

INVESTIGATION REPORT

Misconduct affecting Global Fund grants

Corrupt and coercive practices, including sexual exploitation and abuse, by a recipient of grant funds in Ghana

GF-OIG-21-005
19 March 2021
Geneva, Switzerland

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1. Investigation at a glance

1.1. Executive Summary

Executives at the Sub-Sub-Recipient, a Global Fund implementer and Sub-sub-recipient of grant funds, abused their positions of power and fostered a culture of sexual and financial exploitation, demanding sex acts and money from people living with HIV as a condition of access to benefits.¹

The Global Fund's governance policy framework in relation to protection from sexual exploitation and abuse and sexual harassment (SEAH) is inadequate. The organization operates without a meaningful framework to prevent, prohibit, detect, or respond to SEAH in its programs, an issue that has been highlighted in previous OIG reports.² While the absence of a robust policy framework did not create these abuses, mature mechanisms to train, educate and support can empower survivors to report and prevent widespread, systemic abuse. Following this case, the Global Fund made a February 2021 update to its codes of conduct to specifically address SEAH, with an accountability framework and implementation projected to follow in 2021.

The Principal Recipient and Sub-recipient failed to cascade down the Global Fund's then-existing Code of Conduct and ethical obligations to the Sub-Sub-Recipient.

1.2. Genesis and Scope

In July 2019, the Global Fund Secretariat received an allegation that multiple the Sub-Sub-Recipient's executives were demanding sex acts from HIV program participants as a condition of access to benefits. OIG opened an investigative assessment in response. After several months of Geneva-based assessment that failed to produce any specific, first-hand information, OIG determined that in order to identify potential victims and witnesses, investigators needed to travel in country, where evidence and potential witnesses would be located. This allowed the opportunity to build trust, establish rapport, and facilitate real-time access to appropriate services.

In December 2019 and July 2020, supported by the Ghana Police Service's Domestic Violence and Victim Services Unit, OIG undertook successive investigative missions, the latter a remote mission due to COVID-19 travel restrictions. While the scope of the investigation was initially limited to a sampling of participants in one grant program, evidence revealed identical issues in a second program also implemented by the Sub-Sub-Recipient, and nationally within the Sub-Sub-Recipient. The investigation's scope was then widened in response to include representation from the second program and the Sub-Sub-Recipient as a whole.

Throughout, OIG undertook a victim-centered, trauma-informed investigation. Consistent with a "do no harm" mandate, OIG provided all witnesses with a description of the investigation's scope and an explanation of the purpose of an administrative investigation. OIG apprised all witnesses that their participation was voluntary, and explained OIG's commitment to anonymity and victim support.

¹ Although the Sub-Sub-Recipient has historically been the recipient of funds from other donors, as of October 2019, the Sub-Sub-Recipient was solely supported by the Global Fund. ² See March 2019 Audit Report, *Global Fund Human Resources Management Processes*, available at https://www.theglobalfund.org/media/8381/oig_gf-oig-19-007_report_en.pdf; September 2019 Audit Report, *Managing Ethics and Integrity at the Global Fund*, available at https://www.theglobalfund.org/media/8769/oig_gf-oig-19-016_report_en.pdf.

1.3. Impact and Actions Taken

This investigation prompted both immediate and long-term action; specifically, with respect to the Sub-Sub-Recipient and those exploited, and more broadly, with respect to the Global Fund as an organization.

From December 2019, OIG and the Global Fund's Ghana Country Team worked with the Ghana Police Service's Domestic Violence and Victim Services Unit and the Principal Recipient of grant funds to connect those impacted by sexual exploitation and abuse with appropriately tailored support systems, including gender-based violence counselling and specific support to address safeguarding. That same month, the Global Fund suspended funding to the Sub-Sub-Recipient pending the outcome of the investigation. Two affected grant programs was transferred to ensure continuity of the programs and the associated stipends, and is now overseen by different grant recipients. In January 2020, the Global Fund re-allocated grant resources to provide ongoing supervision, legal counsel, and capacity building for all program participants at risk of exploitation and abuse. In February 2020, the Sub-Sub-Recipient removed the subject later held elections to replace them.

The Global Fund's Ghana Country Team identified and addressed the sensitive issues that arose during the investigation, taking immediate action. At the end of 2020, the Country Team began a review of legal contracts, codes of conduct, and related PR/SR policies, and will ensure that ethical obligations are conveyed and cascaded down to all recipients of funds in the new grant cycle. In March 2021, OIG published an information video on its www.ispeakoutnow.org platform, raising awareness of the Global Fund's zero tolerance for SEAH and educating grant implementers on SEAH matters.

At an organizational level, in February 2020, the Global Fund created a Sexual Exploitation, Abuse, and Harassment Review Panel, which meets quarterly to oversee the response to all allegations of SEAH within the organization and the programs it supports. In October 2020, a Prevention of Sexual Exploitation, Abuse, and Harassment Working Group was set up. This group has been instrumental in proposing revised language to specifically prohibit SEAH in the Codes of Conduct for Recipients, Suppliers, Country Coordinating Mechanisms, and Governance Officials. Those revisions took effect in February 2021.

On 28 January 2021, the Secretariat reiterated to the Ethics and Governance Committee of the Board of the Global Fund a commitment to 2021 implementation of the revised Codes of Conduct through communication, training and certification, intake case management and investigations, risk assessment, and a PSEAH framework.³

The Agreed Management Actions (AMAs) resulting from this investigation supplement related, outstanding AMAs from two 2019 OIG audits⁴ which highlighted the need for:

- A framework related to harassment, including sexual harassment, bullying and abuse of power in the context of Global Fund programs
- A review of the Codes of Conduct and Policies within the Ethics and Integrity Framework
- A comprehensive implementation plan to operationalize the Policy to Combat Fraud and Corruption

³ See GF_EGC14_ER02_Updating Codes of Conduct_EDP02-05_28012021_final_sent (bl).pdf.

⁴ See the March 2019 Audit Report, *Global Fund Human Resources Management Processes* and the September 2019 Audit Report, *Managing Ethics and Integrity at the Global Fund*.

The current AMAs demonstrate the renewed promise of the Global Fund to address SEAH in its portfolios, as follows:

- Communication to Principal Recipients and CCMs as to the specific prohibition against SEAH and the Global Fund’s expectations
- Tailored Global Fund staff training
- An organizational framework for the protection from sexual exploitation and abuse and sexual harassment (PSEAH)
- A portfolio-wide PSEAH risk assessment and intervention response
- A review of all legal agreements currently in force between Principal Recipients and sub-Recipients in Ghana for inclusion of language prohibiting SEAH

1.4. Context

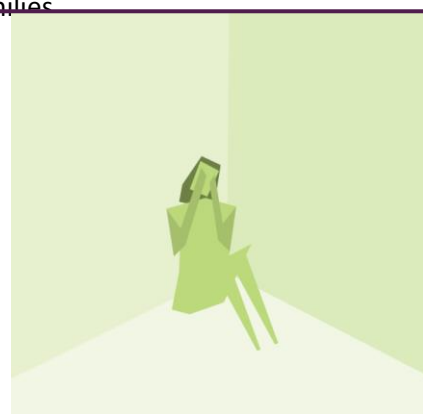
The Global Fund’s financial support to the Sub-Sub-Recipient began in 2010. From 2015 to 2019, the Sub-Sub-Recipient implemented two community-led support and advocacy programs as a Sub-sub-recipient (SSR) of grant funds and an organization delegated by the Sub-recipient to implement Global Fund activities.

The two the Sub-Sub-Recipient's programs at issue offer support, education, and advocacy services to people recently diagnosed or living with HIV (PLHIV), from thriving PLHIV living within the same communities.

Selection for the Sub-Sub-Recipient programs brings a monthly stipend of 450 GHS (US\$175⁵) or 670 GHS (US\$261), respectively. Those selected for the programs regularly attend training, designed to empower them and equip them with earning potential. This training includes food and accommodation, as well as a travel allowance. Although not the intended use, many participants rely on the stipend and associated benefits to support themselves and their families

What is Sexual Exploitation and Abuse?

Sexual exploitation refers to the actual or attempted abuse of a position of vulnerability, power, or trust, for sexual purposes. Sexual abuse refers to actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.⁶ SEA flourishes when there are economic or gender power imbalances, and in cultures where certain groups are historically disenfranchised or disempowered from learning about or openly discussing sex. Wherever resources are scarce, there is a risk of exploitation to the most vulnerable.



The terms of the grant agreement are clear regarding the accountability of the Principal Recipient for the use of grant funds and the modalities under which implementation responsibilities may be shared with other

⁵ The exchange rate used throughout is an average of the rates of exchange over the ten-year period during which the events in question occurred, as reported by xe.com. In November 2010, the exchange rate was 1 GHS to US\$0.69. In January 2020, the exchange rate was 1 GHS to US\$0.17. Over the ten-year period, taking into account each year’s rate, the average rate is 1 GHS to US\$0.39.

⁶ For purposes of this investigation, OIG adopts the U.N. Secretary-General’s bulletin on protection from sexual exploitation and abuse.

entities. As an SSR, the activities of the Sub-Sub-Recipient must be subject to generally equivalent obligations to those of the Principal Recipient, including the integration of the Code of Conduct for Recipients in their contract regarding the use of grant funds. This includes the prohibition from engaging in coercive, corrupt, or collusive practices, prohibited practices that include acts of sexual exploitation and abuse.

Due to the inadequate contract provisions used by the Principal Recipients and their Sub-recipients, the Sub-Sub-Recipient was not subject to the expected set of contractual obligations framing the use of grant funds. The findings in this report are made with respect to the accountability of the Principal Recipients with respect to the proper use of Global Fund grant funds by entities they select as Sub-recipients.

2. Findings

2.1 Abuses of power fostered a culture of sexual and financial exploitation at the Sub-Sub-Recipient

Multiple the Sub-Sub-Recipient executives demanded that program members engage in sexual conduct or provide financial kickbacks in order to access events and benefits supported by grant funds, which constituted corrupt and coercive practices. The executives tacitly and openly enabled each other to perpetuate an exploitative and abusive culture.

During its investigative missions, the OIG interviewed 43 fact witnesses, including five of the nine living Sub-Sub-Recipient named subject executives.⁷ Nine program participants reported that they had been sexually exploited and/or abused by eight Sub-Sub-Recipient national and regional executives in connection with grant activities between 2010 and 2019. Twenty-nine witnesses reported knowing of systemic sexual exploitation and abuse by the Sub-Sub-Recipient's executives of female program participants, including six current or former Sub-Sub-Recipient's staff or executives. The witnesses named nineteen additional women believed to have been sexually exploited by, or transactionally involved with, the Sub-Sub-Recipient's executives. Event attendance data supported the perception that sexual conduct was the price of entry to the Sub-Sub-Recipient's events, as these nineteen women attended far more than the average number of events.

While nine witnesses were willing to share experiences of sexual exploitation and abuse that did *not* result in sexual activity, and many witnesses named *other* women who had allegedly acquiesced to the Sub-Sub-Recipient's executives' sexual demands, none of the witnesses admitted to having been victim to sexual exploitation or abuse that *did* result in sexual activity. One witness explained that program participants were likely "afraid of being exposed." In that witness' view, any woman who was discovered to have confided in OIG risked exclusion from subsequent opportunities or access to future benefits from the Sub-Sub-Recipient. OIG shares this witness' conclusion that the incidence of SEAH was under-reported due to the fear of retaliation, given the strong consensus across witnesses as to sexual exploitation and abuse in the program, and the actual incidents of retaliation that OIG was able to document. OIG also highlights the widely-held understanding that SEAH is generally underreported due to a myriad of other factors, including fear, shame, societal pressure, and historical disenfranchisement.⁸

OIG additionally found that at least eight program participants had been financially exploited by at least seven Sub-Sub-Recipient's national and regional executives in connection with Global Fund grant activities. Thirteen witnesses corroborated the overall culture of financial exploitation at the Sub-Sub-Recipient. These witnesses reported that in exchange for being invited to a training course, conference, or other event, the "inviting" Sub-Sub-Recipient's executive often demanded a share of the attendee's *per diem* allowance for travel, housing, and food, or cellular airtime minutes. Event attendance data revealed that the Sub-Sub-Recipient's executives in question attended a disproportionate number of training events, providing themselves substantially more *per diem* allowances, and corroborating the overall kickback scheme.

⁷ OIG attempted to interview the other four during the course of its investigation but was informed that they were unavailable or could not be reached. OIG explained to all interviewed subject executives the purpose of the interviews and obtained their consent before conducting the interviews.

⁸ See, e.g., Sexual Exploitation, Abuse and Harassment (SEAH) in the international aid sector, Victim and survivor voices: main findings from a DFID-led listening exercise, October 2018, available at <https://reliefweb.int/sites/reliefweb.int/files/resources/Listening-Exercise.pdf>.

Additionally, three Sub-Sub-Recipient executives threatened witnesses through phone or text messages in an endeavor to prevent them from speaking to, or as retaliation for speaking to, OIG. OIG collected digital evidence in support of the witnesses' testimony in this regard.

Without explanation, the Sub-Sub-Recipient also failed to grant OIG "unrestricted access" to program books and records, namely potentially corroborative attendance records, despite clear language in the Grant Agreements with the respective Principal Recipients requiring such access to be granted. OIG made three written requests for access to records of event attendance; the Sub-Sub-Recipient did not reply to the first two such requests and – after a change in leadership – partially complied with the third.

Of the nine Sub-Sub-Recipient's subject executives named as perpetrators, five agreed to be interviewed. Three of the five denied knowledge of or responsibility for sexual or financial exploitation and abuse. One admitted to receiving financial kickbacks. Two admitted that they and their fellow executives were aware that some male Sub-Sub-Recipient executives exploited the vulnerabilities of some female program participants for sexual purposes but denied that they had engaged in sexually exploitive or abusive conduct, and disavowed responsibility for their respective roles in allowing the culture to persist.

The behaviors of the Sub-Sub-Recipient's executives, as representatives of the Sub-Sub-Recipient, constituted corrupt, coercive, collusive, obstructive, and retaliatory practices with respect to the use of grant funds and the OIG investigation.

2.2 The Global Fund's policy framework in relation to sexual exploitation and abuse is inadequate

Sexual exploitation and abuse and sexual harassment are inadequately addressed in Global Fund policy documents, contracts, risk registers, and due diligence tools.

Gaps in policies and procedures do not cause sexually exploitative and abusive conduct. Yet holistic organizational maturity is critical to prevention, prohibition, detection, and a victim-centered response when allegations of SEAH surface in Global Fund programs. During the events in question and throughout the course of the investigation, Global Fund policy or contractual documents, such as grant agreements, did not specifically define or prohibit sexual exploitation and abuse and sexual harassment (SEAH). Instead, they prohibited coercive, corrupt, and collusive practices, all of which implicitly include SEAH. As a result, SEAH-specific ethics and integrity requirements were not adequately detailed or cascaded down to grant implementers.

Similarly, the Global Fund's Ethics and Integrity Framework does not address prohibitions against SEAH. While this document is not intended to be part of the grant agreement, it sets governance standards that enable the Secretariat to condition ongoing funding on the recipient's respect of certain ethical principles, including human rights.

Likewise, the *Policy to Combat Fraud and Corruption* governance document does not adequately address prohibitions against sexual exploitation and abuse. While it purports to establish definitions of Prohibited Practices, including the prohibited practices of coercion, corruption, and collusion that form the basis of the findings in this investigation, this document is neither comprehensive nor adequately definitive as to SEAH.

Viewed as a whole, the Global Fund policy and contractual prohibitions in place during the events in question and throughout the course of the investigation prohibiting coercive, corrupt, and collusive practices did not specifically prohibit acts of SEAH at the recipient level. As written, grant recipients were required to interpret the existing prohibitions to understand that forms of SEAH were prohibited by the grant agreement. It would encourage effective prevention, detection, and response if the prohibitions were specific and explicit so that all implementers could more simply understand and adhere to them.

Moreover, in the absence of an overall SEAH framework at the Global Fund, the OIG was required to serve simultaneously as investigator and victim advocate throughout this investigation, providing for victim support and victim advocacy whilst also pursuing its investigation. Best practices dictate that these roles should be separated yet act in concert with one another.⁹

While the development of a framework to address SEAH risk is implicitly captured by the "in-country conduct and Ethics" risk category of the Global Fund's risk register, the document does not specifically include SEAH as a risk of injury to those directly victimized, as a risk to programmatic impact, or as a risk to the Global Fund's overall ability to perform its mandate or maintain its reputation.

⁹ See Multilateral Organisation Performance Assessment Network, "Note for Practitioners: Measuring Multilateral Performance on Preventing and Responding to SEA and SH," 2021, at 22; available at [http://www.mopanonline.org/analysis/items/MOPAN%20SEAH_Practitioners%20Note%20\[web\].pdf](http://www.mopanonline.org/analysis/items/MOPAN%20SEAH_Practitioners%20Note%20[web].pdf).

In 2018, the Global Fund committed to review, and where necessary strengthen, internal standards and due diligence tools, to update functional SEAH prohibitions to include clear and specific language on SEAH.¹⁰ While work has commenced in this area, and as of February 2021 the Global Fund's outward-facing governance and contractual documents specifically address SEAH, the Global Fund has not yet articulated an adequate framework to mitigate and address SEAH.

In its March 2019 internal audit report, *Global Fund Human Resources Management Processes*, OIG highlighted that the policies and procedures related to sexual harassment, bullying, and the abuse of power needed significant improvement. The audit resulted in the Secretariat's commitment to build a framework to address the issues underlying sexual exploitation and abuse in its programs.

In the September 2019 internal audit report, *Managing Ethics and Integrity at the Global Fund*, OIG similarly warned that because issues of harassment and retaliation were not specifically prohibited in the Code of Conduct for Grant Recipients or the Code of Conduct for Suppliers, "[i]nconsistencies and gaps in coverage of key requirements and stakeholders within the Ethics and Integrity landscape create ambiguity on the expected behaviors and conduct of some key Global Fund stakeholders."¹¹ In this report, OIG highlighted the critical need for a comprehensive, risk-based implementation plan to operationalize the Policy to Combat Fraud and Corruption as applied to implementers. This report resulted in the Secretariat's agreement to update the codes of conduct, to create a risk-based anticorruption implementation plan, and to operationalize internal policies related to fraud and abuse in its programs.

¹⁰ Commitments Made by GAVI, the Vaccine Alliance and the Global fund to Address Sexual Exploitation and Abuse and Sexual Harassment, 18 October 2018, available at https://www.theglobalfund.org/media/7859/other_exploitationabuseharassmentcommitments_statement_en.pdf.

¹¹ GF-OIG-19-016 at 17, available at https://www.theglobalfund.org/media/8769/oig_gf-oig-19-016_report_en.pdf.

2.3 Critical oversight gaps at recipient level must be addressed

Principal Recipient and Sub-recipient oversight over the Sub-Sub-Recipient was inadequate to ensure adherence to Global Fund grant regulations. Ethics and integrity expectations were not communicated to the Sub-Sub-Recipient during the contracting process.

The Sub-Sub-Recipient's structure, where beneficiaries also act as contractors to the implementer, enhances the risk of exploitation. The medical, psychological, socio-economic, and gender vulnerabilities associated with being a program participant or a member of a key population raise the risk of exploitation by others with more power. Where participant-implementers depend on program benefits to survive, additional oversight is required to ensure that power conferred by the Global Fund is not abused at the expense of the most vulnerable.

The Principal Recipient ('the Principal Recipient'), Sub-recipient ('the Sub-Recipient'), and the Sub-Sub-Recipient each failed to provide SEAH training and awareness or reporting channels to their program participants or onward recipients and suppliers. SEAH training and awareness and clear messaging as to how to report is critical for prevention and response.

On multiple occasions over several years, program participants reported issues of sexual and financial exploitation to the Sub-Sub-Recipient's executives and others in positions of power; their reports were either ignored or not met with any kind of serious inquiry. These allegations were not shared with the Global Fund until the report that initiated this investigation. The Sub-Sub-Recipient's purported attempts to investigate failed to identify or address any of the systemic issues uncovered by OIG.

Global Fund Grant Regulations require Principal Recipients to ensure that the Code of Conduct for Recipients is communicated to all Sub-recipients.¹² While the 2018 memorandum of understanding (MOU) between the Sub-Sub-Recipient and the Sub-Recipient was functionally a sub-sub-Recipient contract, the document failed to include the required contractual clauses on ethics and integrity requirements. Neither the Principal Recipient nor the Sub-Recipient provided the Sub-Sub-Recipient with the Code of Conduct for Recipients or any other Global Fund guidance, as required under the Grant Agreement. They also did not give the Sub-Sub-Recipient or the program participants any guidance regarding how to report issues of wrongdoing to the OIG. As a result of this investigation, the Principal Recipient now conducts an awareness-raising, "Speak Out Now" presentation to its program participants.

Had the deficiencies raised in Section 2.2 and 2.3 been addressed earlier in line with the OIG's Agreed Management Actions, the Principal Recipient and the Sub-Recipient would have been better positioned to communicate the Global Fund's zero tolerance for SEAH to the Sub-Sub-Recipient as part of the contracting process. It is also more likely that program participants would have known how to report instances of abuse, with confidence that their privacy and support needs would be met. Swifter action by the Global Fund is required to remedy these gaps in grant management.

¹² Grant Regulations, para. 6.6(1). See also CoC at paras. 2.3, 7.2.

3. Global Fund Response

Agreed Management Action	Due date
<p>1. PSEAH Communication – AMA 1</p> <p>The Secretariat will communicate to all principal recipients and CCMs the updated prohibitions against sexual exploitation, sexual abuse and sexual harassment in funding agreements and codes of conduct, as well as the actions to be taken as part of their Prevention of Sexual Exploitation and Abuse and Sexual Harassment (PSEAH) obligations.</p> <p><i>Owner: Ethics Officer</i></p>	<p>31/03/2021</p>
<p>2. PSEAH Training – AMA 2</p> <p>The Secretariat will complete the first annual cycle of trainings for relevant Global Fund staff, tailored to their specific roles.</p> <p><i>Owner: Ethics Officer</i></p>	<p>31/10/2021</p>
<p>3. Global Fund PSEAH Framework – AMA 3</p> <p>The Secretariat will develop an operational framework to clarify accountability and expectations around the prevention, detection and response to sexual exploitation and abuse and sexual harassment within the activities supported by the Global Fund. This PSEAH framework will be consistent with international best practices as they may be relevant to the Global Fund’s operating model, notably the MOPAN Good Practice Note on PSEAH and the OECD DAC Recommendation on PSEAH. The framework will also integrate the outcome of AMA3 of the OIG Audit of Global Fund Human Resources.</p> <p><i>Owner: Ethics Officer</i></p>	<p>30/07/2021</p>
<p>4. PSEAH Risk Assessment and Response – AMA 4</p> <p>The Secretariat will assess risk and commence prioritized interventions required for a robust PSEAH operational plan across the portfolio.</p> <p>The Secretariat will develop a costed action plan to scale up interventions, to be included as part of the 2022 OPEX submission to the AFC and the Board.</p> <p><i>Owner: Ethics Officer</i></p>	<p>31/10/2021</p>
<p>5. Ghana-specific Response – AMA 5</p> <p>AMA 5 (Ghana specific)</p> <p>Following the communication noted in AMA1, the Secretariat will proactively engage with the principal recipients and the CCM members in Ghana regarding the expectations and actions to be taken as part of their obligations on PSEAH. The Secretariat will further review legal agreements currently in force between grant recipients and sub-Recipients in Ghana for inclusion of language prohibiting SEAH.</p>	<p>30/09/2021</p>

<p><i>Owner: Head, Grant Management Division</i></p>	
<p>6. 15 March 2019 Audit Report: Global Fund Human Resources Management Processes, GF-OIG-19-007</p> <p>The Secretariat will develop a framework related to harassment, including sexual harassment, bullying and abuse of power in the context of Global Fund programs; this framework will cover the wider stakeholder environment of the Global Fund (including CCMs, implementers, suppliers and others) and define and clarify the roles and responsibilities across different functions within the Global Fund including GMD department, Ethics Officer and OIG.</p> <p><i>Owner: Chief of Staff</i></p>	<p>31/12/2019</p> <p>OVERDUE</p>

Annex A: Methodology – Sexual Exploitation and Abuse Investigations

Why we investigate

Sexual exploitation and abuse (SEA) is one of the most insidious forms of wrongdoing. Protecting and empowering those affected by sexual exploitation and abuse is a core commitment of our work at the Global Fund. No one should be subjected to sexual exploitation and abuse, which is devastating for the individuals involved and destroys relationships and trust within communities. The Global Fund has zero tolerance for sexual exploitation and abuse and sexual harassment, and all program implementers are required to guard against these kinds of abuses. The Global Fund has tasked its Office of the Inspector General (OIG) with the responsibility of investigating these kinds of complaints in programs which it supports.

What we investigate

The OIG is mandated to investigate any use of Global Fund funds, whether by the Global Fund Secretariat, grant recipients, or their suppliers. OIG investigations identify instances of wrongdoing, such as corruption, coercion, abuse, and other types of non-compliance with grant agreements, including SEA and violations of our human rights standards.

How we investigate

OIG SEA investigations aim to:

- Support and empower victims and survivors of wrongdoing;
- Identify the nature and extent of wrongdoing affecting Global Fund grants;
- Identify the entities responsible for such wrongdoing;
- Place the Global Fund in the best position to recover funds compromised by wrongdoing or to take remedial or preventive action;
- Make all appropriate referrals to law enforcement and victim service providers.

The OIG conducts administrative, not criminal, investigations, with the informed consent of all witnesses. All OIG investigations into allegations of human rights violations and SEA are conducted with a victim-centered, trauma-informed methodology, following a case-specific risk assessment, by professional, trained investigators.

Consistent with the 2019 United Nations Protocol on the Provision of Assistance to Victims of Sexual Exploitation and Abuse,¹³ the OIG ensures that:

- Appropriately tailored assistance and support are made available to all victims of human rights violations and SEA, irrespective of whether the victim initiates or cooperates with an investigation or any other accountability procedure;
- Assistance and support are offered and provided in a manner that is victim-centered, rights-based, age, disability-and gender sensitive, non-discriminatory and culturally appropriate;
- Assistance provided to victims adheres to the principle of “do no harm” and is provided in a manner that seeks to uphold their rights, dignity and well-being, including safety measures to protect against retaliation, re-victimization and re-traumatization as appropriate;
- The rights of victims to privacy, confidentiality and informed consent are respected;

¹³ Available at https://www.un.org/en/pdfs/UN%20Victim%20Assistance%20Protocol_English_Final.pdf.

- Victims may pursue applicable accountability measures, including legal redress where desired, through appropriate referrals;
- Appropriate information is shared with law enforcement so that perpetrators of human rights abuses and SEA may be held criminally accountable, while respecting the principle of informed consent.

It is recipients' responsibility to demonstrate compliance with grant agreements and the incorporated Codes of Conduct. OIG findings are based on facts and related analysis, which may include drawing reasonable inferences. Findings are established by a preponderance of evidence. All available information, inculpatory or exculpatory, is considered by the OIG.¹⁴

As an administrative body, the OIG has no law enforcement powers. It cannot issue subpoenas or initiate criminal prosecutions. As a result, its ability to obtain information is limited to the access rights it has under the contracts the Global Fund enters into with its recipients, and on the willingness of witnesses and other interested parties to voluntarily provide information. The OIG explains to all witnesses:

- The nature and voluntariness of an administrative investigation;
- The way in which testimonial and documentary evidence is used by the OIG;
- How confidentiality is maintained through appropriate redactions and sanitizations.

Where a referral for criminal prosecution is appropriate, the OIG will seek to partner with local law enforcement in undertaking a joint investigation that seeks to minimize any trauma that may result from parallel proceedings. The OIG has no authority to dictate whether any national or local law enforcement body takes on a case for criminal prosecution.

How we support

The Global Fund's responsibility to ensure assistance and support are made available to victims and survivors begins as soon as an SEA allegation is received. All SEA allegations are referred to appropriate parties if not taken on by the OIG for investigation.

In collaboration with the grant recipients, the Global Fund ensures that local partners assume the roles of victim advocate and service providers. Assistance is provided on a case-by-case basis, in accordance with the specific needs of the victim or survivor. Common services for victims and survivors address issues related to food and shelter, safety and protection, medical care, psychosocial support, legal service referrals, and child protection services.

The OIG bases its investigations on the contractual commitments undertaken by recipients and suppliers. Principal Recipients are contractually liable to the Global Fund for the use of all grant funds, including those disbursed to sub-Recipients and paid to suppliers. The Global Fund's Grant Agreements and Codes of Conduct for Suppliers and Recipients¹⁵ set forth the principles that recipients and suppliers must respect. The Global Fund Guidelines for Grant Budgeting define compliant expenditures as those that have been incurred in

¹⁴ These principles comply with the Uniform Guidelines for Investigations, Conference of International Investigators, 06.2009; available at: http://www.conf-int-investigators.org/?page_id=13, accessed 1.12.2017.

¹⁵ Global Fund Code of Conduct for Suppliers (15.12.2009), § 17-18, available at: https://www.theglobalfund.org/media/3275/corporate_codeofconductforsuppliers_policy_en.pdf, and the Code of Conduct for Recipients of Global Fund Resources (16.07.2012), §1.1 and 2.3, available at: https://www.theglobalfund.org/media/6011/corporate_codeofconductforrecipients_policy_en.pdf. Note: Grants are typically subject to either the Global Fund's Standard Terms and Conditions of the Program Grant Agreement, or to the Grant Regulations (2014), which incorporate the Code of Conduct for Recipients and mandate use of the Code of Conduct for Suppliers. Terms may vary however in certain grant agreements.

compliance with the terms of the relevant grant agreement (or have otherwise been pre-approved in writing by the Global Fund) and have been validated by the Global Fund Secretariat and/or its assurance providers based on documentary evidence.

Whom we investigate

The OIG investigates Principal Recipients and all sub-Recipients, Country Coordinating Mechanisms and Local Fund Agents, as well as suppliers and service providers. Secretariat activities linked to the use of funds are also within the scope of the OIG's work.¹⁶ While the OIG does not typically have a direct relationship with the Secretariat's or recipients' suppliers, its investigations¹⁷ encompass their activities regarding the provision of goods and services. To fulfill its mandate, the OIG needs the full cooperation of these suppliers to access documents and officials.¹⁸

The OIG ensures that all subject recipients and their representatives are afforded due process throughout the investigation. As part of that due process, the OIG affords all named entities and individuals the right to participate in the investigation, through interviews and the opportunity to respond to investigative findings and the OIG's final report. In SEA investigations, the OIG must balance these due process rights with the rights of the victims and survivors to confidentiality, dignity, and safety, taking reasonable precautions to ensure that only non-identifying, sanitized information is provided outside of the OIG.

How we respond

When an investigation identifies prohibited practices, the Global Fund has the right to seek the refund of grant funds compromised by the related contractual breach. The OIG has a fact-finding role and does not determine how the Global Fund will enforce its rights. Nor does it make judicial decisions or issue sanctions.¹⁹ The Secretariat determines what management actions to take or contractual remedies to seek in response to the investigation findings. However, the investigation will quantify the extent of any non-compliant expenditures, including amounts the OIG proposes as recoverable.

How we prevent reoccurrence

Following an investigation, the OIG and the Secretariat agree on management actions that will mitigate the risks that prohibited practices pose to the Global Fund and its recipients' activities. The OIG may make referrals to national authorities for criminal prosecutions or other violations of national laws and support such authorities as necessary throughout the process, as appropriate.

¹⁶ Charter of the Office of the Inspector General (16.05.2019), § 2, 10.5, 10.6, 10.7 and 10.9 available at:

https://www.theglobalfund.org/media/3026/oig_officeofinspectorgeneral_charter_en.pdf

¹⁷ Charter of the Office of the Inspector General § 2, and 18.

¹⁸ Global Fund Code of Conduct for Suppliers, § 16-19

¹⁹ Charter of the Office of the Inspector General § 9.1

Annex B: Summary of Subject Responses

On 18 January 2021, via email, OIG made available to the following organizations and individuals the opportunity to read and respond to OIG's statement of findings, a full record of relevant facts and findings from this investigation:

- the Sub-Sub-Recipient Ghana
- the Sub-Sub-Recipient Ghana Advisory Board
- the Sub-Sub-Recipient's Executive Named Subjects 2-10²⁰
- the Principal Recipient
- the Sub-Recipient
- Ghana AIDS Commission
- West Africa AIDS Foundation

The OIG received no response from:

- the Sub-Sub-Recipient Ghana
- the Sub-Sub-Recipient's Executive Named Subjects 2-6, 8-10
- the Sub-Recipient
- Ghana AIDS Commission
- West Africa AIDS Foundation

Response from the Principal Recipient

On 27 January 2021, OIG received an email response from the Principal Recipient containing the following summarized information:

The Principal Recipient implemented the Community Systems Strengthening (CSS) through the Sub-Recipient. During the years prior to the Principal Recipient and the Sub-Recipient's involvement with the Sub-Sub-Recipient, the PLHIV activities were coordinated and led by the Sub-Sub-Recipient Ghana. Beginning in 2018, the Principal Recipient and the Sub-Recipient used the Sub-Sub-Recipient as "a conduit to easily mobilize the PLHIV community to benefit from the planned project activities." The Principal Recipient and the Sub-Recipient considered the Sub-Sub-Recipient "a front for the community of persons living with HIV" and not a sub-sub-Recipient of grant funds.

Response from the Sub-Sub-Recipient Advisory Board

On 29 January 2021, OIG received an email response from the Sub-Sub-Recipient Advisory Board containing the following summarized information:

The Sub-Sub-Recipient Advisory Board observes that four of the nine living named subjects could not be reached at the time of the scheduled interviews and believes that "efforts should be made to afford such members the opportunity to be heard unless they, by their conduct, choose to waive the right to be heard."

The Sub-Sub-Recipient Advisory Board underscores that much of the corroboration comes from other witnesses and victims. Apart from the Sub-Sub-Recipient's Executive Named Subject 10 who admitted the allegation of financial corruption, the Sub-Sub-Recipient Advisory Board maintains that the rest of the Sub-Sub-Recipient's executives denied the allegations.

²⁰ the Sub-Sub-Recipient Executive Named Subject 1 is deceased.

The Sub-Sub-Recipient Advisory Board believes that the named subject executives should have the right to cross-examine their accusers.

Response from the Sub-Sub-Recipient's Executive Named Subject 7

On 29 January 2021, OIG received an email response from the Sub-Sub-Recipient's Executive Named Subject 7 containing the following summarized information:

The Sub-Sub-Recipient's Executive Named Subject 7 feels they were treated unfairly by OIG and tricked into sharing information with OIG.

The Sub-Sub-Recipient's Executive Named Subject 7 reports that some of their colleagues named in the OIG findings complained to the Sub-Sub-Recipient's Executive Named Subject 7 that they were not contacted during the investigation or afforded an opportunity to review and respond to the findings.

The Sub-Sub-Recipient's Executive Named Subject 7 denies that they solicited or received financial kickbacks. One such allegation is the result of a business loan that the alleged victim has not repaid to the Sub-Sub-Recipient's Executive Named Subject 7.

The Sub-Sub-Recipient's Executive Named Subject 7 states that there is no evidence of their receipt of financial kickbacks. The Sub-Sub-Recipient's Executive Named Subject 7 has always supported the PLHIV community.

The Sub-Sub-Recipient's Executive Named Subject 7 denies that they threatened anyone. The Sub-Sub-Recipient's Executive Named Subject 7 felt betrayed by a friend who shared information with OIG.

The Sub-Sub-Recipient's Executive Named Subject 7 warns that this investigation is the result of “some self-seeking individuals and organizations who have for years been scheming for the collapse of the Sub-Sub-Recipient.” The Sub-Sub-Recipient's Executive Named Subject 7 believes that “the whistle-blowers, whoever they may be, instigated this investigation as a diversionary tactic” to distract OIG from recipient organizations that receive large sums of grant funds, and the Sub-Sub-Recipient's Executive Named Subject 7 contrasts the smaller amount of kickbacks that the Sub-Sub-Recipient's Executive Named Subject 7 is found to have received. The Sub-Sub-Recipient's Executive Named Subject 7 believes that the OIG should be investigating the whistle-blowers instead.

The Sub-Sub-Recipient's Executive Named Subject 7 believes that PLHIV in Ghana will not benefit from the publication of a report “that would condemn us as corrupt and morally decadent, however true or untrue this may be.” The Sub-Sub-Recipient's Executive Named Subject 7 believes that this report will lead to further stigmatization of PLHIV in Ghana.