

# CODE OF CONDUCT FOR RECIPIENTS OF GLOBAL FUND RESOURCES<sup>1</sup>

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**Annex I: Definitions**

## 1. Purpose and Scope

- 1.1. The purpose of this Code of Conduct (the “Code”) is to establish the principles and standards of conduct required of all recipients of Global Fund grant funds, including, without limitation, Principal Recipients, Sub-recipients, Sub-subrecipients, Country Coordinating Mechanisms, and procurement agents (altogether the “Recipients” and each a “Recipient”) in connection with Global Fund-financed activities.

## 2. Principles

- 2.1. Transparency, accountability, integrity and respect for universal human rights are critical components for the success of the fight against HIV/AIDS, tuberculosis and malaria. Consistent with these core principles, the Global Fund requires its Recipients to adhere to the highest ethical standards in the conduct of Global Fund-supported activities and exercise the utmost care and integrity in the management, use and appropriation of Global Fund grant funds and any assets procured with Global Fund grant funds (altogether the “Global Fund Resources”).
- 2.2. All Recipients shall preserve and protect the Global Fund grant funds entrusted to them, and ensure that such Global Fund financing or procurement, including the monies and assets disbursed or purchased, are used solely for the purposes set out in the Board approved grant proposal and in accordance with the Grant Agreement under which they were disbursed. Global Fund Resources shall not be misappropriated, embezzled, misdirected, misused, lost or unaccounted for in any manner.
- 2.3. Recipients are required to exercise diligence in ensuring that Global Fund Resources are used for their intended purposes and reach the intended beneficiaries. Recipients will ensure that this Code is communicated to all affiliates, officers, employees, subcontractors, agents and intermediaries of Recipients (each a “Recipient Representative”) and will take all reasonable steps to ensure compliance by Recipient Representatives while performing their roles and responsibilities for activities and expenditures financed by Global Fund Resources, such as including this Code in any contract with a Recipient Representative that relates to the receipt, disbursement, procurement or management of Global Fund Resources; making the Code available to Recipient Representatives; and taking immediate action to end and correct behavior that is not compliant with this Code.
- 2.4. As part of its oversight function, the Country Coordinating Mechanism (“CCM”) has the responsibility to monitor the implementation of the Program supported by Global Fund Resources, including compliance with this Code by Recipients.

### **3. Standards**

#### **3.1. Accountable use of Global Fund Resources**

- 3.1.1. Recipients shall manage and utilize Global Fund Resources in a transparent, fair, accountable and honest manner.
- 3.1.2. Recipients shall ensure that all employees, consultants, contractors or agents have the requisite skills and experience to perform their respective roles and responsibilities in relation to the receipt, disbursement, procurement and management of Global Fund Resources.
- 3.1.3. Recipients shall develop and maintain financial management systems and practices to properly record, reconcile and report on the use, receipt and status of Global Fund Resources in accordance with the applicable terms and conditions of the Grant Agreement and other applicable Global Fund guidelines and policies such as the Guidelines for Budgeting in Global Fund Grants.
- 3.1.4. Specifically, Recipients shall maintain complete, well organized, and comprehensive records in appropriate books of account of all financial and business transactions and disbursements of Global Fund grant funds in accordance with the terms and conditions of the Grant Agreement between the Global Fund and the Principal Recipient and for a minimum of seven years after the date of last disbursement made under the Global Fund Grant Agreement.

#### **3.2. Fair and transparent practices**

- 3.2.1. Recipients shall uphold the principles of good faith and fair dealing, and follow standards of good procurement practice, as well as all applicable rules and regulations regarding fair competition.
- 3.2.2. Recipients shall not, directly or indirectly, including through an agent or other intermediary, engage in corrupt, fraudulent, collusive, anticompetitive, or coercive practices, as defined in Annex I to this Code, involving Global Fund Resources.
- 3.2.3. Furthermore, Recipients shall not engage in embezzlement, theft, misappropriation or misuse, as defined in Annex I to this Code, of Global Fund Resources.

#### **3.3. Ethics and Conflict of Interest**

- 3.3.1. Recipients shall not apply or seek to apply undue influence on the decision-making processes of the Global Fund and shall not engage in any conduct that breaches or facilitates the breach of the Global Fund's Policy on Ethics and Conflict of Interest.
- 3.3.2. Recipients shall notify the Global Fund (including, as appropriate, through the Global Fund Secretariat and/or through the anonymous third-party reporting services of the Global Fund's Office of the Inspector General (the "OIG")) as

soon as they have knowledge of any integrity concern involving or affecting Global Fund Resources, or any breach of this Code.

- 3.3.3. Recipients shall take all necessary precautions to avoid conflicts of interest, as defined in Annex I to this Code. In particular, Recipients shall maintain standards of conduct that adequately identify, mitigate and address any actual, apparent or potential conflicts of interest in connection with the decision, awarding and administration of contracts, grants, or other benefits resulting from Global Fund Resources.
- 3.3.4. If a Recipient or Recipient Representative has knowledge or becomes aware of any actual, apparent or potential conflict between the financial interests of any person affiliated with a Recipient, a Country Coordinating Mechanism, a Local Fund Agent, or the Global Fund and that person's duties with respect to the implementation of the Global Fund-supported program, the Recipient or Recipient Representative shall immediately disclose such conflict of interest directly to the Global Fund. The Global Fund shall report to the Audit and Ethics Committee of the Global Fund on such notifications on a regular basis.
- 3.3.5. In addition, the Global Fund's Whistle-blower Policy encourages anyone with knowledge or information to report misconduct confidentially, or anonymously, to the OIG through a third-party reporting service (see "Links", below).

#### 3.4. Anti-Corruption

- 3.4.1. Recipients shall not solicit, offer, give, receive, promise, or represent to offer fees, gratuities, rebates, gifts, commissions, other payments or benefits, except as disclosed in full to the Global Fund. This shall include, but not be limited to, activities in connection with the procurement process, in contract execution or in any determination of the use, employment, assignment or participation of any other Recipients.

#### 3.5. Safeguarding Human Rights

##### 3.5.1. Global Fund Human Rights Standards

- 3.5.1.1. Recipients and their Representatives acknowledge that all programs financed by the Global Fund are expected to:
  - (i) grant non-discriminatory access to services for all, including people in detention;
  - (ii) employ only scientifically sound and approved medicines or medical practices;
  - (iii) not employ methods that constitute torture or that are cruel, inhuman or degrading;
  - (iv) respect and protect informed consent, confidentiality and the right to privacy concerning medical testing, treatment or health services rendered; and
  - (v) avoid medical detention and involuntary isolation, which, consistent with the relevant guidance published by the World Health Organization, are to be used only as a last resort.

3.5.1.2. Recipients and Recipient Representatives shall promptly notify the Global Fund's Office of the Inspector General upon discovery of any allegations relating to the Global Fund Human Rights Standards. If it is determined that a complaint should be investigated but it is not feasible for the Office of the Inspector General to do so, for logistical or security reasons, the Inspector General can decide, with the consent of the complainant, to share the information with relevant United Nations human rights bodies. For further information as to how to notify the Global Fund's Office of the Inspector General, see <https://www.ispeakoutnow.org/home-page/>.

### 3.5.2. Child Protection

3.5.2.1. The Global Fund supports the principles contained in the UN Convention on the Rights of the Child. Consistent with the provisions of the UN Convention on the Rights of the Child, the Global Fund expects Recipients to protect children against all forms of abuse, including physical, sexual and emotional abuse, as well as neglect.

3.5.2.2. Consistent with the provisions of the ILO Convention on the Worst Forms of Child Labour (Number 182), Recipients must prohibit forced or compulsory labour in all its forms, including all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; child prostitution and pornography; using children for illicit activities, in particular for the production and trafficking of drugs; and work which is likely to harm the health, safety or wellbeing of children.

3.5.2.3. Consistent with the provisions of the ILO Minimum Age Convention (Number 138), Recipients must not employ: (a) children below 14 years of age or, if higher than that age, the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of a contract takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher; and (b) persons under the age of 18 for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or wellbeing of such persons.

3.5.2.4. Recipients and their Representatives are expected to conduct themselves in a way that shows their commitment to the provision of support and services on the basis of need alone and without discrimination against any person, and in particular any person under the age of 18, including discrimination or other forms of punishment on the basis of race; colour; sex; language; sexual orientation; gender identity; religion; political or other opinion; national, ethnic or social origin; disability; birth (or other) status; or the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

### 3.5.3. Protection from Sexual Exploitation and Abuse and Sexual Harassment

3.5.3.1. Recipients and their Representatives are prohibited from engaging in sexual exploitation and abuse, and sexual harassment. For purposes of this Code:

Sexual exploitation is any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

Sexual abuse means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

Sexual harassment is any unwelcome conduct of a sexual nature that might reasonably be expected or be perceived to cause offense or humiliation. Sexual harassment may involve any conduct of a verbal, nonverbal or physical nature, including written and electronic communications, and may occur between persons of the same or different genders.

3.5.3.2. Sexual activity by Recipient Representatives with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally (in the jurisdiction where such activity takes place). Mistaken belief regarding the age of a child is not a defense.

3.5.3.3. Recipients are expected to have policies and measures in place to prevent and respond to sexual exploitation and abuse and sexual harassment. They are expected to facilitate or provide assistance to victims and survivors

related to their safety and protection, medical care, psychosocial support and legal services, as well as to facilitate survivor and victims' timely, safe and confidential access to a remedy.

3.5.3.4. Recipients and Recipient Representatives shall notify the Global Fund as soon as they have knowledge of allegations of sexual exploitation and abuse, and sexual harassment.

## **4. Compliance with Laws**

4.1. Recipients and Recipient Representatives shall comply with all applicable laws and regulations in countries where they do business, as well as the publicized rules, regulations and policies of the Global Fund that apply to their areas of work.

4.2. Recipients and Recipient Representatives shall ensure that Global Fund Resources are not used to support, finance or promote violence, aid terrorists or terrorist-related activity or fund organizations known to support terrorism.

4.3. Recipients and Recipient Representatives shall not engage in money-laundering activities. This includes any kind of activity which hides or is intended to hide the fact that funds have been obtained illegally or are connected with the proceeds of crime, e.g., through fraud or bribery or other illegal activity. Recipients and Recipient Representatives shall comply with any applicable anti-money laundering laws, regulations or policies. In that regard, consistent with the Grant Agreement, Recipients and Recipient Representatives shall not use the parallel market or unauthorized, unregulated or third-party currency exchangers in transferring funds received from the Global Fund for the grant programs. Grant funds should only be used for grant programs, and no other purpose.

## **5. Authority to Investigate**

- 5.1. The OIG of the Global Fund has the primary responsibility in the Global Fund for investigating violations of this Code and may investigate such allegations of violations by Recipients and/or Recipient Representatives.

## **6. Access and Cooperation**

- 6.1. Recipients and Recipient Representatives shall fully cooperate with the authorized representatives of the Global Fund, including the OIG, in audits, investigations, financial reviews, forensic audits, evaluations or other activities that the Global Fund deems necessary to ensure Global Fund Resources are used in accordance with the terms and conditions of the Grant Agreement for the purposes approved by the Global Fund. Cooperation includes access to all relevant records, documents, personnel, sites, electronic materials and computerized records generated, or in the possession of, the Recipient, or Recipient Representatives that pertain to activities and expenditures supported by Global Fund Resources.

The full or partial denial of access may result in sanctions, as described in Section 8 below.

## **7. Dissemination and Application**

- 7.1. Recipients shall ensure that this Code is communicated to and adhered by all entities which receive Global Fund Resources, including their Recipient Representatives. As such, Principal Recipients shall include this Code in any contract or agreement with other Recipients and receive from such Recipients an acknowledgement and agreement of their obligation and responsibilities to comply with this Code. Recipients shall integrate the principles of this Code with any existing guidelines or codes of conduct so that each Recipient and its Recipient Representatives are bound by the principles and requirements expressed herein. Furthermore, Principal Recipients shall ensure that all other Recipients adhere to the terms and conditions of the relevant Global Fund Grant Agreement under which Global Fund Resources are disbursed or financed.
- 7.2. In accordance with Article 14 of the Standard Terms and Conditions of the Global Fund's Grant Agreement, the Principal Recipient shall remain liable for the acts and omission of Sub-recipients as if they were the acts and omissions of the Principal Recipient. In the event that Global Fund Resources are misappropriated by other Recipients, the Principal Recipient shall be responsible to the Global Fund directly for the misappropriated sum and shall be responsible for making restitution to the Global Fund, regardless of whether the Principal Recipient is able to recover the loss from the other Recipients. It is the responsibility of the Principal Recipient to justify and demonstrate to the Global Fund that Global Fund Resources, including those used by Recipient Representatives, were used by the intended beneficiaries for the intended purposes approved by the Global Fund.

## **8. Violation of this Code of Conduct**

- 8.1. Recipients shall undertake to exercise diligence in regularly examining program operations to ensure that they are conducted in line with this Code. Recipients shall notify the Global Fund upon discovery of conduct which is inconsistent with this Code and take timely and appropriate remedial or corrective actions in such situations, and if necessary, coordinating such actions with the Global Fund's Secretariat and OIG.
- 8.2. Violations of this Code may first be addressed by the Secretariat, or may be presented to the Sanctions Panel, under the Sanctions Procedure, at the discretion of the Executive Director or the Inspector General.
- 8.3. If it is determined that this Code has been violated, the Global Fund can take actions to correct the matter and this may result in decisions including but not limited to sanctions of the Recipient(s) or the Recipient Representative(s), including suspension of disbursements or termination of funding, money and asset recovery, possible debarment from further activities involving Global Fund grants and referrals to national authorities for prosecution.
- 8.4. The Global Fund shall coordinate with Recipients, Recipient Representatives and relevant national or local authorities, at its discretion, to recover Global Fund Resources determined to have been misused or misappropriated in accordance with applicable procedures. The Global Fund reserves the right to notify national or local authorities of violations without notification to the Recipients, if disclosure may jeopardize further law enforcement efforts to identify responsible parties or recover funds.

## **Links:**

This Code of Conduct links to the following documents and information resources:

- Grant Regulations Standard Terms and Conditions of the Grant Agreement between the Global Fund and the Principal Recipients
- Guidelines for Budgeting in Global Fund Grants
- Operational Policy Manual
- County Coordinating Mechanism Policy
- Policy on Conflict of Interest
- Policy to Combat Fraud and Corruption
- Whistle-blowing Policy
- Code of Conduct for Suppliers
- Sanctions Procedures relating to the Code of Conduct for Suppliers
- OIG's Reporting Hotline (<https://www.theglobalfund.org/en/oig/report-fraud-and-abuse/>) and (<https://www.ispeakoutnow.org/report-now-en/>)

## Annex I

### 1. Definitions:

- 1.1. “Conflict of Interest”: A conflict of interest arises when a Recipient or Recipient Representative participates in any particular Global Fund matter that may have a direct and predictable effect on a financial or other interest held by: (a) the Recipient; (b) the Recipient Representative; or (c) any person or institution associated with the Recipient or Recipient Representative by contractual, financial, agency, employment or personal relationship. For instance, conflicts of interest may exist when a Recipient or Recipient Representative has a financial or other interest that could affect the conduct of its duties and responsibilities to manage Global Fund Resources. A conflict of interest may also exist if a Recipient or Recipient Representative’s financial or other interest compromises or undermines the trust that Global Fund Resources are managed and utilized in a manner that is transparent, fair, honest and accountable.
- 1.2. “Collusive practice” means an arrangement between two or more persons or entities designed to achieve an improper purpose, including influencing improperly the actions of another person or entity.
- 1.3. “Coercive practice” means any act or attempt to influence improperly the decisions or actions of a person or entity by impairing or harming, or threatening to impair or harm, directly or indirectly, such person or entity or their property.
- 1.4. “Corrupt practice” means the offering, promising, giving, receiving or soliciting, directly or indirectly, of anything of value or any other advantage to influence improperly the actions of another person or entity.
- 1.5. “Embezzlement” means the intentional act of dishonestly taking, appropriating, diverting or secreting money or property by an individual or entity entrusted to hold or possess such money or property as a fiduciary or in connection with an official responsibility.
- 1.6. “Fraud” means intentionally obtaining money or property by false or fictitious representations or promises, or material omissions.
- 1.7. “Fraudulent practice” means any act or omission, including a misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a person or entity to obtain a financial or other benefit or to avoid an obligation.
- 1.8. “Misappropriation” is the intentional misuse or misdirection of money or property for purposes that are inconsistent with the authorized and

- 1.9. intended purpose of the money or assets, including for the benefit of the individual, entity or person they favor, either directly or indirectly.
- 1.10. "Theft" means the intentional act of dishonestly taking, appropriating, diverting or secreting money or property to deprive the owner with rightful possession of the use or benefit of the money or property.