward it would be useful to have the response from the auditee incorporated in the OIG reports and also to track the time from the end of the audit to the release of the report.

5.12 The Sub-Committee noted that some of the issues in the OIG Lessons Learned report related to procurement are very important for the work of the MDC.

5.13 The Sub-Committee noted that the reports from the OIG and the Global Fund Secretariat were submitted late leaving little time to prepare and consult with constituencies and this will need to improve in the future.

5.14 It was also noted that the Sub-Committee had asked to receive an integrated report from the OIG and Secretariat rather than separate reports. The Sub-Committee decided that this should be a combined report going forward.

5.15 The Sub-Committee commended the Global Fund Secretariat and OIG on the very useful reports, highlighting the excellent progress made in terms of improvements at the country level and by the Global Fund Secretariat

5.16 The Sub-Committee noted the Global Fund Secretariat response to the OIG reports, but requested assurance that there are no gaps in the response (ie: that for every issue raised in the OIG progress report there is a corresponding response from the Global Fund Secretariat on their view and the actions taken).

5.17 The Sub-Committee praised the work of the OIG in the completion of the Mali Investigation Report, and deemed it a high quality piece of work.

5.18 The Sub-Committee recommended that the Comprehensive Reform Working Group (CRWG) carefully review the reports prepared by both the OIG and the Global Fund Secretariat (including the additional responses from the Secretariat on issues raised in the OIG Progress Report). The Sub-Committee noted the progress made on most of the issues raised by the OIG but suggested that the CRWG would carry out some work on the model as part of the reform agenda. It was further noted that these reports would be very important for the conversation with the High Level Panel.

5.19 The Sub-Committee also noted the need to clarify the oversight role of CCMs and the need to speed up the reforms in general.

5.20 It is expected that an update on all of the issues raised and on progress to date will be provided at the FAC meeting scheduled for September/October 2011, including the Global Fund Secretariat's complete response to the OIG's latest Lessons Learned report.

PART 6 - DISCUSSION ON OIG MATTERS

Follow up of OIG Issues from the 15th FAC meeting

6.1 The FAC Sub-Committee considered the follow up of issues arising from a meeting held on 14-15 February 2011 between the Chair and Vice Chair of FAC, with the Global Fund Secretariat and OIG. This meeting considered the list of issues that were discussed with the Chair and vice-Chair of the Board, Chair and Vice-Chair of the FAC, Office of the Executive Director and OIG at the Twenty-Second Board meeting in Sofia in December 2010.

6.2 The Sub-Committee noted that the majority of issues had been addressed in the OIG and Global Fund Secretariat reports.

6.3 The Sub-Committee did however consider the implications on the Secretariat in terms of workload and relationships with PRs, CCMs and Partners during and following an OIG Audit or Investigation. It requested these implications to be appropriately considered as part of the reform agenda.

6.4 The Sub-Committee welcomed the suggestion from the Developed Country NGO constituency and the Developing Country NGO constituency to consider obtaining feedback independent of existing mechanisms on the impact of OIG Audits and Investigations on in-country stakeholders

6.5 The Sub-Committee also discussed the risk of program disruption arising from actions taken following OIG Audits, and requested that any analysis available on this subject be shared with the Sub-Committee for their consideration.

6.6 The Sub-Committee further noted that it was important to have the process outlined for the follow up of Audit recommendations documented, including specifying how partners are involved, and how recommendations are formally cleared.

Communication of amounts related to OIG Audits and Investigations

6.7 The Sub-Committee noted that the table on loss analysis provided in both the OIG progress update and Results with Integrity paper prepared by the Global Fund Secretariat were consistent and referred to the absolute US dollar equivalent amounts broken down as fraud, unsupported amounts, ineligible amounts, income/drugs not accounted for, and other from the completed audits and investigations. At the meeting in February 2011, it had been agreed, in the interests of predictability and transparency, that this table should be updated twice a year (ie: before each FAC meeting).

6.8 The Sub-Committee considered the tensions between being as clear and transparent as possible, while recognizing the risk of the Global Fund being unfairly criticized as a result of this transparency.

6.9 The Sub-Committee therefore decided that the existing presentation of losses should be expanded to include (i) the periods covered by the audit/investigation and (ii) the amounts recovered.

6.10 The Sub-Committee requested advice from the Global Fund Secretariat and the OIG on the usefulness of presenting cumulative figures or annual figures.

6.11 The Sub-Committee further requested the OIG and Global Fund Secretariat to come to a conclusion on an appropriate denominator and comparator for consideration at the next FAC meeting scheduled for 9 May 2011.

6.12 The Sub-Committee requested, for future discussions, to have the OIG prepare an update on the magnitude of misuse of funds in terms of viewing the number of ongoing and yet to be completed audits and investigations falling into different monetary bands and the distribution of countries affected.

Grant Management during Ongoing Investigations

6.13 The Unit Director for Quality Assurance updated the FAC on the challenges faced by the Global Fund Secretariat in relation to grant management during ongoing investigations, particularly in relation to the challenges of how much the OIG can communicate on investigations without jeopardizing them, and how the Secretariat could obtain important information without overburdening the OIG.

6.14 The Sub-Committee noted that both the OIG and Global Fund Secretariat were working together to address these concerns but that there was a difference of opinion, in that the OIG wished to make disbursements contingent upon cooperation with an ongoing investigation.

6.15 The Sub-Committee requested the OIG and Global Fund Secretariat to continue to seek to find a solution, and failing this, to submit a paper to the FAC with a proper written analysis outlining the different approaches and their consequences, in order to facilitate a proper discussion and decision by the FAC.

Post Audit Mediation Process and Complaints Procedure

6.16 The Sub-Committee discussed the concept of a post audit mediation process to enable grant recipients to have an easier and less costly process than going through formal arbitration when disputing elements of an OIG Audit or Investigation.

6.17 The OIG also updated the Sub-Committee on the process for complaints arising from an OIG Audit or Investigation. The complaints could be applied to both the behavior of OIG Staff and Contractors, but also Global Fund Secretariat staff.

6.18 The Sub-Committee decided that these issues can be dealt with jointly and brought as a package to the Board in a policy for submission at the 9 May 2011 FAC meeting.

This document is part of an internal deliberative process of the Fund and as such cannot be made public until after the Board Meeting.