

Introduction

This document provides guidance to Implementing Partners (IPs) of OCHA-managed Country-Based Pooled Funds (CBPFs) on their obligations in relation to prevention, detection, reporting and response to incidents of fraud, diversion, misappropriation and financial misconduct. This document should be read in conjunction with the Global Guidelines for CBPFs¹, the CBPF Operational Handbook, and their annexes.

*These procedures do **not** apply to cases of fraud and financial misconduct involving United Nations staff members or affiliated personnel.*

Responsibilities of CBPF Implementing Partners (IPs)

The Grant Agreement is a legal contract that IPs enter into with the United Nations when receiving CBPF funding, IPs are required to comply with the following requirements:

1. Zero tolerance
 - The IP acknowledges and agrees to implement the UN and OCHA's zero tolerance for abuse and misconduct, including fraud. The IP is also required to communicate the zero-tolerance policy to all its personnel and subcontractors. (Grant Agreement Art IV, paras 4 and 5)
2. Prevention
 - The IP agrees to take all reasonable actions to prevent abuse and misconduct, including (but not limited to) mismanagement, misuse and misappropriation of assets and funds, theft, fraud, corruption, misrepresentation, collusion and other violation of procurement principles, gross negligence. (Art IV, para 5)
 - The IP accepts to ensure that all possible measures are taken to prevent its personnel from exploiting and abusing vulnerable populations and other persons of concern to OCHA and engaging in any form of behavior that could qualify as misconduct and abuse. (Art IV, para 6)
3. Reporting
 - The IP commits to immediately (within 48 hours) notify OCHA if the IP becomes aware of a breach or possible breach of any of the obligations in the Grant Agreement, whether by the IP or by a subcontractor. (Art IV, para 8)
 - The IP further commits to immediately communicate with OCHA regarding:
 - any suspicion or allegation of abuse or misconduct involving the IP staff or related personnel,
 - the planning and conduct of any investigation, forensic audit or administrative action in regard to allegations of misconduct of staff and in regard to fraud, and/or misuse of funds related to the CBPF Grant or the Implementing Partner.

The Implementing Partner shall timely share with OCHA the full reports of investigations conducted and any other information OCHA may request regarding the investigation. (Art. XI para 4)

 - The IP accepts to inform OCHA immediately upon its knowledge, in writing, when any investigation into its operations or personnel or any proceeding against it is initiated at any stage; failure to do so may result in termination of ongoing projects and/or render the Implementing Partner ineligible for funding. (Art II, para 6)
4. Access to documents
 - The IP agrees to provide OCHA, the UN Office for Internal Oversight Services (OIOS) or any other person duly authorized with full and unrestricted access to all documentation, premises, implementation sites relating to OCHA-funded Projects, including related to activities undertaken by sub-contractors. (Art XI, para 2)
 - The IP accepts to facilitate all monitoring, audit, investigation and other types of review, visits of premises and implementation sites. (Art XI, para 3)

¹ Available at: <https://www.unocha.org/our-work/humanitarian-financing/country-based-pooled-funds-cbpf/cbpf-guidelines>

5. Suspension and termination
 - Failure of IP to take effective measures to prevent abuse or other misconduct or the failure to investigate allegations of the same and to take disciplinary and corrective actions when misconduct is found to have occurred, will constitute grounds for termination of the Grant Agreement with OCHA. (Art IV, para 6)
 - In cases of non-frivolous allegations of suspected fraud, diversion or misappropriation of funds, OCHA may decide to issue a notice of termination of the Project immediately and forego the fourteen (14) days' notice of suspension. (Art. XIII para 4)

6. Sub-contracting
 - The IP is fully responsible for all work and services performed by sub-contractors, and for all acts and omissions committed by them, their employees or other personnel (Art V, para 5)
 - OCHA's approval of a sub-contractor shall not relieve the IP of its obligations under the Grant Agreement. Such obligations shall be passed on by the IP in its contracts with sub-contractor(s) (Art V, para 5)
 - The Implementing Partner shall ensure monitoring of the sub-contracted activities, including the accountability of funds and project outcomes (Art V, para 5)
 - In case of alleged or suspected misconduct by sub-contractor, the partner must:
 - Immediately notify OCHA
 - Promptly and duly investigate the allegations (sub-contractor or partner)
 - Allow access by OCHA-appointed investigators to documentation and sites related to sub-contractor activities (Article XI)
 - In case of confirmed misconduct by sub-contractor, the partner must:
 - Ensure the defrauded amount is refunded to OCHA
 - Ensure all necessary corrective and disciplinary measures are taken

What to report

Fraudulent acts, which include:

- *Fraud*: any act or omission whereby an individual or entity misrepresents or conceals a material fact in order to obtain an undue benefit or advantage for himself or herself or a third party, or to cause another to act to his or her detriment; and
- *Corruption*: any act or omission that misuses official authority or that seeks to influence the misuse of official authority in order to obtain an undue benefit for oneself or a third party.

Examples of fraudulent acts by IPs or their vendors and sub-contractors that need to be reported are:

- Forging of documents (false signatures, falsification of receipts, etc.)
- False statements
- Offering something of value to improperly influence an act or a decision (e.g. a procurement or process)
- Conflict of interest (e.g. disregarding competitive bidding to award a contract to a relative/friend, hiring of relatives who lack qualifications)
- Collusion or other anti-competitive scheme between suppliers during a tender process to obtain undue benefits
- Undeclared substandard compliance with contractual terms
- Diversion or misappropriation of funds
- Purported delivery of diverted goods
- Billing twice or multiple times for the same items or services
- Falsifying internal records that are used to support claims
- Double-charging items, personnel or services to multiple projects/donors
- Engaging in facilitation payments, illegal gratuity, bribery, kickback
- Failing to report known over-payments and credit balances by (to) the Organization,
- Extortion or coercion (the act of attempting to influence the process of procuring goods, services or works, or executing contracts by means of threats of injury to person, property or reputation.

Additional definitions and examples of fraud and financial misconduct can be found in the Fraud Awareness Training Module on the UN Partner Portal (<https://learning.unpartnerportal.org/course/view.php?id=2>)

How to report

The IP must immediately (within 48 hours) notify OCHA of any incidents that may impact OCHA-funded activities or personnel, even if the events or their impact on OCHA funding are not yet confirmed. Early disclosure of suspicions by the IP shows transparency and good faith, which will be taken into consideration when determining measures required.

All events can be reported to:

- The OCHA Head of Office, CBPF Fund Manager or other members of the OCHA Humanitarian Financing Unit, either by email or in person
- The CBPF complaints or feedback mechanism
- The [Hotline service](https://oios.un.org/content/contact-us) of the United Nations Office for Internal Oversight Services (OIOS) (<https://oios.un.org/content/contact-us>)

The IP can report confidentially through the channels above in whichever format they wish, so long as notification is done timely and with as many details as available.

The following details should be included, if available:

- Description of the incident and related events - *including a description of the suspected fraudulent actions, the persons and/or entities involved, the potential goods, assets or funding involved, and an estimation of loss suffered*
- Source of allegations - *how this information has come to the IP's attention.*
- Date and location of the alleged events
- Potential OCHA-funded project(s) involved – *if not known, indicate any OCHA-funded projects ongoing at the time/location of the alleged events*
- Impact of the allegations on project activities
- Actions taken by IP to mitigate further impact of the incident
- Indication of whether the IP plans to conduct an investigation into the reported events, and if so the planned timeline
- Identification of other donors whose funding may have been impacted by the events

Full consideration will be ensured to protection of personal identifying information or otherwise sensitive details of individuals involved.

Steps of the investigative process

OCHA may receive reports of suspected fraud and misconduct through self-reporting by the IP, but also from third parties (whistle-blowers or other stakeholders). Additionally, OCHA may detect indications of misconduct through activities it conducts under its management function of the CBPFs.

When OCHA determines that suspicions of fraud are credible enough to trigger an inquiry, OCHA can take one of the following actions:

1. Allow the IP to self-investigate the allegations

This applies primarily to allegations that are self-reported by the IP. If the IP wants to self-investigate and has the capacity to credibly do so, OCHA will request the timeline and the ToRs of the self-investigation. Once the self-investigation is completed, the IP will share the report with OCHA, who will review and may request additional information. The self-investigation report should contain an overview of the disciplinary actions taken by the IP on any implicated personnel, and any measures implemented to strengthen the IP's policies and systems and prevent recurrence. Self-investigation reports are referred by OCHA to the UN Office of Internal Oversight (OIOS) for review before a case is closed.

2. Trigger an inquiry into fraud concerns

This applies to allegations detected by OCHA or reported by third parties; it can also apply to events self-reported by an IP who is unwilling/unable to credibly self-investigate. OCHA makes the determination to commission a forensic audit into the CBPF projects impacted by the allegations, and/or to request OIOS to conduct an investigation. The process of inquiry normally takes between 12-18 months, but it can last longer.

Conservative measures

OCHA strictly follows the UN policy of zero tolerance towards fraud and misconduct. Therefore, when incidents are discovered or reported, there may be a need to impose interim measures to minimize further impact of such events.

The application of conservative measures is determined on a case-by-case basis taking into account different considerations including (but not limited to) the willingness of the IP to fully disclose the issues, to self-investigate them and/or to collaborate with OCHA-commissioned inquiry.

Conservative measures that OCHA may impose include:

- Suspension or termination of ongoing projects
- Suspension of pending disbursements
- Continued implementation and disbursements with increased control measures
- Downgrading of partner's risk level
- Temporary suspension of IP's eligibility to apply for new funding from the CBPF (both as implementing and sub-implementing partner), including through Cost Extensions of ongoing projects
- Extension of conservative measures to CBPFs in other countries

Conservative measures are decided by the OCHA Executive Officer (EO) and officially communicated to the IP by the Humanitarian Coordinator or OCHA Headquarters. OCHA Country Offices and Humanitarian Financing Units are not involved in the determination of conservative measures and inquiries.

Conservative measures can be lifted by official decision of the OCHA EO upon satisfactory settlement. The HC can lift suspension of eligibility if it had been originally imposed by the HC.

Settlement

Upon conclusion of the investigative process and/or additional assurance activities, OCHA communicates the findings to the IP and the conditions for amicable settlement. These may include:

- Refund by IP to OCHA of defrauded and/or ineligible expenditures
- Final disbursement by OCHA to IP of outstanding amount owed
- Plan of corrective measures to be implemented by IP to strengthen relevant internal controls
- Disciplinary actions against implicated personnel
- New Capacity Assessment to verify some or all the above

In case all settlement conditions are satisfactorily met and verified, the OCHA EO may decide to lift conservative measures and reinstate IP's eligibility.

In case of unsatisfactory settlement, OCHA will place the IP and its top management on the OCHA debarment list and share that information with CBPF donors and other UN entities, as relevant. If the organization is an international NGO, debarment from all CBPF funding globally may be considered.

Annex 1 – Workflow for response to allegations of financial misconduct involving CBPF IPs

