

INVESTIGATION REPORT

Global Fund Grant in Malawi

Misappropriation of funds in HIV grant

GF-OIG-21-011

16 June 2021

Geneva, Switzerland

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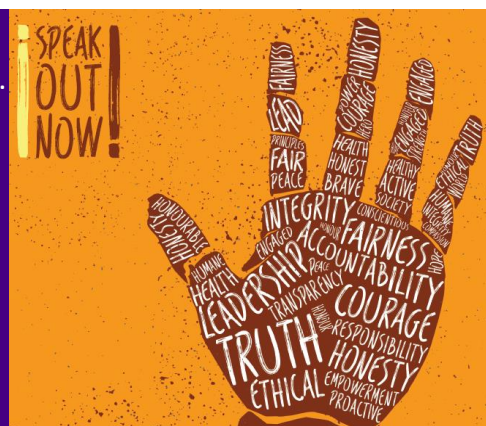


Table of Contents

1. Investigation at a glance	3
1.1 Executive summary	3
1.2 Genesis and scope	3
1.3 Findings Summary	3
1.4 Context	4
1.5 Impact of the investigation	4
2. Detailed Findings	6
2.1 Sub-Sub-Recipient's staff concealed improper withdrawals of US\$70,572 via fraudulent bank statements. A further US\$9,924 was found to be non-compliant.	6
2.2 Weak governance structures at the Sub-Sub-Recipient were ineffective at detecting fraudulent activities	8
3. Global Fund Response	9
Annex A: Diagram illustrating flow of funds and role of the individuals involved	10
Annex B: Example of comparison between the genuine and fabricated statement for October 2018	11
Annex C: Summary of Subject Responses	12
Annex D: Methodology	13

1. Investigation at a glance

1.1 Executive summary

Senior staff members at the Sub-Sub-Recipient, an implementer of Global Fund grants in Malawi, engaged in opportunistic fraudulent activity. US\$70,572 was misappropriated from a program supporting adolescent girls and young women. The staff submitted fabricated bank statements to conceal the wrongdoing.

Additionally, there were non-compliant expenses amounting to US\$9,924, due to inadequate supporting documents and irregular procurement of vehicle hire services.

The wrongdoing was accomplished through overriding controls in the program and went undetected due to a weak governance structure at the Sub-Sub-Recipient.

1.2 Genesis and scope

The OIG received an allegation that the Executive Director of the Sub-Sub-Recipient, a sub-sub-recipient of Global Fund grants, had misappropriated program funds, resulting in delayed program activities and salary arrears. As a result, the Global Fund asked the Local Fund Agent (LFA) to perform a review, however the Executive Director denied the LFA access to critical books and records. Desk research identified that the Sub-Sub-Recipient was under-performing programmatically and significantly overspending on salaries. While the alleged funds at risk were relatively low (under US\$100,000), the Sub-Sub-Recipient stood to receive up to US\$700,000 by the end of 2020. As the the Sub-Sub-Recipient was implementing activities to support adolescent girls and young women, a Global Fund Strategic Priority, the involvement of the OIG was therefore reconsidered, and an investigation opened.

The OIG analyzed program records, interviewed staff from the Sub-Sub-Recipient and other organizations, contacted program beneficiaries, and reviewed bank statements. The OIG liaised with the Malawi Police Service's fiscal unit throughout its investigation; the police provided copies of the Sub-Sub-Recipient's bank statements obtained under judicial warrants.

1.3 Findings summary

- The Sub-Sub-Recipient's senior officials collaborated to misappropriate US\$70,572¹ from the program bank account, submitting fabricated documents to conceal their actions. A further US\$9,924² of non-compliant expenditures in the grant program resulted from non-transparent procurements and unsupported expenditures.
- Weak governance within the Sub-Sub-Recipient facilitated the wrongdoing.

¹ Equivalent to MWK51,279,786 based on an exchange rate of 1US\$=MWK726.63. This exchange rate is based on the average daily median exchange rate reported by the Reserve Bank of Malawi over the transactions period.

² Equivalent to MWK7,200,390 based on an exchange rate of 1US\$=MWK725.55. This exchange rate is based on the average daily median exchange rate reported by the Reserve Bank of Malawi over the transactions period.

1.4 Context

HIV/AIDS is the leading cause of death in Malawi. Adolescent girls and young women (AGYW) suffer disproportionately, experiencing much higher rates of HIV infection than their male counterparts. The Global Fund Strategy 2017–2022, “Investing to End Epidemics”, has committed to scaling up programs to support AGYW in 13 countries, including Malawi, aiming to reduce new HIV infection by 58% among females aged 15-24 by 2022.³

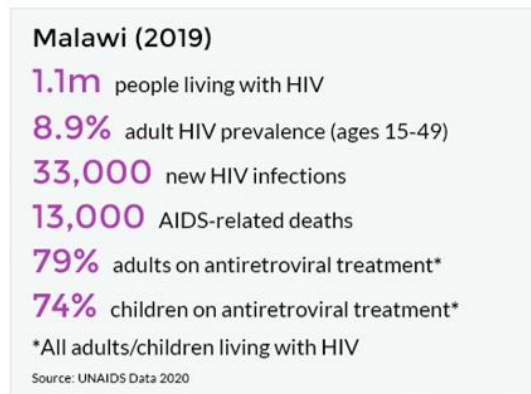


Figure 1: HIV/AIDS statistics in Malawi

From April 2017 until August 2019, the Sub-Sub-Recipient implemented a program targeting vulnerable AGYW for the Sub-Recipient, a sub-recipient under the Principal Recipient for Global Fund grant MWI-C-AA. The Sub-Sub-Recipient continued in this capacity until the Sub-Recipient suspended it in 2019 after these allegations were reported. A [2019 OIG audit](#) of Global Fund grants in Malawi identified that the AGYW program suffered from weak management and supervision by the Principal Recipient. The audit also found that the Principal Recipient had insufficient supervision and oversight over activities at the sub-recipient level, and that sub-recipients were not supervising implementers. The Global Fund Secretariat agreed to review the design of the program, including implementation arrangements and institute measures, to improve the execution and monitoring of AGYW activities. Additionally, a detailed supervision plan covering the implementation cascade was to be developed by the Principal Recipient.

Under the 2020-2022 funding cycle, World Vision Malawi, a non-governmental organization, has been appointed as a new Principal Recipient, replacing the Principal Recipient under a new grant named MWI-C-WVM.

The Sub-Sub-Recipient’s founder served as its Executive Director until July 2019, after which he continued to exert control and influence over the organization; at the time of the OIG investigative mission to Malawi in September 2019, he was still one of the two joint signatories to the program’s bank account. The former Executive Director is now an elected member of the Malawi Parliament who sits on parliamentary committees on Health, and on Trade, Industry and Tourism.

1.5 Impact of the investigation

Fraudulent and collusive activity, overriding of program controls and weak governance structures resulted in the misappropriation of funds and hindered the detection of wrongdoing. The OIG recommends that the Secretariat recover US\$80,496. The OIG, having already shared its draft findings, will share the final report with Malawi’s national law enforcement authorities for their consideration.

As a result of the investigation:

- The Sub-Sub-Recipient is no longer implementing Global Fund grants. Working with the new Principal Recipient, the Secretariat established controls to prevent the Sub-Sub-Recipient and the individuals identified in this investigation from involvement in grant activities going forward. Further, the Secretariat has communicated this exclusion to the second Principal Recipient in Malawi.

³ https://www.theglobalfund.org/media/8076/me_adolescentgirlsandyoungwomenprograms_frameworkmeasurement_en.pdf

- The Secretariat has ensured that applicable partners selected under the new grant comply with provisions of the Malawi NGO Act. Under direction from the Secretariat, the new Principal Recipient has integrated into its risk assessment process annual confirmation of compliance with the NGO Act 2001, for all partners registered with the Malawi NGO Board.⁴

Interventions established as a result of this investigation stopped future loss of program funds through the Sub-Sub-Recipient and the individuals involved.

Additionally, to lower the risk of similar wrongdoing, the Secretariat has committed to ensure that all Global Fund implementers strengthen their controls on sub-implementers' financial reporting, using direct annual bank confirmations for verification of periodic cash positions and in preparation of annual audits.

⁴ Global Fund standard terms and conditions require implementers to comply with host laws and other applicable laws.

2. Findings

2.1 The Sub-Sub-Recipient's staff concealed improper withdrawals of US\$70,572 via fraudulent bank statements. A further US \$9,924 was found to be non-compliant.

The Sub-Sub-Recipient's former Executive Director colluded with other senior staff members to improperly withdraw funds from the Adolescent Girls and Young Women (AGYW) program bank account, then altered bank statements to conceal the wrongdoing (see Annex A: Diagram illustrating flow of funds and role of the individuals involved; and Annex B: Example of comparison between the genuine and fabricated statement for October 2018).

AGYW program funding of US\$46,958 was transferred to an account registered to the former Executive Director, while three cheques totaling US\$6,783 were paid to the Sub-Sub-Recipient's former Monitoring & Evaluation Manager, Acting Executive Director and HR Manager. The OIG could not identify the beneficiaries of a further US\$16,459 that had been either commingled in the Sub-Sub-Recipient's general bank account or withdrawn in cash by unnamed individuals.⁵

The former Executive Director and other staff identified in this investigation could not provide legitimate explanation for these payments. They also could not provide documentation to link these payments to program activities.

The former Executive Director worked with staff members to conceal irregular transactions from the Sub-Recipient. OIG analysis of the Sub-Sub-Recipient's bank records revealed numerous discrepancies between the bank statements provided to the Sub-Recipient as part of monthly financial reporting, and the genuine statements obtained from the bank by Malawi Police Service's Fiscal unit. Bank statements were altered by removing transactions, adding fictitious transactions, or altering transaction values. OIG analysis found that 55 withdrawals with a net value of US\$70,572 had been altered in the fabricated versions.⁶

As the sole signatories to the AGYW program account, all withdrawals from the account required the joint approval of the former Executive Director and HR Manager. The OIG's repeated requests to speak with these individuals were unsuccessful.

The Sub-Sub-Recipient's Finance Manager and Accountant told the OIG that the bank statements they submitted to the Sub-Recipient were provided to them in hard copy by either the former Executive Director or the HR Manager, the two account signatories. However, forensic review of the computer used by the Finance Manager and Accountant revealed the existence of genuine bank statements for the months of September, October, and November 2018.

Despite these funds being misappropriated from the AGYW program, the Sub-Sub-Recipient provided supporting documents indicating that it had incurred expenditures of US\$70,054 for program activities and payment of program staff salaries comparable to the misappropriated amount. These documents were corroborated by sampled staff that confirmed salary payments; sampled activities' participants

⁵ A further US\$372 was incurred in bank charges for the fraudulent transactions.

⁶ These 55 transactions were worth US\$73,430. To compute the misappropriated amount, the OIG discounted US\$2,858 deposited back into the program account.

confirming their involvement in some of the activities; and attendance of the Sub-Recipient staff at some of the activities. These expenses corresponded with entries in the fraudulent bank statements but did not reflect fund movements captured in the genuine bank statements. The OIG could not ascertain the source of funding for these expenditures. The Sub-Sub-Recipient did not explain the fraudulent bank transactions, or the source of funds to implement activities and pay salaries in the funding gap left by misappropriation. The OIG rejects these expenditures accordingly.

Overall, the OIG concludes that US\$70,572, equivalent to 21% of the funds disbursed to the Sub-Sub-Recipient between April 2017 and December 2018, was misappropriated from the AGYW program account and is therefore potentially recoverable.

Non-transparent procurement and unsupported charges cost the AGYW program US\$9,924

In addition to the money misappropriated from the AGYW program account, the OIG found non-compliant expenditure amounting to US\$9,924. Seven transactions in the Sub-Sub-Recipient's cash book, valued at US\$5,640, were not supported by primary accounting records such as contracts and invoices for services, attendance records, payment registers, receipts or invoices for program activities. The Finance Manager and Accountant were responsible for ensuring expenses were adequately supported.

The Sub-Sub-Recipient awarded itself multiple contracts worth US\$4,284 for vehicle hire, through procurement tenders that it initiated and managed. On three occasions, the Sub-Sub-Recipient hired out its own vehicle to the AGYW program by submitting quotations in 'competition' with third-party providers, then awarded itself the bid as it had the lowest quote. These procurements were not transparent and contravened the organization's internal policies, as well as the Global Fund's Code of Conduct for Recipients. These charges are non-compliant and potentially recoverable.

2.2 Weak governance structures at the Sub-Sub-Recipient were ineffective at detecting fraudulent activities

The Sub-Sub-Recipient's weak governance structure facilitated the misappropriation of funds and delayed its detection. The organization's Board was inactive and did not provide sufficient oversight: its operations were dominated by the former Executive Director even after his departure, it did not have an internal audit function, and it did not comply with statutory requirements such as annual renewal of its registration and filing of annual financial statements with the NGO Board of Malawi.

The Board was not active or operational; at the time of the investigation, it reportedly had not met in three years. The Board was negligent in dealing with concerns raised at the Sub-Sub-Recipient and did not act on a claim by staff in May 2019 that salary payment delays were the result of financial abuse by the former Executive Director.

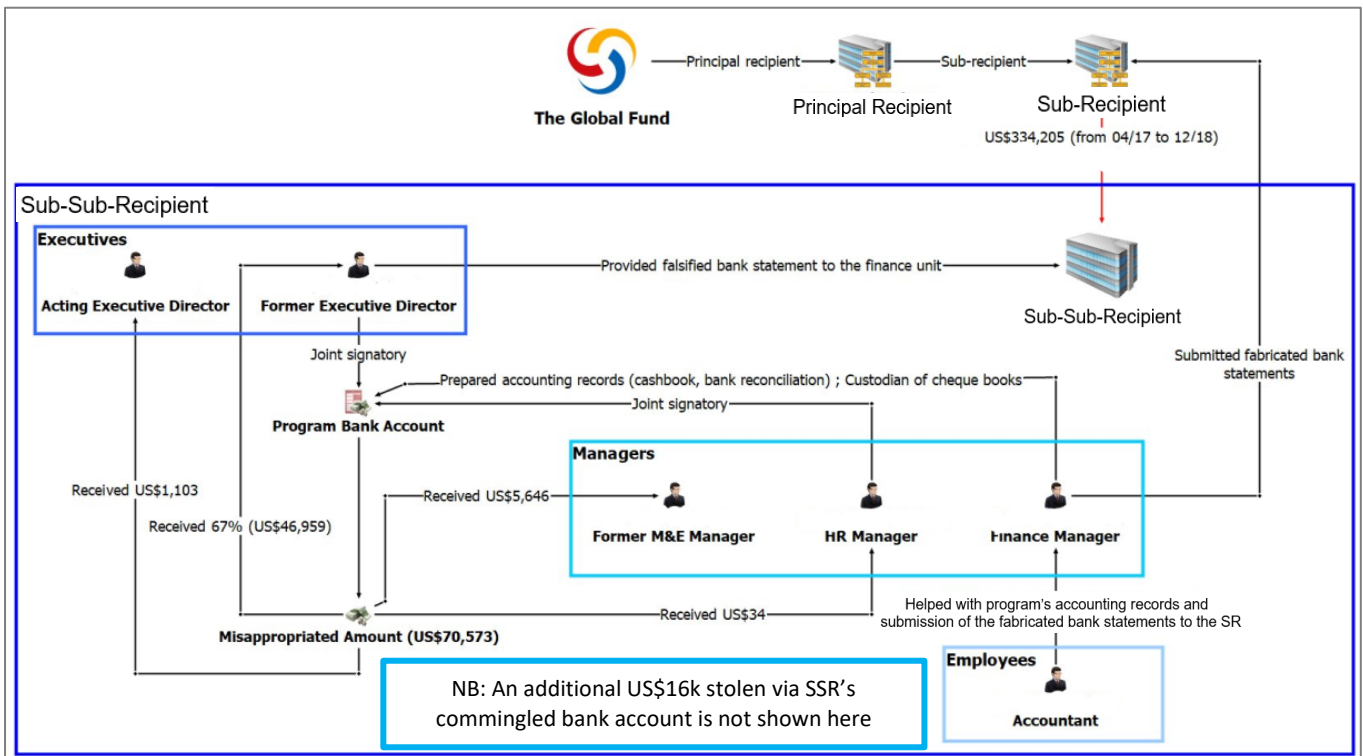
The former Executive Director's control over the organization's finances and operations, combined with weak governance structures, created an environment that enabled the misappropriation of funds and delayed its detection.

Oversight measures put in place by the Secretariat through the Principal Recipient and the Sub-Recipient included: monthly financial reporting which included bank reconciliations and bank statements; physical verification of some program activities; periodical internal audit reviews; annual external audits; quarterly supervision visits and program monitoring; data quality reviews; bi-annual planning and implementation review meetings; and biennial due diligence reviews. These measures were not enough to identify the fraud, however, due to its collusive nature and the methods used to conceal it.

3. Global Fund Response

Action to be taken	Due date	Owner
<p>1. Based on the findings of this report, the Secretariat will finalize and pursue from the Principal Recipient an appropriate recoverable amount from the non-compliant expenditures identified in this report. This amount will be determined by the Secretariat in accordance with its evaluation of applicable legal rights and obligations and associated determination of recoverability.</p>	31 December 2021	Head, Recoveries Committee
<p>2. The Secretariat will reinforce controls over implementers through mandatory direct bank confirmations and review of Principal Recipients' related processes on sub-implementers by external auditors conducting audit.</p> <p>Further, Principal Recipients will be required to strengthen their processes on sub-implementers' (SRs and SSRs) funds management using direct bank confirmations as a key control for verification of periodic cash positions and in the preparation of annual audits.</p> <p>Where feasible, electronic facilities such as read-only online banking services will be leveraged for monitoring control by PRs and /or SRs.</p>	31 January 2022	Chief Financial Officer

Annex A: Diagram illustrating flow of funds and role of the individuals involved



Annex B: Example of comparison between the genuine and fabricated statement for October 2018

Genuine Bank Statement						
Transaction Date	Value Date	Transaction Description	Cumulative Fee	Debits	Credits	Balance
		BALANCE BROUGHT FORWARD				34,590,564.30
08-10-2018	08-10-2018	FEE-INTER ACCOUNT TRANSFER: TRAN ID-1019544		2,900.00		34,587,664.30
10-10-2018	10-10-2018	CHQ: 175		1,226,500.00		33,361,164.30
10-10-2018	10-10-2018	FEE-INTERIM STATEMENT		2,700.00		33,358,464.30
11-10-2018	11-10-2018	CHQ:177		1,843,979.00		31,514,485.30
12-10-2018	12-10-2018	CHQ: 000179 - PAYER		980,235.00		30,534,250.30
12-10-2018	12-10-2018	CHQ: 000176 - Sub-Sub-Recipient		200,000.00		30,334,250.30
13-10-2018	13-10-2018	TRANSFER TRANSACTION		5,000,000.00		26,334,250.30
19-10-2018	19-10-2018	FEE-INTERIM STATEMENT		2,700.00		25,331,550.30
20-10-2018	20-10-2018	LETTER DATED 19/10/18		2,000,000.00		23,331,550.30
20-10-2018	20-10-2018	FEE-INTER ACCOUNT TRANSFER: TRAN ID-101881		2,900.00		23,328,650.30
23-10-2018	23-10-2018	CHQ : 184		2,401,800.00		20,926,850.30

	Cumulative Fee	Debits	Credits	Balance
				49,100,286.32
		1,226,500.00		47,873,786.32
		2,700.00		47,871,086.32
		200,000.00		47,671,086.32
		1,843,979.00		45,827,107.32
		980,235.00		44,846,872.32
		2,401,800.00		42,445,072.32
			18,700.00	42,461,772.32
		500,000.00		41,961,772.32
		6,100.00		41,955,672.32
		1,095,871.00		40,860,001.32

Falsified Bank Statement						
Transaction Date	Value Date	Transaction Description	Cumulative Fee	Debits	Credits	Balance
10-10-2018	10-10-2018	FEE-INTERIM STATEMENT		2,700.00		47,871,086.32
11-10-2018	11-10-2018	CHQ :000176-A		200,000.00		47,671,086.32
11-10-2018	11-10-2018	CHQ :177		1,843,979.00		45,827,107.32
12-10-2018	12-10-2018	CHQ :000179-PAYER		980,235.00		44,846,872.32
23-10-2018	23-10-2018	CHQ :184		2,401,800.00		42,445,072.32
24-10-2018	24-10-2018	CHQ :184			18,700.00	42,461,772.32
24-10-2018	24-10-2018	CHQ :000181- Sub-Sub-Recipient		500,000.00		41,961,772.32
25-10-2018	25-10-2018	BUNDLE FEE		6,100.00		41,955,672.32
25-10-2018	25-10-2018	CHQ 000185		1,095,871.00		40,860,001.32

Running account balances differed up to MWK 22 million

55 transactions were falsified from April 2017 to December 2018

Transfer of MWK 7 million from the AGYW program account to the ED's personal bank account between 13-Oct and 20-Oct was not reflected in the falsified bank statement

Annex C: Summary of Subject Responses

On 18 January 2021, the OIG provided the Principal Recipient, the Sub-Recipient and the Sub-Sub-Recipient with a copy of the Letter of Findings, which represented the full record of relevant facts and findings as they related to them. The three organizations were afforded an opportunity to provide comments and supporting documents on the findings and conclusions. The Principal Recipient and the Sub-Recipient provided their comments and further documentary evidence on 2 February 2021, while the Sub-Sub-Recipient provided its response on 19 February 2021. Below is a summary of the main responses. All points made in the responses were duly considered by the OIG and appropriate revisions were made to findings as part of this final report.

Comment on misappropriation of US\$70,572 by the Sub-Sub-Recipient's senior officials

Both the Principal Recipient and the Sub-Recipient agreed with the finding. In its response, the Sub-Sub-Recipient argued that the fact program activities were implemented indicated that program funds had not been misappropriated. The Sub-Sub-Recipient also denied any knowledge of falsified bank statements submitted to the Sub-Recipient and explained that payments to the HR manager, acting Executive Director and Former M&E Manager were for program activities. However, they were unable to explain the purpose of funds transferred to the Former Executive Director and other unknown beneficiaries. The explanation provided for the payments to the HR manager, acting Executive Director and Former M&E Manager is unsupported.

Comment on non-compliant expenditure incurred contrary to Global Funds' policies and guidelines

Both the Principal Recipient and the Sub-Recipient agreed with the finding. The Sub-Sub-Recipient explained that the unsupported expenditure of US\$5,640 and US\$4,284 in irregular procurements were for payment of salary arrears and for program activities. However, the Sub-Sub-Recipient did not provide evidence to corroborate this explanation.

Comment on weak governance structures at the Sub-Sub-Recipient

Both the Principal Recipient and the Sub-Recipient agreed with the finding. The Sub-Sub-Recipient explained that its Board met regularly, was compliant with the provisions of the Malawi NGO Act 2001, was independent from the former Executive Director and its financial records had been audited by auditors appointed by the Principal Recipient and the Sub-Recipient. However, the Sub-Sub-Recipient did not provide evidence to support these claims and the organization's response to the Letter of Findings was coordinated and submitted to the OIG by the former Executive Director through the organizational email address, as highlighted in finding 2.3. In response to the Letter of Findings, the Sub-Sub-Recipient provided annual licenses for 2017 and 2018, however the OIG observed that these certificates had been obtained in 2019 after the allegations in this report.

Annex D: Methodology

Why we investigate: Wrongdoing, in all its forms, is a threat to the Global Fund's mission to end the AIDS, tuberculosis and malaria epidemics. It corrodes public health systems and facilitates human rights abuses, ultimately stunting the quality and quantity of interventions needed to save lives. It diverts funds, medicines and other resources away from countries and communities in need. It limits the Global Fund's impact and reduces the trust that is essential to the Global Fund's multi-stakeholder partnership model.

What we investigate: The OIG is mandated to investigate any use of Global Fund funds, whether by the Global Fund Secretariat, grant recipients, or their suppliers. OIG investigations identify instances of wrongdoing, such as fraud, corruption and other types of non-compliance with grant agreements. The Global Fund Policy to Combat Fraud and Corruption⁷ outlines all prohibited practices, which will result in investigations.

OIG investigations aim to:

- (i) identify the nature and extent of wrongdoing affecting Global Fund grants;
- (ii) identify the entities responsible for such wrongdoing;
- (iii) determine the amount of grant funds that may have been compromised by wrongdoing; and
- (iv) place the Global Fund in the best position to recover funds, and take remedial and preventive action, by identifying where and how the misused funds have been spent.

The OIG conducts administrative, not criminal, investigations. It is recipients' responsibility to demonstrate that their use of grant funds complies with grant agreements. OIG findings are based on facts and related analysis, which may include drawing reasonable inferences. Findings are established by a preponderance of evidence. All available information, inculpatory or exculpatory, is considered by the OIG.⁸ As an administrative body, the OIG has no law enforcement powers. It cannot issue subpoenas or initiate criminal prosecutions. As a result, its ability to obtain information is limited to the access rights it has under the contracts the Global Fund enters into with its recipients, and on the willingness of witnesses and other interested parties to voluntarily provide information.

The OIG bases its investigations on the contractual commitments undertaken by recipients and suppliers. Principal Recipients are contractually liable to the Global Fund for the use of all grant funds, including those disbursed to Sub-recipients and paid to suppliers. The Global Fund's Code of Conduct for Suppliers⁹ and Code of Conduct for Recipients provide additional principles, which recipients and suppliers must respect. The Global Fund Guidelines for Grant Budgeting define compliant expenditures as those that have been incurred in compliance with the terms of the relevant grant agreement (or have

⁷ (16.11.2017) Available at https://www.theglobalfund.org/media/6960/core_combatfraudcorruption_policy_en.pdf

⁸ These principles comply with the Uniform Guidelines for Investigations, Conference of International Investigators, 06.2009; available at: http://www.conf-int-investigators.org/?page_id=13, accessed 1.12.2017.

⁹ Global Fund Code of Conduct for Suppliers (15.12.2009), § 17-18, available at: https://www.theglobalfund.org/media/3275/corporate_codeofconductforsuppliers_policy_en.pdf, and the Code of Conduct for Recipients of Global Fund Resources (16.07.2012), §1.1 and 2.3, available at: https://www.theglobalfund.org/media/6011/corporate_codeofconductforrecipients_policy_en.pdf. Note: Grants are typically subject to either the Global Fund's Standard Terms and Conditions of the Program Grant Agreement, or to the Grant Regulations (2014), which incorporate the Code of Conduct for Recipients and mandate use of the Code of Conduct for Suppliers. Terms may vary however in certain grant agreements.

otherwise been pre-approved in writing by the Global Fund) and have been validated by the Global Fund Secretariat and/or its assurance providers based on documentary evidence.

Who we investigate: The OIG investigates Principal Recipients and Sub-recipients, Country Coordinating Mechanisms and Local Fund Agents, as well as suppliers and service providers. Secretariat activities linked to the use of funds are also within the scope of the OIG's work.¹⁰ While the OIG does not typically have a direct relationship with the Secretariat's or recipients' suppliers, its investigations¹¹ encompass their activities regarding the provision of goods and services. To fulfil its mandate, the OIG needs the full cooperation of these suppliers to access documents and officials.¹²

Sanctions when prohibited practices are identified: When an investigation identifies prohibited practices, the Global Fund has the right to seek the refund of grant funds compromised by the related contractual breach. The OIG has a fact-finding role and does not determine how the Global Fund will enforce its rights. Nor does it make judicial decisions or issue sanctions.¹³ The Secretariat determines what management actions to take or contractual remedies to seek in response to the investigation findings.

However, the investigation will quantify the extent of any non-compliant expenditures, including amounts the OIG proposes as recoverable. This proposed figure is based on:

- (i) amounts paid for which there is no reasonable assurance that goods or services were delivered (unsupported expenses, fraudulent expenses, or otherwise irregular expenses without assurance of delivery);
- (ii) amounts paid over and above comparable market prices for such goods or services; or
- (iii) amounts incurred outside of the scope of the grant, for goods or services not included in the approved work plans and budgets or for expenditures in excess of approved budgets.

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

¹⁰ Charter of the Office of the Inspector General (16.05.2019), § 2, 10.5, 10.6, 10.7 and 10.9 available at:

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

¹¹ Charter of the Office of the Inspector General § 2, and 18.

¹² Global Fund Code of Conduct for Suppliers, § 16-19

¹³ Charter of the Office of the Inspector General § 9.1