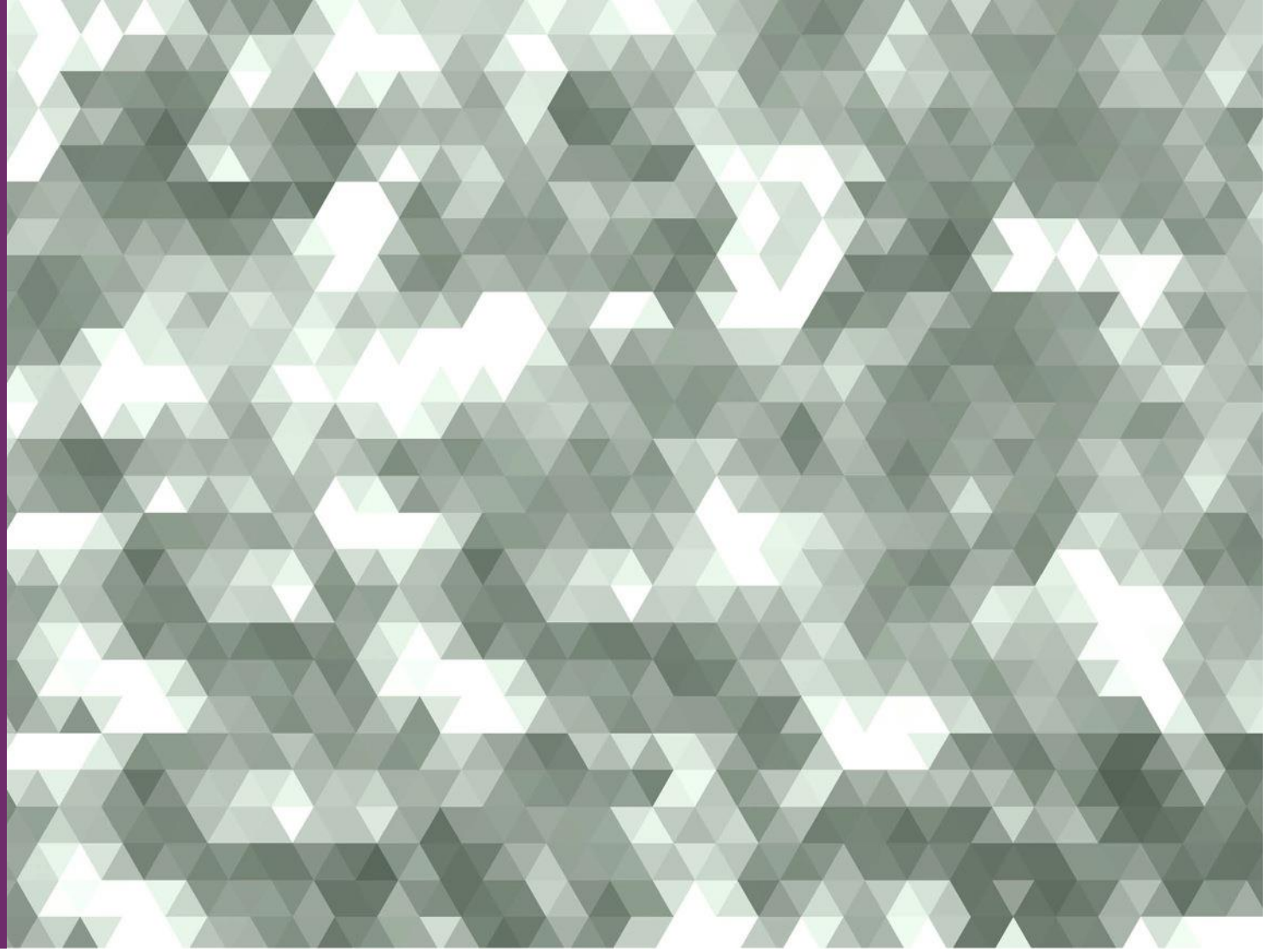

Investigation Report

Supplier Wrongdoing and Global Fund Non-Compliance with Procurement Regulations

GF-OIG-16-26
15 December 2016
Geneva, Switzerland

Non-compliant Expenditure: US$191,000
Proposed Recovery Amount: US$191,000
Categories: Fraudulent Practices/Non-Compliance with Procurement Regulations

The Global Fund
Office of the Inspector General

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I. Background and Scope

In November 2015, the Global Fund to Fight AIDS, Tuberculosis and Malaria's Secretariat alerted the Office of the Inspector General (OIG) to an anonymous email that alleged past professional wrongdoing on the part of the Director of a Supplier (hereinafter "the Supplier").

After receiving this email, the OIG launched an investigation into the award of two consultancy contracts by the Global Fund Secretariat. The first contract, Purchase Order 20054418 (Contract 1), was awarded to the Supplier in December 2013 with a total value of US $155,000. The second contract, Purchase Order 20154328 (Contract 2), was awarded to the Director of the Supplier personally in June 2015 with a total value of US$36,000. These contracts required the consultants to provide information and analysis on the detection of counterfeit medicines in Global Fund-financed African supply chains.

As part of its investigation, the OIG reviewed the work product submitted under the two contracts as a result of concerns from a Global Fund Secretariat manager that the Supplier may not have been the real author. In addition, the OIG reviewed the procurement process for the award of the two contracts in part due to the variance in rates (US$4,000 per day vs. US$250 per day) paid under the two contracts.

The implicated Secretariat Department is part of the Global Fund Secretariat's Finance, Information Technology, Sourcing and Administration Division.

The Supplier is a for-profit consulting firm.[1] According to the company profile provided by its Director to the Global Fund Secretariat, the foundation "carries out research and advisory services for global companies and institutions in the science, technology, health and education sectors, with particular expertise and emphasis on the African continent."[2] The company profile does not state when the foundation was created. The Supplier does not have a web presence.

According to the resume that he provided the Secretariat in November 2013, the Director of the Supplier is an engineer who has done work on robotics, has experience in academics and has published text books on electrical engineering. The Director of the Supplier was a senior government official of the Republic of Zimbabwe from 2009 to 2013. In that capacity, he supervised various infrastructure-related ministries, none of which relate to health programs or initiatives. The Director's resume also states that he worked as a Management Consultant for an international consulting firm from 2001 until 2003 in the areas of high technology, telecommunications, automotive assembly, electrical power/natural gas, manufacturing, agriculture and food chains, financial institutions and pharmaceutical and medical products.

When the Director of the Supplier was first introduced to the Global Fund Secretariat he was serving as a senior government official in Zimbabwe. The Director's first interaction with the Secretariat was as the keynote speaker at a Global Fund-sponsored conference on Innovation & Global ACT Supply Chain Threats in July 2013. During his keynote speech, the Director acknowledged that he was not an expert in supply chain threats but that he was an expert on how to address problems with technology and policy. During his speech he agreed to help advocate for the Global Fund's supply chain innovations in Zimbabwe, the Southern African Development Community and the African Union.

In addition to the paid consultancy work, the Director also did work at the request of the Global Fund for which he was not paid. In December 2014, he was invited by a member of the Management

[1] 22 November 2013 email from the point of contact for Contract 1 to the Director of the Supplier, "RE: Greetings and company or foundation please..."

[2] Supplier Company Profile, attached to 20 November 2013 email from the Director of the Supplier to a Global Fund staff member, "Technical and Cost Proposal: Thefts, Diversion and Counterfeit in Africa".

Executive Committee (MEC) of the Global Fund on behalf of an international alliance's health initiative to be a member of their high-level expert panel. The Global Fund is one of the co-conveners of this international health initiative, the aim of which is to develop a new framework for classifying countries' health needs as they move from low to middle-income status to ensure that they continue to have fair access to healthcare.

In addition to serving on this expert panel, in April 2014, the Director of the Supplier also arranged an in-person meeting between a staff member in the Secretariat, a high-level African government official and himself. The purpose of the meeting was to "socialize"[3] this government official to the international health initiative's work and to "eventually, mobilize the collective African Leadership contribution to the project."[4] In addition, there was a plan for the Director of the Supplier to be part of the Global Fund delegation to the World Economic Forum in May 2014 so that he could promote the international health initiative's framework to African Leaders.

In November 2014, at the request of the Secretariat, the Director of the Supplier agreed to facilitate phone calls between the Secretariat and the Zimbabwean Central Medical Store and the Permanent Secretary of Health. The calls were regarding one of the Secretariat's projects to build an online procurement platform for Global Fund grant recipients to provide better prices and increased access to quality assured health products.

[3] 5 May 2014 email from a Global Fund staff member to a Global Fund Management Executive Committee (MEC) member.
[4] Quoted language is taken from written meeting notes drafted by a Global Fund staff member, 30 April 2014.

II. Executive Summary

The OIG investigation found that both the Supplier and its Director submitted work under Contracts 1 and 2 that was plagiarized.[5]

For Contract 1, the Supplier was paid US$115,000 in consultancy fees for four written documents. The OIG's review of these documents determined that a substantial portion of the written work was not the original work of the Supplier and that the original sources of the work were not credited.

For Contract 2, the Director of the Supplier was paid US$36,000 in consultancy fees, which included fees for drafting a report. After reviewing the report, the OIG found that a quarter of the report, including entire sections, was not the original work of the Director and that the original sources of the work were not credited.

For both contracts, the Supplier and its Director misled the Global Fund Secretariat to believe that the work submitted was original work product and obtained payment of consultancy fees for this work. Therefore, both the Supplier and its Director fraudulently[6] obtained payment from the Global Fund by submitting work that was plagiarized.

A manager in the Global Fund Secretariat steered Contract 2, valued at US$36,000, in a non-competitive manner to the Director of the Supplier in order to create a conflict of interest.

Contract 1, valued at US$155,000 was also awarded in contravention of Global Fund Procurement Regulations as there were no exceptional circumstances to justify the non-competitive award of the contract to the Supplier.

Root Causes

Failure to comply with the Global Fund's own internal controls and regulations for the procurement of services allowed for the improper non-competitive award of contracts to the Supplier and its Director who fulfilled the contracts by providing plagiarized work.

The Global Fund Secretariat did not comply with existing controls as stipulated in the Global Fund Procurement Regulations in the awards of Contract 1 and Contract 2. Specifically, and contrary to the procurement regulations:

- The non-competitive award of Contract 2 was done in a non-transparent manner.
- Contract 1 was improperly awarded because there were no exceptional circumstances to justify the non-competitive award of the contract.
- The necessary approvals for the non-competitive awards of Contracts 1 and 2 were not obtained.

In addition, the Secretariat did not exercise adequate ownership and supervision over the creation and execution of Contract 1, which led to a lack of auditable records and a lack of assurance over travel expenditures.

Agreed Management Actions

The Secretariat provided a comprehensive response to the findings contained in this report.[7] Additionally, and taking into account an OIG audit report on the implementation of wambo.org in

[5] Plagiarize: to steal and pass of the ideas or words of another as one's own; use another's work without crediting the source. Definition from Meriam-Webster Dictionary found at http://www.merriam-webster.com/dictionary/plagiarize.

[6] 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.

[7] 17 October 2016 email from a Global Fund senior manager to the OIG, "FW: Response to OIG Investigation (Case 456), Attachment: Detailed Response to Investigation Report 17 Oct.docx.

June 2016 (GF-OIG-16-016), the Global Fund Secretariat and the OIG have agreed on specific actions that build on the agreed management actions of the audit report. These actions address governance, oversight, management issues and the risks identified in this report for the improper award of contracts by the Secretariat. These actions are set out in detail in Section V, and include:

1. finalizing and pursuing an appropriate recoverable amount which will be determined by the Secretariat in accordance with its evaluation of applicable legal rights and obligations and associated determination of recoverability;

2. addressing the supplier misconduct identified in this report in accordance with the Code of Conduct for Suppliers and the Sanctions Procedures;

3. reviewing by the Global Fund Ethics Officer and Head of Human Resources of Global Fund Staff for violations of the Code of Conduct for Global Fund Employees and taking disciplinary measures, as appropriate; and

4. the Secretariat's review of its current procurement framework (policies, regulations and procedures) to ensure that its contents are aligned and that they provide greater clarity and adequate guidance about the organization's procurement processes. This review and adjustment will include defining exceptional circumstances that justify single sourcing; determining market rate; reviewing and approving work product and invoices; maintaining auditable records of the various processes; and providing training to staff as appropriate. Regular reporting to and monitoring by the Management Executive Committee to drive compliance.

III. Findings

01 The Supplier and the Director of the Supplier Submitted Work Products that were Plagiarized and Refused to Cooperate with the OIG Investigation

Contract 1

The Supplier obtained payment of US$115,000 from the Global Fund for work that was substantially plagiarized. Despite the Director of the Supplier's experience in academia, a substantial portion of the written work submitted under Contract 1 was not original and the sources of the work were not credited.

In December 2013, the Secretariat entered into Contract 1 with the Supplier for a project entitled, "A Technology Solution to Tackle Thefts, Diversion and Counterfeit Health Products in Africa" (see Annex D: Timeline of Key Events, *infra)*. A manager in the Global Fund Secretariat awarded the contract to the Supplier without going through a competitive tender process. In an email to the OIG, the manager stated that the purpose of the contract was to obtain a better understanding of how to harmonize supply chain security solutions to deal with counterfeit and substandard medicines.[8] The key deliverables for the project were to provide the Global Fund with a written overview and analysis of:

> *"thefts, diversions and counterfeiting in the Global Fund-financed supply chains across West, East and Southern Africa; mapping of up to forty current technology solutions piloted, together with an explanation of the platforms the solutions run on and their efficacy; optimization of the best current technology achieved at either the platform or database level; and recommendation of a concept for an additional new solution to serve similar functionality going forward."*

The total value of Contract 1 was US$155,000, which included US$115,000 of consultancy fees and US$40,000 in travel expenses.

Under Contract 1, the Supplier submitted four written documents for which it was paid:

(i) Interim Report: An Overview of Detection Technology Platforms, 6 August 2014 (Interim Report);
(ii) PowerPoint presentation, Interim Report, An Overview of Detection Technology Platforms, 7 August 2014 (Participant Slides);
(iii) Final Project Report, A Technology Solution to Tackle, [sic] Thefts, Diversions, and Counterfeit Health Products in Africa, 10 December 2014 (Final Report); and
(iv) PowerPoint document, The Detection Technology, Deployment Algorithm, 10 December 2014 (Deployment Algorithm).

At the beginning of Contract 1, the Supplier received a prepayment of US$11,500 and a travel advance of US$40,000. An additional US$50,000 was paid after the Interim Report and Participant Slides were submitted in August 2014. The final installment of US$53,500 was paid after submission of the Final Report and the Deployment Algorithm in December 2014.

Because a manager in the Secretariat had told the OIG that s/he questioned whether the Supplier was the author of the reports submitted under this contract, the OIG ran both the Interim Report and the Final Report through plagiarism detection software. The software showed that 56% of the text in the Interim Report and 43% of the text in the Final Report had been

[8] 31 May 2016 email from a manager in the Global Fund Secretariat to the OIG.

plagiarized from sources publicly available on the internet. In addition, the OIG checked both the Interim Report and the Final Report against sources publicly available on the internet and the information that was provided by the Secretariat to the Director of the Supplier as background for this project. This additional manual check confirmed the findings of the plagiarism software. The same finding also applied to the Participant Slides and the Deployment Algorithm. The text, charts and images in 46 of the 80 substantive slides in the Participant Slides and 22 of the 75 slides in the Deployment Algorithm were copied directly from other sources without credit.[9]

The OIG found that all of the work product submitted by the Supplier under Contract 1 contained a substantial proportion of text and charts or images that were plagiarized. The vast majority of the plagiarized material was taken wholesale from a 2013 copyright-protected book[10] that covers issues related to the global problem of substandard and falsified medicines. The book is available for free download on the internet. A PDF copy of the book had been given as background reading to the Director of the Supplier, at the beginning of the project, by a Global Fund employee who was the point of contact for Contract 1.

In addition to the 2013 copyright-protected book, the plagiarism also included text and images that were taken from a counterfeit detection technology manufacturer's sales brochure and text that was copied verbatim from governmental websites of the four African countries profiled for the project.

The Supplier presented all the work product submitted under Contract 1 as the original work of the foundation. The Supplier is listed as the author of all four documents. Original sources of the copied text, images and charts are not cited in the report. Global Fund Secretariat staff were surprised to learn from the OIG that the work product submitted by the Supplier had been plagiarized. As a result, the Secretariat has made no further use of the work.

The Supplier refused to cooperate with the OIG investigation and, although given the opportunity, did not respond to the OIG's finding that the work product submitted under Contract 1 was plagiarized (see Annex B: Summary of Subject Response, *infra*).

The work product submitted by the Supplier does not comply with the Global Fund's Terms and Conditions of Purchase of Goods and Services. Section 6.2(e) of the Terms and Conditions of Contract 1 required that the Supplier guarantee the work product submitted was original work and that it did not infringe on any copyright held by a third party. However, the work product submitted under Contract 1 was not original Supplier work and the majority of the plagiarized text and images came from a copyright-protected book. There is no evidence that the Supplier received permission from the copyright holder of this book to use this material.

The investigation concludes that the Supplier took the words and work product of others and passed them off as its own. The Supplier led the Secretariat to believe that the work submitted under Contract 1 was original in order to obtain US$115,000 in consultancy fees. Based on this evidence, the OIG finds that the Supplier fraudulently obtained payment from the Global Fund by submitting work that was substantially plagiarized.

[9] See Annex C: Exhibits, *infra*, which details examples of plagiarized text and images in the work product submitted by the Supplier under Contract 1.

[10] Buckley, Gillian J. and Lawrence O. Gostin, editors. *Countering the Problem of Falsified and Substandard Drugs.* National Academy of Science, 2013.

Contract 2

The Director of the Supplier was paid US$36,000 in consultancy fees by the Global Fund by submitting work that purported to be original but was in fact plagiarized.

In June 2015, approximately six months after the completion of Contract 1, the Global Fund Secretariat awarded Contract 2 without a competitive process to the Director of the Supplier personally rather than to the Supplier (see Annex D: Timeline of Key Events, *infra)*. The objective of the consultancy contract was to provide support services to the Global Steering Committee for Quality Assurance of Health Products. The Global Steering Committee, created in November 2014, is a coalition of health development institutions[11] focused on improving access to safe and effective medicines. The Global Fund is a founding member and acts as its Secretariat. The Chair of the Global Fund Board also acts as the chair of Global Steering Committee.

Under Contract 2, the Director of the Supplier had two deliverables:

(i) to obtain critical support and buy-in for the Global Steering Committee from sub-Saharan Africa regional entities, including public endorsement from the Southern African Development Community; and

(ii) to support the Global Steering Committee to facilitate the commencement of a pilot study in Zimbabwe on the track and trace of medicines.

The total value of the contract was US$36,000, which consisted of a daily rate to the Director of the Supplier of US$250 per day.

Under Contract 2, the Director of the Supplier submitted a report entitled "Final Project Report: Work in Support of the Global Steering Committee (GSC) for Quality Assurance of Health Products, 14 October 2015 (Final Project Report)" for which he was paid. The report detailed the work done by Director of the Supplier justifying the two deliverables under the contract and including a proposal for a pilot study in Zimbabwe on the track and trace of medicines.

In July 2015, the Director of the Supplier received an interim payment of US$17,500. Following the submission of the Final Project Report in October 2015, the Global Fund paid him the remaining US$18,500.

The OIG also ran this report through plagiarism detection software and found that 25% of the report was copied from sources publically available on the internet. In addition, the OIG manually checked the Final Project Report against sources available on the internet, which confirmed the findings of the plagiarism software. The OIG found that the work product submitted by the Director of the Supplier contained text plagiarized from the same 2013 copyright-protected book[12] plagiarized under Contract 1. The Final Project Report also contained work that was plagiarized from an article on the implementation of a track and trace pilot in Columbia[13] and Zimbabwean governmental websites.[14]

The Director of the Supplier presented the work submitted under Contract 2 as original work of the Supplier. The Supplier is listed as the author of the report. Original sources of the copied text, images and charts are not cited in the report. Secretariat staff were also surprised to learn from the OIG that the report was plagiarized. As a result, the Secretariat has made no further use of the work.

[11] Members include: Gavi, the United Nations Development Program, UNITAID, the U.S. Presidents Malaria Initiative, U.S. Agency for International Development, the U.S. Food and Drug Agency, the World Bank, and the World Health Organization.

[12] Buckley, Gillian J. and Lawrence O. Gostin, editors. *Countering the Problem of Falsified and Substandard Drugs*. National Academy of Science, 2013.

[13] Blanca Elvira Acosta Cajigas, *Implementing a National Traceability System in Columbia*, 2013.

[14] See Annex C: Exhibits, *infra*, which details examples of plagiarized text and images in the work product submitted by the Director of the Supplier under Contract 2.

The Director of the Supplier refused to cooperate with the OIG investigation and, although given the opportunity, did not respond to the OIG's finding that the work product submitted under Contract 2 was plagiarized (see Annex B: Summary of Subject Response, *infra*).

As with Contract 1, the investigation concludes that the work submitted under Contract 2 was not original work product. US$36,000 in consultancy fees was fraudulently obtained as payment from the Global Fund by submitting work that was plagiarized.

In addition, the report submitted by the Director of the Supplier does not comply with the Terms and Conditions of Contract 2. Section 6.2(e) of the Terms and Conditions of Contract 2 required that the Director of the Supplier guarantee the work product submitted was original work and that it did not infringe on any copyright held by a third party. However, the work under Contract 2 was not the Director's original work as text and images came from multiple sources, including a copyright-protected book.[15] There is no evidence that the Director of the Supplier received permission from the copyright holder of this book to use the material that he plagiarized.

Non-cooperation of the Director of the Supplier with the OIG investigation

Contrary to the Global Fund Code of Conduct for Suppliers, the Supplier and its Director refused to cooperate with the OIG investigation. The Code of Conduct for Suppliers requires all suppliers who directly contract with the Global Fund to observe the highest standard of ethics in the supply of goods or services.[16] The code also requires suppliers to maintain accurate and complete records of all financial and business transactions under Global Fund-financed contracts for at least five years. The code further requires that suppliers cooperate with the OIG and allow it access to relevant staff and records.[17]

The OIG requested that the Supplier provide copies of receipts submitted under Contract 1. In addition, the OIG requested to speak with the Director and the staff of the Supplier regarding the work done for the Global Fund under Contract 1 and Contract 2. Staff members of the Supplier directed OIG inquiries to the Director and he refused to cooperate with the OIG investigation.

Agreed Management Action 1: The Secretariat will finalize and pursue an appropriate recoverable amount. This amount will be determined by the Secretariat in accordance with its evaluation of applicable legal rights and obligations and associated determination of recoverability.

Agreed Management Action 2: The Secretariat will address the supplier misconduct identified in this report in accordance with the Code of Conduct for Suppliers and the Sanctions Procedures.

02 Global Fund Secretariat's Non-Compliance with Procedures

A manager in the Global Fund Secretariat steered Contract 2 to create a conflict of interest

The OIG finds that based on the email evidence and statements it obtained, a manager in the Global Fund Secretariat steered Contract 2, worth US$36,000, to the Director of the Supplier. The contract was steered through a non-transparent and non-competitive process to create a conflict of interest that would force the Director to withdraw his participation from the high-level expert panel for an international alliance's health initiative.

[15] Buckley, Gillian J. and Lawrence O. Gostin, editors. *Countering the Problem of Falsified and Substandard Drugs*. National Academy of Science, 2013.
[16] The Global Fund to Fight AIDS, Tuberculosis and Malaria Code of Conduct for Suppliers, paragraph 5, 15 December 2009.
[17] The Global Fund to Fight AIDS, Tuberculosis and Malaria Code of Conduct for Suppliers, paragraphs 16 & 17, 15 December 2009.

Global Fund Procurement Policy requires that procurements be conducted in an impartial, transparent and accountable manner.[18] Furthermore, Global Fund Procurement Regulations require that procurements for the Secretariat's operational expenses are carried out on a competitive basis "to the maximum practical extent." These regulations define competition as an open and transparent process designed to obtain value for money. Transparent and competitive procurements are essential to ensure that the Global Fund obtains the best goods or services at the best prices.[19]

According to the regulations, the estimated value of the procurement determines the method of competition. Except in limited circumstances, contracts valued over US$30,000 require competition in the form of a tendering process.[20] The Procurement Regulations note that competition is not always possible and therefore delineate six exceptional circumstances that allow for the award of contracts without competition. Moreover, with regard to contracts valued over US$30,000, where there is a procurement process other than an open tender, a memorandum is required justifying non-competition.[21]

An exception to competition memorandum was written by a Global Fund Secretariat staff member in April 2015 for the non-competitive award of Contract 2. A manager in the Global Fund Secretariat approved this memorandum, which listed two of the six possible exceptional circumstances allowed for in the Procurement Regulations: the contract was awarded "under circumstances of compelling urgency"; and the "expertise and skills needed for the scope of work [could] only be fulfilled by one supplier."

In December of 2014, a member of the Global Fund's MEC, on behalf of the co-conveners for the international health initiative, invited the Director of the Supplier to be one of the original members of its high-level expert panel (see Annex D: Timeline of Key Events, *infra)*. The first meeting of the panel was held on 23 February 2015.

Two months later, the MEC member had concerns regarding the Director of the Supplier's participation on the high-level expert panel. On 23 February 2015, the MEC member shared these concerns, via email, with the manager in the Global Fund Secretariat who had awarded Contract 1 to the Supplier. Following the exchange with the MEC member, the manager asked a Secretariat staff member for advice on how to give this feedback to the Director of the Supplier. The staff member was unable to help. The manager then proposed giving the Director of the Supplier paid work instead.

On 12 March 2015, via email, the Secretariat manager informed the MEC member that the manager had the opportunity to give a "small piece of work" to the Director of the Supplier concerning falsified/stolen medicines in Zimbabwe. The manager pointed out that the work would potentially put the Director into a conflicted situation if he were to continue participating in the international health initiative. The Secretariat manager also wrote that the Director of the Supplier would rather have money than participate in the international health initiative and asked whether the MEC member was "OK" with this plan. The member of the MEC indicated s/he agreed with the proposal. Subsequently, the Secretariat manager awarded Contract 2, without competition, to the Director of the Supplier.

When interviewed by the OIG, the MEC member stated that s/he did not get involved in consultancy contracts. The MEC member said s/he was aware that the manager in the Secretariat had identified a conflict of interest that would require the Director of the Supplier to step down from the high-level expert panel. However, the MEC member stated that s/he assumed the manager in the Secretariat was proposing to give the work under an existing contract to create this conflict.

[18] The Global Fund Procurement Policy, p. 3.
[19] Global Fund Procurement Regulations, 3.6 in effect until March 2015.
[20] Global Fund Procurement Regulations, 3.6.3(C) in effect until March 2015.
[21] Global Fund Procurement Regulations, 3.6.5 in effect until March 2015.

In response to the OIG's draft report, the member of the MEC stated that s/he had never approved the award of Contract 2 and that s/he had not requested the contract to be awarded to create the conflict. The MEC member also said that, because s/he did not engage in details of contracts, s/he assumed that the manager had had relevant discussions with the Global Fund Ethics Officer regarding conflicts of interest and that the Secretariat's requirements for contracts would be complied with. In addition, s/he noted that the international health initiative task force was approved by coordinating partners, was a large and diverse group of several dozen high-level persons and that, with only one remaining meeting, there would be no material significance if the Director of the Supplier participated or not. Therefore, the MEC member said that there would be no incentive to break with practice and to engage in contracts for such an immaterial case.

When interviewed by the OIG, the manager in the Secretariat stated that Contract 2 was awarded to the Director of the Supplier in order to create a conflict of interest. This manager also stated that s/he had to look for a contract to give to the Director of the Supplier in order to create the conflict.

After the OIG investigation, the manager claimed that the conflict of interest created by the award of the contract was an advantage, but that s/he would not have awarded the contract to the Director of the Supplier if the work had not been worth doing and if the Director had not been the "right fit".

After the investigation, and in response to the OIG findings, the Secretariat claimed that Contract 2 was awarded under circumstances of compelling urgency because the "[u]rgency was obvious as indicated by recognition across the Secretariat, the OIG, the Board, donors and academia."[22] In support of this assertion, the Secretariat cited the following:

- Annex D of the June 2013 OIG Progress Report, which states that the Global Fund has a significant interest in identifying and responding to theft, diversion and counterfeiting of Global Fund-financed anti-malarial drugs.
- A September 2014 "Science Speaks" blog regarding a congressional briefing, which notes that the Executive Director of the Global Fund and other panelists at the briefing "agreed that strengthening procurement systems as well as curtailing the manufacture and distribution of subpar and counterfeit drugs and diagnostics is key for protecting the U.S. investment in the fight against global HIV, TB, and malaria."[23]
- A March 2015 quote from the Chair of the Global Fund Board on the creation of the Global Steering Committee for the Quality Assurance of Health Products found in an online news article, which states that "[w]e have urgent responsibility to understand the scope and scale of threats to safe delivery of medicines, and to take decisive and coordinated action to prevent, detect and respond to issues that arise."[24]

The claimed urgency for Contract 2 is contradicted by the following:

- A general sense of urgency across the Secretariat regarding the potential health risks that could be caused by counterfeit and substandard health products is not sufficient justification to show that a contract was awarded under circumstances of compelling urgency.
- During the OIG investigation, the author of the exception to competition memorandum for Contract 2 stated that the project was not urgent.[25]

[22] Secretariat Response to the OIG, 12 July 2016.

[23] Collaboration is key for protecting US investments in global health, say health leaders, 18 September 2014, found at http://sciencespeaksblog.org/2014/09/18/collaboration-is-key-for-protecting-us-investments-in-global-health-say-health-leaders/

[24] Africa: Global Steering Committee Advances Efforts for Quality Assurance, 23 March 2015, found at http://allafrica.com/stories/201503241244.html.

[25] After reviewing the OIG's draft report, the Secretariat responded that the Global Fund staff member who authored the exception-to-competition memorandum did not recall making the statement that the project was not urgent. Secretariat Detailed Response to Investigation Report, 17 October 2016.

- The contract was for 144 days of work spread over nine months, with a schedule of 16 working days per month. Furthermore, the Secretariat, despite being in possession of the final work product for approximately two months before learning of the allegations against the Director of the Supplier, did not distribute the report or make any policy or other decisions based on the work.[26]

In their response to the OIG's findings, the Secretariat also asserted that Contract 2 was appropriately awarded without competition because of the Director's unique skills. According to the Secretariat, the problem of counterfeit health products was not just a technical problem; it was also a political issue requiring high-level political commitment and engagement. The Secretariat stated that Contract 2 was properly awarded to the Director of the Supplier because he had already been engaged by the Global Fund to conduct research into the specific issue covered by the contract. Moreover, the Director of the Supplier is a Zimbabwean citizen with established contacts within the national structure given his previous senior government position. According to the Secretariat, this factor would have facilitated his efforts to conduct the necessary research and played a role in his selection for Contract 2.

The Secretariat's claim that Contract 2 was awarded without competition because the Director of the Supplier possessed special expertise and skills is without merit. The email exchanges within the Secretariat, and between the manager in the Global Fund Secretariat and the Global Fund MEC member, demonstrate that Contract 2 was not awarded to the Director of the Supplier because of any particular skill or expertise; but rather it was awarded without competition to create a conflict of interest. In fact, during the investigation, the manager told the OIG that Contract 2 was awarded for the specific purpose of creating a conflict of interest so that the Director of the Supplier could no longer be on the international health initiative expert panel.

Furthermore, there is email evidence that in May 2015 a Senior Advisor to the Global Steering Committee was told that Contract 2 was awarded to the Director of the Supplier because "senior managers" at the Global Fund wished to ensure his efforts would be moved away from sensitive issues and more productively targeted.

Based on the email evidence and statements from Secretariat staff, the OIG finds that the reasons provided by the Secretariat to explain why the contract was awarded in a non-competitive way were not the real reasons for the award. Rather the OIG concludes that Contract 2 was awarded in a non-transparent manner to the Director of the Supplier for the purpose of creating a conflict of interest. The OIG determines this to be an improper justification to bypass a competitive process.

<u>The non-competitive award of Contract 1 violated Global Fund Procurement Regulations as there were no circumstances of compelling urgency</u>

The investigation concludes that the award of Contract 1 was also made in violation of the Global Fund Procurement Regulations. There is insufficient evidence of exceptional circumstances to justify the non-competitive award of the contract to the Supplier.

As the value of Contract 1 (US$155,000) was over US$30,000, it should have been tendered through a competitive process.[27] However, the Secretariat awarded the contract without competition on the basis that there were exceptional circumstances.

Beyond listing it as one of the two exceptions that warranted non-competition, the exception to competition memorandum for Contract 1 did not give any more details regarding the "compelling urgency" of the award.

[26] 14 June 2016 email from a Global Fund staff member to the OIG.
[27] Global Fund Procurement Regulations, 3.6.3(C) in effect until March 2015.

During the investigation, none of the Secretariat staff members who were interviewed were able to explain the circumstances of "compelling urgency". This included the Global Fund staff member who drafted the non-competition memorandum, the Secretariat staff who acted as the Buyer and cleared the non-competition memorandum and the manager in the Secretariat who approved the non-competitive award of the contract. The Global Fund Secretariat manager who requested the exception to competition memorandum and who subsequently approved the document said that s/he could not remember why the contract was not competitively tendered. The manager explained that "compelling urgency" and "special skills" are standard language phrases used in the majority of exception to competition memoranda at the Global Fund.

In response to the OIG's findings, the Secretariat cited the same supporting information as they had for Contract 2[28] to demonstrate the circumstances of "compelling urgency". The claimed urgency for Contract 1 is contradicted by the following facts:

- Of the three documents cited by the Secretariat, one was issued more than six months before Contract 1 was signed; the other two were published nine and fifteen months, respectively, after the award of Contract 1.
- The document detailing the scope of work for Contract 1, prepared by the Secretariat, does not provide a deadline for the work. Although the contract itself stipulated a 12-week timeframe, the final work product was submitted more than a year later. There is no evidence that the Secretariat objected to the significant completion delays. [29]
- The stated urgency is not supported by the subsequent use of the final piece of work. In May 2016, a Secretariat manager told the OIG that the work product was used to inform supply chain work in the Secretariat and would only now be used as a new Supply Chain Department is launched.

The OIG notes that there is little guidance in the current procurement process that defines what constitutes "compelling urgency". Nor is there guidance on how circumstances of "compelling urgency" should be documented in the exception to competition memorandum. The absence of clear guidance leaves too much room for interpretation and the opportunity for the improper use of the exception, such as in the current case.

<u>The non-competitive award of Contract 1 was in violation of Global Fund Procurement Regulations as the Supplier did not have the special skills to make it the only supplier who could fulfill the contract.</u>

In addition to citing "compelling urgency" as a reason for the non-competitive award of Contract 1, the Secretariat also justified the award on the basis of the specialized skills of the Supplier.

According to Global Fund Procurement Regulations, contracts may be awarded without competition if the expertise and skills needed for the scope of work can **only be fulfilled by one supplier**. The scope of Contract 1 did not require particular expertise or skills that could only be fulfilled by the Supplier.

A manager in the Global Fund Secretariat told the OIG that the Supplier was awarded the contract because its Director seemed like the "right fit" for the project. He had been a professor at the Massachusetts Institute of Technology, had technical experience, and had influence over and access to contacts in the African Union.

[28] Annex D of the 2013 OIG Progress Report, September 2014 Science Speaks blog noting that the need to curtail the manufacture and distribution of substandard and counterfeit drugs, and March 2015 quote from the Chair of the Global Fund Board on the creation of the Global Steering Committee for the Quality Assurance of Health Products.

[29] Concept Note and Scope of Work:-A Technology Solution to tackle Thefts, Diversions and Counterfeit Health Products in Africa, attached to a 15 November 2013 email from a Global Fund staff member to the Director of the Supplier, " Concept Note- Technology Solution for GF Supply Chain Security".

According to the exception to competition memorandum, Contract 1 was awarded without competition because the team of three consultants from the Supplier were "senior technology experts" who had "a wide professional network across all sectors in Africa." The memorandum did not explain why the expertise and the skills necessary for the scope of work were unique to the Supplier such that it was the only supplier who could fulfill the contract. Indeed, the Secretariat did not provide any evidence to justify why these particular skills were possessed by only one supplier.

Furthermore, this memorandum does not provide any information about whether or not the staff of the Supplier had technology experience related to procurement and supply chain management or the detection and prevention of counterfeit health products. In fact, the OIG found that staff from the Secretariat provided the Supplier with numerous professional contacts of:
(i) experts in supply chain management and counterfeit drugs;
(ii) representatives of international foundations and United Nations organizations; and
(iii) representatives from the technology industry related to the detection and prevention of counterfeit health products.

The OIG finds that the professional profiles of the "senior technology experts" did not match the scope of work required for Contract 1. The "experts" from the Supplier were: (i) the Director of the Supplier, an electrical engineer with a focus on robotics; (ii) a Research Consultant who is a veterinarian; and (iii) a Research Assistant who is an electrical engineer with a focus on energy and power.

The claim that the scope of Contract 1 required special expertise and skills is not supported by the document detailing the scope of work prepared by the Secretariat. According to this document, the only requirement was that the supplier be "an African-based company".[30]

The scope of Contract 1 did not require special skills and expertise that could only be fulfilled by the Supplier. Contract 1 was not awarded to the Supplier under circumstances of "compelling urgency". Therefore, the non-competitive award of Contract 1 was in contravention to Global Fund Procurement Regulations.

Necessary authorizations were not obtained for the non-competitive award of Contracts 1 and 2

The Secretariat awarded contracts to the Supplier and the Director of the Supplier without obtaining the necessary levels of approval for the lack of competition in the tender process.

According to Global Fund Procurement Regulations, the exception to competition memoranda justifying the non-competitive awards of Contract 1 and 2 should have been cleared by the Global Fund Secretariat and approved by the Head of the Finance, Information Technology, Sourcing and Administration Division.[31] However, the exception to competition memoranda for Contracts 1 and 2 were instead cleared by a Secretariat senior staff member and approved by a manager in the relevant Department. Neither contract was approved by the Head of the Finance, Information Technology, Sourcing and Administration Division.

The OIG notes that the manager in the Global Fund Secretariat, the ultimate signatory who authorized the non-competitive award of Contracts 1 and 2, is the same person whose decision it was to award the contracts to the Supplier and the Director of the Supplier.

[30] Concept Note and Scope of Work:-A Technology Solution to tackle Thefts, Diversions and Counterfeit Health Products in Africa, attached to a 15 November 2013 email from a Global Fund staff member to the Director of the Supplier, " Concept Note- Technology Solution for GF Supply Chain Security".

[31] Global Fund Procurement Regulations, 3.6.5 in effect until March 2015; Global Fund Corporate Procurement Procedures, Figure 1: Approval Levels, 07 May 2015.

This would indicate that the exception to competition process under the current Global Fund procurement framework is not fit for purpose and should be re-evaluated.

The Supplier was instructed to work on a third contract before it was fully authorized

On 12 November 2015, in violation of procurement regulations, a Global Fund staff member instructed the Supplier to begin work on a third contract (see Annex D: Timeline of Key Events, *infra)*. This instruction was given despite the fact that the contract had not been signed by all of the parties. Global Fund Procurement Procedures state that Global Fund employees "shall not direct any supplier or consultant to initiate the implementation of any contract until such contract has been duly signed by all the parties concerned."[32]

As a result of the instructions from the Secretariat staff member, on 20 November 2015, the Director of the Supplier sent a written preliminary report to the Secretariat.

Instructing suppliers and consultants to begin work on contracts that have not been fully authorized creates financial and legal risks to the Global Fund. Indeed, in this instance, the Director of the Supplier has asserted that he is owed money for work that he has done for the Global Fund under an unsigned contract.

Agreed Management Action 3: The Secretariat will review the actions of Global Fund Staff for violations of the Code of Conduct and Employee Handbook for Global Fund Employees and take disciplinary measures as appropriate.

Agreed Management Action 4: The Secretariat will review its current procurement framework (policies, regulations and procedures) to ensure that its contents are aligned and that they provide greater clarity and adequate guidance about the organization's procurement processes. This review and adjustment will include defining exceptional circumstances that justify single sourcing; determining market rate; reviewing and approving work product and invoices; maintaining auditable records of the various processes; and providing training to staff as appropriate. Regular reporting to and monitoring by the Management Executive Committee to drive compliance.

03 Inadequate Effort by the Global Fund Secretariat to Assure Value for Money

The Global Fund paid high consultancy fees under Contract 1 for work product that was plagiarized. As a result, the Global Fund did not get value for money. Global Fund Procurement Regulations require that only a reasonable price shall be paid for goods and services. Furthermore, the Global Fund's Procurement Regulations state that the Global Fund should procure goods and services at or below the market rate. The Procurement Regulations define market rate as "what a prudent business person would pay for a particular good or service in a competitive marketplace." The cost or rate paid by the Global Fund "must be reasonable, and it must be logically related to or required in the performance of the contract." With regard to consultancy fees, the Procurement Regulations note that the Global Fund pays "established consulting rates or the prorated annual salary as certified by the individual consultant." In addition, the Division Director is "responsible for defining market rates for consultants."[33]

Under Contract 1, the rates charged by the Supplier were equivalent to a total of US$6,800 per day in consultancy fees. The Director of the Supplier, an engineer with a specialty in robotics, was paid US$500 per hour (equivalent to US$4,000 per day). The Research Consultant, a veterinarian, was paid US$300 per hour (equivalent to US$2,400 per day) and the

[32] Global Fund Corporate Procurement Procedures, 9.2, 07 May 2015.
[33] Global Fund Procurement Regulations, 3.4, in effect until March 2015.

Research Assistant, an electrical engineer, was paid US$50 per hour (equivalent to US$400 per day). A total of US$115,000 in consultancy fees was paid under Contract 1.

There is no evidence that the Supplier provided proof of the staff's established consultancy rates or that the Head of the Finance, Information Technology, Sourcing and Administration Division was involved in defining the market rate before the Secretariat awarded Contract 1.

In their response to the OIG's findings, the Secretariat claimed that the rate paid to the Director of the Supplier is not uncommon, given the Director's former role as a senior government official and his interest in the area. The Secretariat also noted that the rate paid to the Director of the Supplier was decreased to US$250 under Contract 2. In their response, the Secretariat did not address the appropriateness of paying US$2,400 a day to a veterinarian without experience in procurement and supply chain management or detection of falsified medicines.

Furthermore, earlier statements made by the staff of the Secretariat do not support the Secretariat's claim that the rate paid to the Director of the Supplier is a 'common rate'. Initially, when asked by the OIG about the hourly rates paid under Contract 1, the Global Fund Secretariat staff all insisted that the Supplier was actually paid US$500 per day, not US$500 per hour.

In fact during negotiations with the Director of the Supplier for a third contract, a manager in the Secretariat emailed a Global Fund staff member and noted that the Director's hourly rate was higher than the minimum monthly wage in South Africa and stated that they could not proceed with the contract or they would both end up being investigated and fired.[34]

Moreover, the Secretariat provided no documentary proof that US$500 per hour is a common consultancy rate for consultants with credentials similar to those of the Director of the Supplier. There is no evidence that Contract 1 required the work of a senior government official for the completion of the project.

The OIG notes that the argument that US$4,000 per day was the appropriate market rate for the Director of the Supplier is undermined by the fact that six months after the completion of Contract 1, the Director took a 93% reduction in his daily rate under Contract 2 (US$250 per day).

Agreed Management Action 4: The Secretariat will review its current procurement framework (policies, regulations and procedures) to ensure that its contents are aligned and that they provide greater clarity and adequate guidance about the organization's procurement processes. This review and adjustment will include defining exceptional circumstances that justify single sourcing; determining market rate; reviewing and approving work product and invoices; maintaining auditable records of the various processes; and providing training to staff as appropriate. Regular reporting to and monitoring by the Management Executive Committee to drive compliance.

04 Lack of Global Fund Secretariat Oversight

The Secretariat lacked ownership and supervision of Contract 1

The Secretariat did not adequately supervise and own the creation of Contract 1. Secretariat staff responsible for, or connected to, Contract 1 were not aware of the hourly rates paid to the Supplier under Contract 1. The OIG notes that the hourly rate is clearly stated on the exception to competition memorandum, the contract and all of the invoices. Despite this, the

[34] 29 October 2015 email from a Global Fund Secretariat manager to a Global Fund staff member. This email was provided to the OIG by the Secretariat.

Secretariat Staff[35] all claimed to be unaware that the Director of the Supplier was paid US$500 per hour and not US$500 per day.

In response to the OIG's findings, the Secretariat stated that staff involved in the process were 'surprised' by the rate paid under the contract "due to the fact that they process a high volume of contracts."

In addition, the Secretariat lacked supervision over the work conducted by the consultants under Contract 1. Neither the Budget Holder for the contract, nor the manager in the implicated Secretariat Department, nor the Global Fund staff member who was the point of contact for the project, were aware of the specific work or input from the Supplier on the project under Contract 1. The Secretariat should have been aware of the tasks completed by each consultant because the daily rates paid to the staff ranged from US$400 to US$4,000 per day. In addition, the invoices submitted by the Supplier did not provide any information about what tasks were worked on by each particular staff member and when the work was done.

Moreover, the OIG notes that the Global Fund Secretariat manager stated that his/her staff did not have the expertise to determine whether the Supplier successfully performed its contract by submitting a quality work product. In fact, according to the Global Fund staff member who was responsible for reviewing the work submitted under the contract, s/he lacked the technical knowledge to review the work for substance.

Secretariat lacked auditable records for travel expenditures

The Secretariat did not exercise adequate oversight with regard to the clearance of travel advances that were paid to the Supplier under Contract 1.

The Supplier was paid the entire US$155,000 that was budgeted under Contract 1. This payment included a US$40,000 advance for travel expenses. According to Contract 1, final payment required that the Supplier produce actual travel receipts.

While the final invoice submitted by the Supplier contained a breakdown of travel expenses, the Secretariat was unable to provide the OIG with the actual receipts used to support these expenditures. Furthermore, the Secretariat could not definitively say whether the Supplier provided receipts to support the US$40,000 travel advance. The Supplier refused to provide the OIG with copies of the receipts to support the US$40,000 travel advance.

The OIG could not identify anyone in the Secretariat who claimed responsibility for reviewing the receipts that were submitted by the Supplier. The Global Fund Secretariat manager and the Budget Holder of the contract approved the final invoice submitted under Contract 1. However, both employees, as well as the Global Fund staff member who was the point of contact for the contract, denied any responsibility for reviewing the actual receipts supporting the travel advance.

Furthermore, the breakdown of travel expenses submitted by the Supplier contained some questionable expenditures: US$2,120 of miscellaneous expenses described only as "coms and material" and US$3,700 for teleconference expenses to Ghana. None of the Secretariat staff responsible for or connected to Contract 1 could explain what these expenses were. There is no evidence to demonstrate that these expenses were preapproved as required by the contract.

As the Secretariat did not maintain auditable records for travel expenditures, the OIG was not able to review any receipts for travel expenses incurred by the Supplier under

[35] The Secretariat staff referred to are: the Global Fund Secretariat manager who signed the exception to competition memorandum, the Buyer who processed the contract, and the Budget Holder who approved payment of the invoices.

Contract 1. Therefore, the OIG is not able to offer any assurances that the US$40,000 travel advance to the foundation was spent in line with Contract 1 and Global Fund Travel Regulations, including requirements for booking air travel and class of airfare for consultants.

In response to the OIG findings, the Secretariat noted that the US$40,000 for travel expenses was preapproved and that the amount seemed reasonable. However, this assertion does not address the fact that there was a contractual requirement that actual travel receipts be provided to support the preapproved expenses. Nor does it address the lack of oversight in determining whether the travel expenses were in line with the contract and if the receipts were even provided.

The lack of auditable records makes it impossible to determine the legitimacy of financial claims made by contractors for payment by the Global Fund.

Agreed Management Action 3: The Secretariat will review the actions of Global Fund Staff for violations of the Code of Conduct and Employee Handbook for Global Fund Employees and take disciplinary measures as appropriate.

Agreed Management Action 4: The Secretariat will review its current procurement framework (policies, regulations and procedures) to ensure that its contents are aligned and that they provide greater clarity and adequate guidance about the organization's procurement processes. This review and adjustment will include defining exceptional circumstances that justify single sourcing; determining market rate; reviewing and approving work product and invoices; maintaining auditable records of the various processes; and providing training to staff as appropriate. Regular reporting to and monitoring by the Management Executive Committee to drive compliance.

IV. Conclusion

The OIG investigation concludes that the Global Fund Secretariat failed to adhere to the principles of impartiality, transparency, accountability and procurement ethics in the improper awarded of non-competitive contracts to the Supplier and the Director of the Supplier in violation of the Global Fund Procurement Regulations. These contracts were awarded to a supplier who fraudulently obtained payment of consultancy fees by submitting plagiarized work. Furthermore, the Secretariat paid high consultancy rates for this plagiarized work and, as a result, the Global Fund did not obtain value for money.

The consultancy fees paid under Contracts 1 and 2 are non-compliant because the supplier fraudulently obtained payment from the Global Fund by misrepresenting plagiarized work as its own original work product. The travel advance of US$40,000 under Contract 1 is non-compliant because the supplier failed to provide access to relevant staff and receipts as required by the Supplier Code of Conduct. Furthermore, the total values of both Contracts 1 and 2 are non-compliant because they were awarded in contravention of Global Fund Procurement Regulations.

The following table summarizes the non-compliant expenditures by contract:

Non-Compliant Expenditures	Amount (in US$)
A. Contract 1	
1. Consultancy fees	**115,000**
2. Travel expenses	**40,000**
B. Contract 2	
1. Consultancy fees	**36,000**
TOTAL	**191,000**

Pursuant to its mandate,[36] the OIG referred the findings of this report to the Global Fund Ethics Officer to determine if any of the findings related to the conduct of employees constitute a violation of the Code of Conduct for Global Fund Employees, or other relevant ethical standards, and any additional recommendations based on such determination. Following the OIG investigation, the Ethics Officer has completed a review that fully cleared the MEC member mentioned in this report of any wrongdoing. In accordance with Agreed Management Action 3, the Global Fund's Human Resources Department is currently undertaking a review of staff conduct in connection with the OIG investigation.

[36] Charter of the Office of the Inspector General, 07 March 2014.

V. Table of Agreed Management Actions

#	Category	Agreed Management Action	Target date	Owner
1	Recovery of Funds	The Secretariat will finalize and pursue an appropriate recoverable amount. This amount will be determined by the Secretariat in accordance with its evaluation of applicable legal rights and obligations and associated determination of recoverability.	31 December 2017	Recoveries Committee
2	Governance, Oversight & Management Risk	The Secretariat will address the supplier misconduct identified in this report in accordance with the Code of Conduct for Suppliers and the Sanctions Procedures.	31 December 2016	Executive Director
3	Human Resources Management	The Secretariat will review the actions of Global Fund Staff for violations of the Code of Conduct and Employee Handbook for Global Fund Employees and take disciplinary measures as appropriate.	31 December 2016	Head of the Finance, Information Technology, Sourcing and Administration Division jointly with Head of Human Resources upon recommendation of Global Fund Ethics Officer
4	Compliance with Global Fund Procurement Framework	The Secretariat will review its current procurement framework (policies, regulations and procedures) to ensure that its contents are aligned and that they provide greater clarity and adequate guidance about the organization's procurement processes. This review and adjustment will include defining exceptional circumstances that justify single sourcing; determining market rate; reviewing and approving work product and invoices; maintaining auditable records of the various processes; and providing training to staff as appropriate. Regular reporting to and monitoring by the Management Executive Committee to drive compliance.	30 June 2017 for Procurement Framework; 31 December 2017 for training	Head of the Finance, Information Technology, Sourcing and Administration Division

Annex A: Message from the Executive Director

The Global Fund pays special attention to safeguarding investments with the goal of making all resources count. The Global Fund has zero tolerance for corruption or fraud. When any misspent funds are identified, the Global Fund pursues recovery, so that no donor money is lost to fraud or ineligible expenses.

The Office of the Inspector General (OIG) is an integral and important part of risk management and controls, conducting independent audits and investigations to complement the active risk management and controls put in place by the Secretariat with oversight by the Board of the Global Fund.

The investigation report, "Supplier Wrongdoing and Global Fund Non-Compliance with Procurement Regulations," raises important issues which the Secretariat – and I personally – take very seriously. We have taken swift and decisive action to prevent any such occurrence from happening again, including sanctions against those involved in wrongdoing. In addition, the Secretariat will seek recoveries as suggested by the OIG report, through our Recoveries Committee. It is essential that when any misspent funds are identified, the Global Fund fully pursues all avenues for recovery.

The report also raises challenges with following non-competitive procurement within the Global Fund. While the overall rate of non-competitive procurement in the Secretariat is 6 percent, significantly below established benchmarks, it is essential that when there are compelling reasons for non-competitive procurement, there is full and conscientious compliance with Global Fund regulations, as well as full documentation.

The Agreed Management Actions in the report build upon others from previous OIG reports that have already put in place measures to ensure greater compliance on non-competitive procurement, with full accountability by the Management Executive Committee. Significant improvement is already under way. Specifically, following from this report, the Secretariat will review its current procurement framework so that its contents are aligned and provide greater clarity and adequate guidance about the organization's procurement processes.

As the investigation report raises issues of conduct by Secretariat staff, I want to assure everyone that we take these issues very seriously, as part of the culture of strong ethics and transparency that we have built and continue to improve. The Ethics Officer is performing a thorough evaluation of issues raised in the report related to Secretariat staff. I have also asked the Ethics Officer to work with the OIG to determine at what point in an audit or investigation it might be appropriate to engage formally with the Ethics Officer, if potential staff misconduct is involved.

The diversion, theft and circulation of sub-standard medications is a major issue across health areas, identified by many external sources including the WHO, Interpol, bilateral implementers and others. There have been a number of high profile media stories highlighting the organized crime links with this thriving black market in medications. There are extensive efforts globally, including among law enforcement, to try to address the issue. At the Global Fund, the Secretariat and the OIG have identified such issues as serious risks to program quality and impact.

Because of the risks to impact, the Secretariat has already led on several key global initiatives, including the creation of Joint Inter-Agency Task Force (JIATF) and the Global Steering Committee (GSC), chaired by Norbert Hauser, Chair of the Board. In addition, we have supported country-specific actions, including in Malawi, where the Minister of Health has implemented a new investigation unit that has already uncovered and begun to address significant issues. In addition, a new Supply Chain team at the Global Fund is now working on a comprehensive approach to support the development of strong and resilient supply chains and assurance mechanisms that will incorporate the issues of diversion, theft and sub-standard commodities.

We will carefully consider all recommendations on this matter made by the OIG, and we seek advice and guidance from the Board's Audit and Finance Committee on specific steps.

Thank you for the opportunity to provide context and outline management action to address the important issues outlined in the OIG report.

Regards,

Mark Dybul

Annex B: Summary of Subject Response

On 27 June 2016, via email, the OIG provided the Director of the Supplier with a copy of its statement of findings from this investigation. In addition, on 5 July 2016, a copy of the statement of findings was delivered to the business address for the Supplier. This statement of findings represented the full record of relevant facts and findings as they relate to the Supplier and the Director of the Supplier.

The OIG received no response from either the Supplier or the Director of the Supplier.

Annex C: Exhibits

The OIG reviewed the work product submitted by the Supplier under Contract 1. The OIG checked the text and images of the work product against sources publically available on the internet, internal Global Fund documents and information that was provided to the Supplier as background for the project. The OIG found that substantial portions of the work product were copied verbatim from other sources without credit.[37]

The following are examples of plagiarized text and images found in the work product submitted by the Supplier under Contract 1.

01 Evidence of Plagiarism: Contract 1

Interim Report: An Overview of Detection Technology Platforms

The following is excerpted from pages 12 through 16 of the Interim Report: An Overview of Detection Technology Platforms, 06 August 2014. This report was 93 pages long, and 56% of the report was deemed to be plagiarized. The text highlighted below is copied directly from other sources without citation. The original sources of the information are noted.

Yellow-highlighted text is taken virtually verbatim from the copyrighted book, "Countering the Problem of Falsified and Substandard Drugs", p. 4-5, 2013; found at http://www.nap.edu/catalog/18272/countering-the-problem-of-falsified-and-substandard-drugs	**4 Extent of the Problem in Sub-Saharan Africa** It is difficult to measure and quantify the population burden of falsified and substandard drugs globally and in Sub-Saharan Africa in particular. Governments and industry monitor problems with drug quality, but this information is not usually made public. The Pharmaceutical Security Institute, a network of the security divisions of 25 major pharmaceutical companies, has data that indicate that the illegal trade and manufacture of medicines is a global problem. It affected at least 124 countries in 2011, and the burden is disproportionately felt in the developing world. Data from the U.S. FDA Office of Criminal Investigations indicate that pills and tablets are the most commonly compromised products they investigate, mostly produced by individual criminals, not negligent businesses. Interpol, an international organization that facilitates police cooperation, has conducted 18 operations against illicit medicines since 2008. Police working in Interpol raids have confiscated tons of suspect products, leading to hundreds of investigations and arrests. Much of the scientific literature about drug quality is in case studies: reports from clinicians who uncover substandard or falsified drugs in their routine work. This kind of report provides context on how and when different kinds of drugs are compromised; it can also trigger epidemiological investigation. Nonprobability or convenience samples are by far the most commonly used method to study drug quality. Such studies indicate serious problems with antibiotics in poor countries and antimalarial drugs in Sub- Saharan Africa and Southeast Asia. The best estimate of the burden of illegitimate drugs comes from systematic random samples, collected by patient actors from a representative cross section of drug sellers. Such studies are logistically complicated and few. More research in accordance with the recent guidelines on medicine quality assessment reporting

[37] Interim Report, OIG Plagiarism Verification Notes, 18 May 2016; Supplier Participant Slides, OIG Plagiarism Verification Notes, 18 May 2016; Contract 1 Final Report, OIG Plagiarism Verification Notes, 25 May 2016; Deployment Algorithm, OIG Plagiarism Verification Notes, 18 May 2015.

	would advance understanding and monitoring of the problem. Lack of clarity regarding the magnitude of the falsified and substandard medicines market holds back coordinated international action. The World Health Organization is developing a system for the global surveillance and monitoring of falsified and substandard drugs. Consistent use of this system, eventually linking it to national pharmacovigilance systems, would advance international action and give a more nuanced understanding of the type of falsified, substandard, and unregistered medicines in circulation and the extent of the trade. Governments should establish or strengthen systems to detect substandard, falsified, and unregistered medicines. This surveillance should be integrated with established public health surveillance systems. Analysis and reporting should precisely describe the product's quality, packaging, and registration. From the research carried out there is wide spread occurrence of illegitimate medicines in West Africa (Nigeria, Ghana, Senegal), and low or undetected levels in Southern Africa (South Africa, Zimbabwe and Malawi). East Africa and North Africa have moderate cases.

Yellow-highlighted text is taken verbatim from the copyrighted book, "Countering the Problem of Falsified and Substandard Drugs", p. 7-9, 2013; found at ➡ http://www.nap.edu/catalog/18272/countering-the-problem-of-falsified-and-substandard-drugs	**4.1 The Genesis and Origins of Falsified and Substandard Drugs** Much as poor-quality drugs are often both falsified and substandard, some potentiating factors encourage both kinds of problems. The high demand and erratic supply of drugs, weak regulatory systems, and uneven awareness contribute to the trade in both falsified and substandard drugs. Medicines are what economists describe as an inelastic good; changes in the unit price of the medicine have proportionately little effect on the demand. Price inelasticity, combined with a high relative price, make medicines a major expense for patients around the world. The drug market is not stable; both price and supply fluctuate. Drug shortages drive up the price of medicines and push consumers to unregulated markets. Reducing the costs and increasing the availability of medicines would help prevent drug scarcity. The WHO has recommended generic substitution as a way to keep medicine costs down, but this depends on a supply of quality generic medicines on the market. For generic manufacturers, companies that generally run on low margins, the costs of proving bioequivalence and preparing a manufacturer's dossier for regulatory review can be prohibitive to market entry. Different regulatory authorities have different, often widely divergent, requirements. To complicate the problem, many small regulatory authorities lack the technical depth to evaluate the bioequivalence data that generics manufacturers submit. The high cost of market authorization impedes the development of a strong generics industry in poor countries. A more robust generic drug market could help prevent the drug shortages and price spikes that encourage the sale of poor-quality products. Regulatory authorities can work to better harmonize their procedures, thereby improving their own efficiency and reducing barriers to market entry for good-quality generics manufacturers. The use of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use Common Technical

	Document format for registration would ease the regulatory burden on generics companies. Regulators also reap a spill-over benefit of more convergent regulatory systems without negotiating cumbersome mutual recognition agreements. An influx of generic medicines will only reduce the circulation in falsified and substandard drugs when there is a system to assure consumers of medicines' quality. A functioning medicines regulatory authority is a necessary condition for a robust generic medicines market. Strengthening the drugs regulatory system, building the inspectorate, enforcing quality standards, and licensing in accordance with international standards are essential to improving drug quality. Without a competent regulatory authority to inspect wholesalers, distributors, and manufacturers, opportunities to corrupt the drug supply abound. A strategy for compliance with international standards can help reduce redundant work and fragmentation. Both industry and regulators should agree to work toward the priorities identified in the strategic plan, an openly shared document. Large pharmaceutical manufacturing nations such as India and China suffer from fragmented regulatory systems and an unclear division of responsibilities between state and national governments. Governments and donor agencies should fund development of effective communication and training programs for consumers and health workers on understanding the quality and safety of medicines. Targeted health worker education on falsified and substandard medicines would improve understanding of the problem around the world. This education should emphasize the correct reporting channels health workers can use to confirm suspected cases of bad drugs. Illegitimate drugs are a potential threat in all countries, though risk varies widely from country to country. An effective communication campaign and civic education should present accurate information in a way that empowers patients to protect their health.

Yellow-highlighted text is taken virtually verbatim from the copyrighted booked, "Countering the Problem of Falsified and Substandard Drugs", p. 9-10, 2013; found at  http://www.nap.edu/catalog/18272/countering-the-problem-of-falsified-and-substandard-drugs	**4.2 The Drugs and Medicines Supply Chain in Sub-Saharan Africa** The modern pharmaceutical supply chain is complex. Medicines are made from ingredients sourced from different countries. Final formulations are then exported, and packaging, repackaging, and sale can happen in many other countries. Drugs change hands many times between the manufacturer and patient; every transaction is an opportunity for falsified and substandard products to infiltrate the market. Drug quality around the world could be improved with changes to the drug distribution system. The systems however, differ markedly between developed and developing countries. Fewer, larger firms control manufacture and the wholesale drug markets in developed countries, where most patients get medicines from licensed pharmacies or dispensaries. In low- and middle-income countries, such as Malawi, multiple parallel distribution systems of varying efficiency run in the same country. It is also difficult and expensive to transport medicines over poor roads to remote villages, as supply chain managers in poor countries must do. The first step on the drug distribution chain is the wholesale market. There are two kinds of drug wholesalers: primary wholesalers who

	have written distribution contracts with manufacturers and buy directly from them, and secondary wholesalers who buy from other intermediaries. Both kinds of wholesalers buy and sell medicines to accommodate market demand. When they see that a medicine is scarce in one region, they can buy the same medicine from other wholesalers that may be flush with it. The markets are constantly fluctuating; products change hands many times. Wholesalers may repackage products repeatedly, and in the repackaging fake products can gain authentic labels. In the US, for example, the FDA, in collaboration with state licensing boards, should establish a public database to share information on suspended and revoked wholesale licenses. Similar weaknesses plague the wholesale system in developing countries, and action in the American market might give regulators around the world example and encouragement to tighten controls on the chaotic wholesale market. More stringent licensing requirements can improve the wholesale system, but drugs will still need to move from factory to the vendor, passing through many hands before reaching the patient. With every transaction on the chain, there is a risk of the drug supply being compromised.

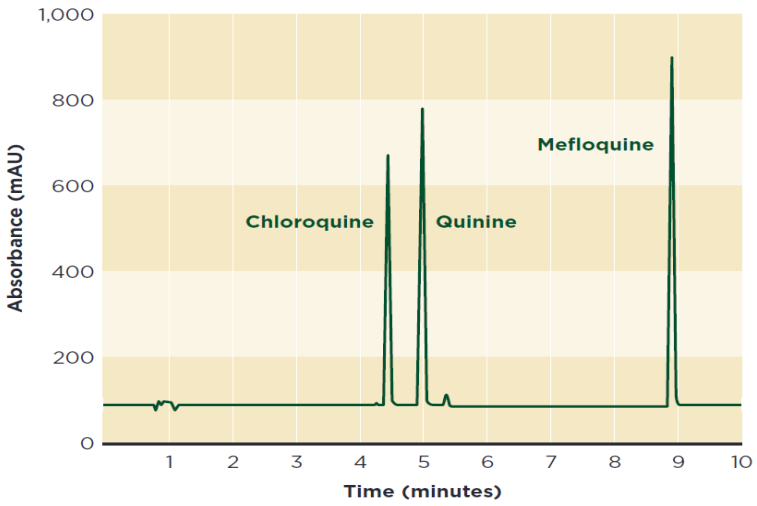
Yellow-highlighted text is taken virtually verbatim from the copyrighted book, "Countering the Problem of Falsified and Substandard Drugs", p. 10-12, 2013; found at ➡ http://www.nap.edu/catalog/18272/countering-the-problem-of-falsified-and-substandard-drugs	**5. Diversion and Theft of Medicines in Sub-Saharan Africa** Diversion and theft of medicines are major challenges in Sub-Saharan Africa. Criminals take advantage of places where the distribution chain breaks down and medicines depart from the documented chain of custody. Drugs that leave the proper distribution system are called diverted drugs; the markets that trade diverted drugs or, more generally, markets that trade with little authorized oversight are called gray markets. Drug diversion is the means through which medicines approved for sale in one country are sold in others, where they may not be registered. There is also diversion of free drugs from the public sector to the retail private sector in the same country. Small thefts and large heists compromise the integrity of the drug distribution chain and confidence in the quality of medicines. In rich and poor countries alike, drugs often circulate outside of the main distribution channels without a drug pedigree, a record of a drug's every sale and owner. Drug pedigrees depend on attaching some form of unique identifying numbers to products. Products that lack identification numbers, or products with identification numbers that cannot be accounted for throughout the distribution chain, must be treated as falsified and removed from the market even if they come from licensed manufacturers. Radio frequency identification, traditional and two-dimensional barcodes, and mobile verification are methods for serialization that can facilitate drug tracking. In the countries where research was carried out (Zimbabwe, Malawi, South Africa and Ghana), diversion and theft of medicines are major concerns. The detailed findings from the country visits will be in the final report. National governments should authorize and fund their Drugs and Medicines Control boards such as FDA (USA), MCAZ (Zimbabwe), MCC (South Africa), and PMPB (Malawi) to establish a mandatory track and-trace system. In the interim, a working group of stakeholders should be convened, including the International Federation of Pharmaceutical Manufacturers and Associations and

	the Generic Pharmaceutical Association, to promote voluntary track-and-trace for all supply chain actors in accordance with existing guidance. Tracking pharmaceuticals through the global distribution chain with unique serial numbers is a good defence against criminal infiltration. A method of tracking individual packages of medicines from the factory to the consumer could greatly reduce the chances of a dangerous product being sold at a reputable pharmacy. Problems will remain, however, with unlicensed drug shops. Medicines retail, the last leg of the drug distribution system, is often the most chaotic. The drug distribution system becomes more disordered as the products leak out of regulated distribution chains. The risk increases as drugs move further from manufacturer. Licensed pharmacies and dispensaries can control the quality of their stock, at least insomuch as they can trust their wholesalers. There are no such efforts at quality control in the unlicensed market. Unlicensed vendors may approach medicines dispensing as any other sales job and not want a customer to leave without making a purchase. In general, these vendors exploit the chaos inherent to street markets and dry goods shops in low- and middle-income countries and online drug stores in middle- and high-income ones. The lack of alternatives pushes consumers in developing countries to buy medicine from unlicensed vendors, who may sell pills loose from large plastic bags or subdivide blister packs. Despite this and other gross violations of good practice, the shops often operate with the regulators' tacit approval, because they are the only source of medicines outside of major cities. There are also too few trained pharmacy staff in developing countries, especially in Sub-Saharan Africa and South and Southeast Asia. In many countries, the few trained pharmacists work in industry. Community pharmacy practice, especially in rural areas, suffers. Having a trained community pharmacist to oversee every drug store is not an option in the parts of the world most hurt by falsified and substandard medicines. Governments must take action to increase the reach of legal drug shops staffed by sellers with appropriate minimum training. Governments, the World Health Organization, and the International Pharmaceutical Federation should support national pharmacy councils and education departments to train tiers of pharmaceutical personnel. The private sector will invest in medicines retail if there is a good business reason to do so. Governments can take steps that would encourage private sector investment and create an environment where responsible private drug sellers will thrive. Governments can provide low-interest loans for improving drug shops and encourage private-sector accreditation or franchising programs. They can also work with their national pharmacy councils to set out tiers of training, including vocational training, for pharmaceutical personnel. Governments can also give incentives to keep trained staff in underserved areas. Disorganized medicines retail is not confined to developing countries. Through the internet, unlicensed drug vendors sell around the world, mostly in middle- and high-income countries. Unlicensed internet pharmacies are similar to street drug bazaars, both in the quality of the products they stock, which is poor, and in the lack of official oversight of their operations.

PowerPoint Presentation: An Overview of Technology Platforms

The following slides, 24-26, are excerpted from the PowerPoint presentation, Interim Report: An Overview of Detection Technology Platforms, 07 August 2014. This presentation contained 80 substantive slides; 46 of which were deemed to be plagiarized, or 58%. The text and images highlighted below are copied directly from other sources without citation. The original sources of the information are noted.

Slide 24:	**Advanced Chromatography Techniques**
Yellow-highlighted text is taken verbatim from the copyrighted book, "Countering the Problem of Falsified and Substandard Drugs", page 262-263, 2013; found at http://www.nap.edu/catalog/18272/countering-the-problem-of-falsified-and-substandard-drugs	➢ HPLC is a more selective technique and, when coupled with sensitive detectors, is generally regarded as the definitive technique for drug content analysis ➢ Depending on the associated detection technology, it can be expensive and require skilled operators and expensive, often scarce, solvents. ➢ The systems also require reliable electrical power, which can be an obstacle in developing countries. Figure 3a shows an HPLC chromatogram that clearly distinguishes between the antimalarials chloroquine, mefloquine, and quinine. ➢ Although the drugs are chemically similar, mefloquine is significantly more expensive, and the cheaper drugs are sometimes sold labeled as mefloquine; Figure 3b

Slide 25:	**Figure 3a: Distinct Peaks for Chloroquine, Quinine & Mefloquine (Ref: IOM)**
Yellow-highlighted text and the graph are taken directly from the copyright book, "Countering the Problem of Falsified and Substandard Drugs", page 262-263, 2013; found at http://www.nap.edu/catalog/18272/countering-the-problem-of-falsified-and-substandard-drugs	

Slide 26:	**Spectroscopy**
Yellow-highlighted text is taken verbatim from the copyrighted book, "Countering the Problem of Falsified	➢ Spectroscopy is a class of analytical techniques that measures the interaction of matter and radiation, thereby giving insight into chemical structure and contents.

and Substandard Drugs", page 265, 2013; found at http://www.nap.edu/catalog/18272/countering-the-problem-of-falsified-and-substandard-drugs	➢ **These techniques all provide qualitative data, and some provide significant quantitative data as well.** ➢ **Often referred to as the chemical fingerprints of drugs, the various spectra produced using these techniques elucidate different aspects of drug composition;** ➢ **characteristic absorption or emission peaks correspond to aspects of chemical composition and molecular structure.** ➢ **A chemist can extract detailed chemical and structural information from a spectrum,**

Final Project Report: A Technology Solution to Tackle, Thefts, Diversion and Counterfeit Health Products in Africa

The following is excerpted from pages 27 through 32 of the Final Project Report: A Technology Solution to Tackle, [sic] Thefts, Diversions, and Counterfeit Health Products in Africa, 10 December 2014. This report was 160 pages long, and 43% of the report was deemed to be plagiarized. The text highlighted below is copied directly from other sources without citation. The original sources of the information are noted.

Yellow-highlighted text taken virtually verbatim from a copyrighted book, "Standard Treatment Guidelines and Essential Medicines List for South Africa", Primary Health Care Level, p. xvi-xvii, 2014 Edition, found at http://www.kznhealth.gov.za/pharmacy/edlphc2014a.pdf	***8.2 Essential Drugs Programme*** The Essential Drugs Programme (EDP) of South Africa was established in terms of the National Drug Policy (NDP) which was implemented in 1996. The NDP aims to provide equal access to medicines for all South Africans through the Essential Drugs Programme, which includes an Essential Medicines List and Standard Treatment Guidelines. The high cost of medicines necessitated the development and regular review of the essential medicines list. The rationale for developing and maintaining an essential medicines list is to provide equal access to medicines, improve supply of the limited items and, therefore, lower the effective cost of medicines procured. The World Health Organisation (WHO) describes essential medicines as those that satisfy the priority healthcare needs of the population. Essential medicines are intended to be available within healthcare systems at all times in adequate quantities, in the appropriate quantity and dosage forms, with assured quality and adequate information, and at a price individuals and communities can afford. In South Africa, the concept of essential medicines incorporates the need to regularly update medicines selections to reflect new therapeutic options and changing therapeutic needs, to ensure medicine safety, efficacy, quality and affordability, and ensure continued development of better medicines, medicines for emerging diseases, and medicines to meet changing pathogenic resistance patterns. The South African Department of Health envisages that effective health care requires a balance between preventive and curative services. A crucial and often deficient element in curative services is an adequate supply of appropriate medicines. In the health objectives of the NDP, the government of South Africa clearly outlines its commitment to ensuring affordability, availability and accessibility of medicines for all people:- • To ensure the availability and accessibility of essential medicines to all citizens; • To ensure the safety, efficacy and quality of medicines; • To ensure good prescribing and dispensing practices; • To promote the rational use of medicines by prescribers, dispensers and patients through provision of the necessary training, education and information; and • To promote the concept of individual responsibility for health, preventive care and informed decision-making. Achieving these objectives requires a comprehensive strategy that not only includes improved supply and distribution, but also appropriate and extensive human resource development. The implementation of an EDP forms an integral part of this strategy, with continued rationalisation of the variety of medicines available in the public sector as a key priority. The private sector is encouraged to use these guidelines and medicines lists wherever appropriate. The criteria for the selection of essential medicines in South Africa were based on the WHO guidelines for drawing up a national Essential Medicines List. Essential medicines are selected with due regard to disease prevalence, evidence on efficacy, quality, safety, and comparative cost. The implementation of the concept of essential medicines is intended to be flexible and adaptable to many different situations. It remains a national responsibility to determine which medicines are regarded as essential.

	The NDP provides for the Ministerial appointment of a National Essential Medicines List Committee (NEMLC) who will draw up and revise a national list of essential medicines for three levels of care; primary health care, secondary and tertiary hospital level. To date, Standard Treatment Guidelines and Essential Medicines Lists are available for primary healthcare and secondary hospital levels.

Yellow-highlighted text is taken verbatim from, "National Drug Policy for South Africa", p. 3-4, 13-14, 28; found at  http://apps.who.int/medicinedocs/documents/s17744en/s17744en.pdf	***8.3 National Drug Policy*** A comprehensive National Drug Policy has been developed for South Africa. It covers the wide range of activities which contribute to the effective production, supply, storage, distribution and use of medicines. Its successful implementation depends on a commitment to its principles by all role players and stake holders. This commitment must go beyond lip service to include active participation in the processes of initiation, review and modification to ensure that the people of South Africa receive the drugs they need at a cost that they and the system as a whole can afford. Health care delivery in South Africa, until the recent process of democratisation and universal franchise, was characterized by a two-tier system of: • Private health care funded by medical schemes, which covered up to 20% of the country's population, the vast majority of whom were from the white section of the population; • Public health sector which was characterized by fragmentation (no less than 14 health authorities), a resultant irrational use of resources, poor working conditions and inadequate infrastructure. Although South Africa spent 6.66% of its GNP on health care in 1992/93, a breakdown of this figure between private and public expenditure shows that public sector expenditure accounted for only 3.44% of GNP, with the private sector taking up 3.22%. Put differently, the private sector which comprised only 20% 0f the country's population was responsible for 48.5% of total health care expenditure in 1992/93. Disparities between the public and private sectors are further illustrated by the fact that in 1990 the private health sector consumed 80% of the country's total expenditure on drugs, although 60-70% of the total volume of pharmaceuticals was consumed in the public sector. The pharmaceutical sector, as a component of the health sector, reflected its deficiencies, most notably the lack of equity in the access to essential drugs, with a consequent impact on quality of care. Furthermore, rising drug prices, already high in international terms, gave increasing cause for concern, as did evidence of irrational use of drugs, losses through malpractice and poor security, and cost-ineffective procurement and logistics practices. Most of these problems are interlinked. The Government of South Africa decided to tackle them systematically through the development and implementation of a National Drug Policy that would be consonant with and be an integral part of the new National Health Policy, which aims at equity in the provision of health care for all. The goal of the National Drug Policy is to ensure an adequate and reliable supply of safe, cost-effective drugs of acceptable efficacy and quality to all citizens of South Africa and the rational use of drugs by

	prescribers, dispensers and consumers. The specific objectives of the National Drug Policy are as follows: • Health objectives; to ensure the availability and accessibility of essential drugs1 to all citizens • Economic objectives; to lower the cost of drugs in both the private and public health sectors; to promote the cost-effective and rational use of drugs; to establish a complementary partnership between Government bodies and private health providers in the pharmaceutical sector; to optimize the use of scarce resources through cooperation with international and regional agencies. • National development objectives; to improve the knowledge, efficiency and management skills of pharmaceutical personnel; to re-orientate medical, paramedical and pharmaceutical education towards the principles underlying the National Drug Policy; to support the development of the local pharmaceutical industry and the local production of essential drugs; to promote the acquisition, documentation and sharing of knowledge and experience through the establishment of advisory and advocacy groups in rational drug use, pharmacoeconomics and other areas of the pharmaceutical sector. The text of the policy covers the key issues under the following components: legislation, including regulation, registration, inspection, quality control and quality assurance; pricing; selection; procurement and distribution; rational drug use; human resources development; research and development; technical cooperation with countries and international agencies; traditional medicines; monitoring and evaluation. The underlying aims and objectives of each component are given together with the principal policy strategies.
Yellow-highlighted text is taken virtually verbatim from, "National Drug Policy for South Africa", p. 3-4, 13-14; found at ➡ http://apps.who.int/medicinedocs/documents/s17744en/s17744en.pdf	***8.4 Procurement and distribution*** From a procurement and distribution perspective, the aim is to ensure an adequate supply of effective and safe drugs of good quality to all people in South Africa. This objective is achieved by promoting cost-effectiveness in the public sector and by utilizing private sector facilities where appropriate.

Yellow-highlighted text is taken virtually verbatim from, "National Drug Policy for South Africa", p. 3-4, 13-14; found at ➡ http://apps.who.int/medicinedocs/docum	***8.4.1 Finance*** Regarding finance, the objective is to develop a system of joint responsibility between the government and the patient for the financing of drugs. However, in line with National Health Policy, the government's role is to ensure that essential drugs are available to all people in need. To this end, drugs are provided free of charge at the point of service at the primary care level. The annual budget for procurement of drugs in the public sector is based on proper quantification of estimates as

ents/s17744en/s17744en.pdf	indicated by the profile of the population served, its morbidity and applicable consumption data.
Yellow-highlighted text is taken virtually verbatim from, "National Drug Policy for South Africa", p. 3-4, 13-14; found at ➡ http://apps.who.int/medicinedocs/documents/s17744en/s17744en.pdf	***8.4.2 Procurement*** Concerning procurement, the objective is to maintain a system which ensures that the correct medical supplies are procured at the best possible prices. To that end the public sector coordinating body for procurement (COMED) needs to be strengthened. Price negotiations for the procurement of essential drugs and medical supplies for the public sector are undertaken at the national level, using national and international tendering. After contracts have been awarded provincial authorities purchase drugs directly from suppliers. All public sector institutions procure essential drugs through the public sector tender system. In the long term this system will be extended to NGOs and the private sector. The system for awarding and administering the tenders is computerized and standardized. A system for supplier performance monitoring is to be established; information from this system will be used in the adjudication of new drug supply contracts. A computer system will be developed to record drug purchases by provincial authorities and other organizations, in order to improve the forecasting and supplying of accurate annual needs. To facilitate this, all institutional purchases will be channelled through the depots, either for ex-stock deliveries or merely for records purposes. Provincial administrations are requested to adopt the use of standardised COMED or compatible systems. This includes the use of the National Codification System and the participation in national tenders for EDL and Essential Equipment List (EEL) items. National tender prices are monitored and compared with international prices. Tender preference will be given to national drug manufacturers. Notwithstanding this preference, procurement aims at securing the lowest available prices for products of defined specifications. The government thus reserves the right to consider procurement on the international market, which includes the options of parallel importation and purchasing on the international generic market. Drug procurement and distribution for the public sector will be limited to drugs on the national list of essential drugs, and to products registered for use in South Africa. A fast-track registration procedure has been established for products which are procured solely for the public sector. Tenders are called for by generic name only. As much as possible, drugs are procured in patient ready packs; in other cases repacking is done by provincial depots. Preference is given to products labelled solely by generic name; in all other cases the generic name must be printed immediately above or under the trade name, in a letter type at least as large as that of the trade name. The awarding process for tenders is transparent and conducted in the terms recommended by the Tender Board.

Detection Technology: Deployment Algorithm

The following, slides 6, 9 and 11, are excerpted from the PowerPoint document, The Detection Technology, Deployment Algorithm, 10 December 2014. This document contained 75 substantive slides, 22 of which were deemed to be plagiarized, or 29%. The text highlighted below is copied directly from other sources without citation. The original sources of the information are noted.

Slide 6: Yellow-highlighted text copied virtually verbatim from a copyrighted book, "Countering the Problems of Falsified and Substandard Drugs", page 277-279; found at http://www.nap.edu/catalog/18272/countering-the-problem-of-falsified-and-substandard-drugs	**Elements of the Technology Deployment Algorithm (cont.)** ➢ Time and budget allowing, the best understanding of drug quality (detection of illegitimate medicines) comes from the several complementary technology platforms. ➢ Combinations of techniques from within a class, such as spectroscopy, can be helpful. ➢ Infrared spectroscopy may at times be better at identifying organic substances in tablet coatings, whereas Raman spectroscopy may better identify the inorganic components. ➢ Raman spectroscopy does not distinguish between the real coating and falsified coating, but infrared spectroscopy does. ➢ We can pair mass spectrometry with separation techniques, such as HPLC, to achieve a more definitive analysis.

Slide 9: Yellow-highlighted text copied virtually verbatim from a copyrighted book, Countering the Problems of Falsified and Substandard Drugs, page 274; found at http://www.nap.edu/catalog/18272/countering-the-problem-of-falsified-and-substandard-drugs	**Developing the Detection Technology Selection Algorithm** ➢ For the outlined main categories of techniques for detecting falsified and substandard drugs a selection strategy has been developed. ➢ Information a technique provides, as well as its reliability, cost, required expertise, speed, usability in the field, and portability make it more or less appropriate in any given situation. ➢ A technology must pick up deficiencies such as fake packaging, incorrect colour, shape, or markings, absent or incorrect API, incorrect quantities of ingredients, impurities, & reduced dissolution or disintegration. ➢ Determining which of the detection technologies can test for these problems and how well they can be used in the field leads to the deployment algorithm. ➢ Most field methods can be used by professionals such as regulators, pharmacists, or health workers, but some, like mobile verification, are accessible to a layperson.

Slide 11:[38] Yellow-highlighted text is copied virtually verbatim from a copyrighted book, "Countering the Problems of Falsified and Substandard Drugs", box 6-1, page 274, found at http://www.nap.edu/catalog/18272/countering-the-problem-of-falsified-and-substandard-drugs	**Classes of Illegitimate Medicines (by Level of Sophistication of Illegitimate Drug)** **Class 1: *Completely fraudulent products* with unknown contents and therapeutic effects significantly different from the genuine.** **Class 2: Look *somewhat similar to the drug* being imitated, but the drug composition is not known.** **Class 3: Look *very similar or identical* to the genuine product but contain an *entirely different drug*, if any.** **Class 4: Look *very similar to the actual product* but contain an *alternative drug* or synthetic analogue providing similar therapeutic value to that of the authentic product; intended to create repeat business.** **Class 5: Visually *identical, highly sophisticated copies* or *synthetic analogues* with some *therapeutic value* that cannot be detected using most field and lab. methods.**

02 Evidence of Plagiarism: Contract 2

The OIG reviewed the Final Project Report: Work in Support of the Global Steering Committee (GSC) for Quality Assurance of Health Products, 14 October 2015, submitted by the Supplier under Contract 2. The OIG checked the text and images of the work product against sources publically available on the internet and internal Global Fund documents and found that portions of the work product were copied verbatim from other sources without credit.[39]

The following is excerpted from pages 14 through 17 of the Final Project Report: Work in Support of the Global Steering Committee (GSC) for Quality Assurance of Health Products. This report was 55 pages long, and 24.8% of this report was deemed to be plagiarized. The text highlighted below is copied directly from other sources without citation. The original sources of the information are noted.

[38] Original slide contained text that was both blue and red.
[39] Contract 2 Final Project Report, OIG Plagiarism Verification Notes, 3 June 2016.

Yellow-highlighted text is copied virtually verbatim from NatPharm website found at ➡ http://www.natpharm.co.zw/index.php	***5.3 National Pharmaceutical Company (NatPharm)*** The National Pharmaceutical Company (NatPharm) is Zimbabwe's equivalent to a central medical store system. NatPharm is the appointed agent for procurement, storage and distribution of medical supplies to Public health institutions. Its vision is to be the supplier of choice of medicines and medical supplies while its mission is to procure, warehouse and distribute affordable quality medicines and medical supplies to all health institutions. Its core values are transparency, discipline, honesty, integrity, responsiveness and diligence. NatPharm seeks to effectively serve: its customers - by supplying continuously total quality service; Patients – by providing safe, efficacious, quality and affordable medicines; the Community – by being responsive to the needs of the community; Employees – by providing competitive remuneration; Development partner – by being accountable and transparent in our service; Shareholder – by optimal utilisation of resources, accountability and transparency in its operations. The organization procures in bulk for more than 1450 Health institutions thereby enjoying economies of scale at procurement. This translates to affordable prices for medicines and medical supplies. The bulk purchase also benefits NatPharm's private sector customers. NatPharm's network of warehouses across the country makes the organization well placed to adequately cover all the institutions in terms of distribution. There are six provincial warehouses and to aid in distribution the organization is endowed with 23 delivery trucks. This works out at an average of not less than three trucks per store. Besides trading in medical supplies, the organization offers procurement and storage services, for a fee, to any interested and eligible party. A number of development partners have been making use of this service for their donated medicines. NatPharm has not been recapitalised since the introduction of multi-currency regime in Zimbabwe and this has hampered the organisation's ability to restock. The procurement capacity at NatPharm is currently underutilised due to donors and partners carrying out the procurement function for those commodities they are supporting and NatPharm not having enough funds to draw down on floated tenders.

Yellow-highlighted text is copied virtually verbatim from the Medicines Control Authority of Zimbabwe webpage; found at ➡ http://www.mcaz.co.zw/index.php/20	***5.4 Medicines Control Authority of Zimbabwe (MCAZ)*** Medicines Control Authority of Zimbabwe (MCAZ) is the Medicines Regularesponsible for protecting public and animal health by ensuring that accessible medicines and allied substances and medical devices are safe, effective and of good quality through enforcement of adherence to standards by manufacturers and distributors. MCAZ is a statutory body established by an act of Parliament, The Medicines and Allied Substances Control Act (MASCA) [Chapter 15.03]. MCAZ is a successor to the Drugs Control Council (DCC) and the Zimbabwe Regional Drug Control Laboratory (ZRDCL). DCC was established by an Act of Parliament in 1969: Drugs and

15-10-17-12-28-21/who-we-are	Allied Substances Control Act [Chapter 15.03] following which ZRDCL became operational in 1989. The mandate of the MCAZ is to protect public health ensuring that medicines and medical devices on the market are safe, effective, affordable and of good quality. The main activities of the MCAZ are organized into four key units:

Yellow-highlighted text is copied virtually verbatim from the Medicines Control Authority of Zimbabwe webpage; found at http://www.mcaz.co.zw/index.php/2015-10-17-12-28-21/who-we-are	***5.4.1 Evaluations and Registrations*** The Evaluations and Registration Unit is responsible for registering medicines (for both human and veterinary use) intended for sale in Zimbabwe. All medicines sold in Zimbabwe must be registered as stipulated under the Medicines and Allied Substances control Act and its Regulations. There are also special exemptions for importation of unregistered medicines for individuals in terms of Section 75 of the Act. On site you will find the documentation required to be submitted when applying for the registration of a medicine The Registration Committee or the Veterinary Committee registers medicines that have met all the technical requirements i.e. evaluation of dossier, analysis of samples and GMP compliance. These successful applications will be issued with registration certificates.

Yellow-highlighted text is copied virtually verbatim from the Medicines Control Authority of Zimbabwe webpage; found at http://www.mcaz.co.zw/index.php/2015-10-17-12-28-21/who-we-are	***5.4.2 Licensing and Enforcement Unit*** This unit is also referred to as the Inspectorate and its responsibilities include the following: to license manufacturers of medicines, to license pharmacies, wholesale dealers and industrial clinics, to license persons who supervise the above premises, to inspect all the above premises to ensure that they conform to minimum requirements as set out in the Act, to evaluate advertisements of medicines and medical conditions as set out in the Act, to process applications for importation of unregistered medicines under Section 75 of the Act, to process applications for importation of narcotics and psychotropic substances. The Licensing and Enforcement Unit reports to the Licensing and Advertising Committee of the Authority, which makes the final decision regarding the issuing and cancellation of licences and permits

Yellow-highlighted text is copied virtually verbatim from the Medicines Control Authority of Zimbabwe webpage; found at ➡ http://www.mcaz.co.zw/index.php/2015-10-17-12-28-21/who-we-are	***5.4.3 Pharmacovigilance and Clinical Trials Unit*** The activities of this unit are: To approve and monitor all clinical trials medicines and medical devices that are conducted in Zimbabwe in terms of Part III of the Medicines and Allied Substances Control Act of 1991 [Chapter 15:03]; To deal with medicine's post-registration issues. This means that after medicines have been registered by the Authority, any issues to do with the review of those medicines fall under this unit, including the processing of applications for amendments for registered medicines; To approve and monitor all clinical trials involving medicines and medical devices that are conducted in Zimbabwe in terms of Part III of the Medicines and Allied Substances Control Act of 1991 [Chapter 15:03]; To conduct Pharmacovigilance activities which include: post-market surveillance of registered medicines; collecting and analysing Adverse Drug reports; Drug information dissemination through publishing a quarterly drug information bulletin.

Yellow-highlighted text is copied verbatim from the Medicines Control Authority of Zimbabwe webpage; found at ➡ http://www.mcaz.co.zw/index.php/2015-10-17-12-28-21/who-we-are	***5.4.4 Laboratory Services Unit*** The laboratory is essential to the functions of the Medicines Control Authority. The information below will enlighten the reader on the holistic approach MCAZ takes to ensure quality, efficacy and safety of medicines in Zimbabwe. The Zimbabwe Regional Medicines Control Laboratory (ZRMCL) is the national quality control Laboratory, also serving WHO sub-regional III countries of Africa. The Laboratory's primary role consists of the analysis and assessment of the quality of a wide range of medicines and selected medical devices circulating within Zimbabwe. The principal activity of the laboratory is testing and the preparation of detailed analytical quality control reports for medicines as part of the registration process. Samples are taken by inspectors during routine or special inspection visits throughout the distribution channel. A number of pharmaceutical companies within Zimbabwe and the region refer samples to the laboratory for independent quality control analysis for various purposes. Apart from medicines testing, the laboratory also plays an active role in training and providing consultancy to local and regional clients.

Annex D: Timeline of Key Events

Date	Event
9 July 2013	Director of the Supplier was a keynote speaker at a Global Fund-sponsored ACT conference.
4 December 2013	Global Fund Secretariat awards the Supplier Contract 1: Value US$155,000.
10 December 2014	Final work product and invoice delivered for Contract 1.
23 December 2014	A Global Fund MEC member invites the Director of the Supplier to be a member of the high-level expert panel for an international alliance's health initiative on behalf of the initiative's co-conveners.
23 February 2015	First meeting of high-level expert panel for the international health initiative takes place.
23 February 2015	MEC member shares concerns with Global Fund Secretariat manager about the participation of the Director of the Supplier on the international health initiative expert panel.
23 February 2015	Manager in Global Fund Secretariat tells Global Fund staff member that s/he will see if s/he can give the Director of the Supplier paid work rather then tell him that a MEC member does not want him on the high-level panel.
12 March 2015	Manager in Global Fund Secretariat tells MEC member that the manager has the opportunity to give a small piece of paying work to the Director of the Supplier and that this work would create a conflict that would require his withdrawal from the international health initiative. MEC member agrees with the proposal.
4 June 2015	Secretariat awards the Director of the Supplier Contract 2: Value US $36,000.
14 October 2015	Final work product and invoice delivered for Contract 2.
12 November 2015	Secretariat staff member instructs the Director of the Supplier to begin work on Contract 3, despite the fact the contract had not been signed by all parties. This contract was eventually cancelled.
23 November 2015	Secretariat receives anonymous email alleging professional wrongdoing by the Director of the Supplier.
24 November 2015	The Secretariat forwards anonymous allegation email to OIG.

Annex E: Methodology

The Investigations Unit of the OIG is responsible for conducting investigations of alleged fraud, abuse, misappropriation, corruption and mismanagement (collectively, "fraud and abuse") within Global Fund-financed programs and by suppliers and service providers and those with whom suppliers and service providers engage in connection with their activities to implement Global Fund projects, programs or operations.[40]

The authority required to fulfill this mandate includes access to the Secretariat and suppliers' documents and officials.[41] The OIG relies on the cooperation of these suppliers to properly discharge its mandate.[42]

OIG investigations aim to: (i) identify the specific nature and extent of fraud and abuse affecting Global Fund grants and operations, (ii) identify the entities responsible for such wrongdoings, (iii) determine the amount of funds that may have been compromised by fraud and abuse, and (iv) place the organization in the best position to obtain recoveries through the identification of the location or the uses to which the misused funds have been put.

OIG conducts administrative, not criminal, investigations. Its findings are based on facts and related analysis, which may include drawing reasonable inferences based upon established facts. Findings are established by a preponderance of credible and substantive evidence. All available evidence is considered by the OIG, including inculpatory and exculpatory information.[43]

The OIG is an administrative body with no law enforcement powers. It cannot issue subpoenas or initiate criminal prosecutions. As a result, outside of the Secretariat, its ability to obtain information is limited to the rights granted under the agreements between suppliers and the Global Fund, including the terms of its Code of Conduct for Suppliers (the "Code"), and on the willingness of witnesses and other interested parties to voluntarily provide information.

The OIG finds, assesses and reports on facts. On that basis, it makes determination on the compliance of expenditures, the applicable contractual instruments and applicable rules and procedures.

The OIG does not determine how the Secretariat will address its findings through operational and managerial actions. Nor does it make judicial decisions or issue sanctions.[44] The OIG also does not make findings regarding Global Fund Secretariat employees' misconduct under the applicable human resources rules and regulations. However, pursuant to its mandate, the OIG does refer allegations and related factual information regarding possible employee misconduct conduct to the Global Fund Ethics Officer.[45] In addition, allegations received by the OIG may be used by the Secretariat in the context of a disciplinary process[46] and the OIG would then provide the relevant factual findings, subject to whistle-blower protection obligations.

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[40] Charter of the Office of the Inspector General (19 March 2013), available at: http://theglobalfund.org/documents/oig/OIGOfficeOfInspectorGeneralCharteren/

[41] Ibid., § 17.1 and 17.2

[42] Global Fund Code of Conduct for Suppliers (15 December 2009), § 17-18, available at: http://theglobalfund.org/documents/corporate/CorporateCodeOfConductForSuppliersPolicyen/ .

[43] These principles comply with the Uniform Guidelines for Investigations, Conference of International Investigators, June 2009; available at: http://www.conf-int-investigators.org/wp-content/uploads/2015/05/CII-Uniform-Principles-and-Guidelines-for-Investigations_2ed-2009.pdf accessed 21 October 2016.

[44] Charter of the Office of the Inspector General (19 March 2013) § 8.1

[45] Ibid.,§ 23.

[46] Global Fund Employee Handbook (10 June 2016), Annex IX, Disciplinary Procedure, § 1, 3rd bullet.

As a result of its findings, the OIG does develop, jointly with the Secretariat, risk-prioritized Agreed Management Actions. Such Agreed Management Actions represent a commitment by the Secretariat to implement specific remedial or preventative measures in reaction to the findings, in a specific timeframe, and an agreement by the OIG that the proposed measures will materially contribute to identify, mitigate and manage the risks evidenced through the findings. They may notably include recommended administrative action related to contract management and recommendations for action under the Code of Conduct for Suppliers (the "Code"), as appropriate.

Finally, the OIG may make referrals to national authorities for prosecution of any crimes or other violations of national laws, and supports such authorities as necessary throughout the process, as appropriate.

01 Applicable Concepts of Fraud and Abuse

The OIG bases its investigations on the contractual commitments undertaken by and suppliers. It does so under the mandate set forth in its Charter to undertake investigations of allegations of fraud and abuse in Global Fund operations and supported programs.

As such, it relies on the definitions of wrongdoing set out in the applicable procurement contracts with the Global Fund. It also takes into account the regulations and procedures applicable to the Global Fund Secretariat itself.

The Code clarifies the way in which suppliers are expected to abide by the values of transparency, accountability and integrity which are critical to the success of funded programs. Specifically, the Code mandates fair and transparent practices in the participation in procurement processes and performance of a contract.

The Codes notably provide the following definitions of the relevant concepts of wrongdoings:[47]

- "Anti-competitive practice" means any agreement, decision or practice which has as its object or effect the restriction or distortion of competition in any market.
- "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.
- "Conflict of Interest": a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligation, or compliance with applicable laws and regulations, and that such conflict of interest may contribute to a prohibited practice under this code.
- "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.
- "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.
- "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.

[47] Available at: http://theglobalfund.org/documents/corporate/Corporate_CodeOfConductForSuppliers_Policy_en/

02 Determination of Compliance

The OIG presents factual findings that identify potential failure by the Secretariat or suppliers to comply with the terms of the applicable agreements or relevant Global Fund internal regulations and procedures. As described in section 01 above, the OIG then strives to agree with the Secretariat on appropriate management actions to address the findings. Consequently, the OIG does not unilaterally conclude on the appropriateness of seeking remedies or sanctions on the basis of the provisions in the applicable agreements, or determine the precise nature of those remedies or sanctions. It may, however, request that the Secretariat follows its own processes to address the findings, and track and report on the Secretariat's progress in this regard.

The Global Fund's Code of Conduct for Suppliers and the Global Fund's Policy on Ethics and Conflicts of Interest[48] further provide for additional principles by which suppliers must abide, as well as remedies in case of breaches of said fundamental principles of equity, integrity and good management. The Codes also provide useful definitions of prohibited conducts.[49]

The Codes are made applicable to the contracts with suppliers through the representation of compliance by the supplier in article 6.3, Ethical Behavior.

The factual findings made by the OIG following its investigation and summarized through this report can be linked to the prohibited conducts or other matters incompatible with the terms of the applicable agreements or relevant internal regulations and procedures.

03 Reimbursement or Sanctions

The Secretariat of the Global Fund is subsequently tasked with determining what management actions or contractual remedies will be taken in response to those findings.

Such remedies may notably include the imposition of sanctions for breaches to the Codes, as indicated in par. 18 of the Code of Conduct for Suppliers. Such process is governed by the Sanctions Panel Procedures Relating to the Code of Conduct for Suppliers.[50]

Furthermore, the UNIDROIT principles (2004), the principles of law governing the agreements, provide for the right of the Global Fund to seek damages from the Principal Recipient or the supplier in case non-performance, in addition to any other remedies to which the Global Fund may be entitled.

[48] Available at: http://www.theglobalfund.org/documents/core/policies/Core_EthicsAndConflictOfInterest_Policy_en/
[49] Available at: http://www.theglobalfund.org/documents/corporate/CorporateCodeOfConductForSuppliersPolicyen/
[50] Available at: http://www.theglobalfund.org/documents/corporate/Corporate_SanctionsProcedures_Policy_en/