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Policy on integrity breaches: corruption including sexual harassment, fraud and mismanagement

Aids Fonds – STOP AIDS NOW! – Soa Aids Nederland

Amsterdam, the Netherlands

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1. INTRODUCTION

Despite taking measures to ensure and account for the proper spending of funds, reporting may fall short or funds may not be spent for the agreed purpose. This means that we must all be attentive to irregularities in the implementation and reporting of funds by a partner organization, a grantee, a network or a consortium of networks.

This '*Policy on integrity breaches: corruption including sexual harassment, fraud and mismanagement*' of Stichting Aids Fonds – STOP AIDS NOW! – Soa Aids Nederland' (the Foundation') gives direction to our internal organization regarding how to act in case there are indications of irregularities relating to an organization, a network or a consortium of networks. The Foundation has its own 'Integrity policy',¹ including a whistle-blower provision for the internal organization. Partnerships and other forms of collaboration of which we are a part but of which we are not the lead agency should have taken their own measures to prevent and to handle financial irregularities. These measures must be consistent with the Foundation's '*Policy on Integrity breaches: corruption including sexual harassment, fraud and mismanagement*'.

This document defines corruption including sexual harassment, fraud and mismanagement and states the principles with which the Foundation must comply to cope with them. It also describes what measures must be taken to prevent corruption including sexual harassment, fraud and mismanagement and how to comply with these measures. Last but not least, it defines which procedures and tools must be in place to be able to act adequately in situations in which irregularities have been identified, and what must be done to inform stakeholders, the general public, partners and our donors.

The measures referred to in this policy on corruption including sexual harassment, fraud and mismanagement must be incorporated into the Foundation's procedures and tools. Where procedures or tools are failing, they must be improved. The only way we can implement the principles is by integrating the policy on corruption including sexual harassment, fraud and mismanagement into our day-to-day work. A yearly assessment will show us whether we have been successful.

The document is part of a broader discussion about corruption including sexual harassment, fraud and mismanagement. The document was discussed at the Foundation's Management Team meeting and adopted by the Board on 3 November 2015 and revised by the Board on 1 October 2018.

¹ Integrity policy, codes of conduct, and procedures on acting as a prudent employer and employee adopted on 1 January 2013/revised 1 March 2018

2. DEFINITIONS AND PRINCIPLES

2.1. Definitions

Corruption including sexual harassment and fraud are covert activities undertaken by an individual or a group to gain some form of benefit for the individual or the group. They conflict with the governance charter, aims, rules, procedures or culture of an organization, network or consortium of networks, or they are illegal. We use the following definitions of corruption including sexual harassment, fraud and mismanagement.

2.1.1. Definition of corruption including sexual harassment

Corruption including sexual harassment is defined as the abuse of entrusted power for private gain or private pleasure based on financial and/or non-financial actions.

Corruption including sexual harassment contains – among other things – offering, seeking and/or accepting services, resources or any other advantage by abuse of trusted power.

The trusted power is abused by carrying out – directly or indirectly – any unlawful acts, bribery, theft, embezzlement, extortion, exploitation of conflict of interests, fraud, granting or receiving unlawful compensation, money laundering, sexual abuse, sexual intimidation and any similar actions or inactions.

2.1.2. Definition of fraud

Fraud is defined as the acquisition or misuse of our funds or property by deception, which consists of but is not limited to any intentional act or omission relating to:

- failure to disclose an interest in order to enjoy financial or other benefits or gains, or cause a loss to a person, programme or organization in the process of distributing our funds,
- misapplication of our funds for purposes other than those agreed in the contractual arrangement,
- use or presentation of false, incorrect or incomplete statements or documents which has the effect of misapplying, misappropriating or wrongfully retaining of funds and non-disclosure of information in violation of a specific obligation with the aforementioned effect.

2.1.3. Definition of mismanagement

Management (internal control) comprises the organization, policies, procedures and tools used to:

- ensure that the planned and funded project, programme, consortium or network activities achieve their intended results;
- guarantee that the resources used to deliver a project, programme, consortium or network are consistent with the stated aims and objectives of the organizations concerned and in accordance with the agreement with the party providing the funds;
- protect project, programme, consortium or network from waste, fraud and mismanagement; and
- provide reliable and timely information that is obtained, maintained, reported and used for decision-making.

Mismanagement is defined as the failure to manage or control a project, a programme, a consortium or a network according to the above definition and/or in accordance with our

Terms and Conditions Grants. Mismanagement exists when a project, a programme, a consortium or a network cannot account for received funds.

2.1.4. Definition of financial incompetence

Financial incompetence is not subject to the policy on corruption including sexual harassment, fraud and mismanagement, but described in this policy to distinguish it clearly from fraud, corruption and mismanagement. Financial incompetence is the lack of internal resources (staff, expertise, funds, systems, equipment, etc.) to properly manage the funds and the required reporting.

The Foundation promotes capacity-building in financial management and accountability for grantees. A proactive approach to strengthening internal budget monitoring skills, tools and procedures should be a priority for all stakeholders. Sharing resources and strategies to support compliance with financial and grant obligations is a goal to ensure the sustainable and effective use of funds throughout the duration of the granting period.

2.2. Principles

2.2.1. Openness and transparency

Openness and integrity are essential elements of any process designed to identify, mitigate, and resolve issues of corruption including sexual harassment, fraud and mismanagement. We are striving to create an atmosphere in which suspicions of corruption including sexual harassment, fraud or mismanagement can be shared and reported, making sure that such reports are always followed up by careful investigation. The Foundation is working on establishing procedures and protocols that foster an environment of fairness and integrity that ensures that funds are being used as they were intended, and that all parties involved in a case are treated with respect.

The responsibilities, procedures, tools and roles within the organization must be specified and made clear to all parties concerned if we are to keep misinformation and misconceptions from threatening the goals and purpose of our policies on corruption including sexual harassment, fraud and mismanagement. Stakeholders within the organization must follow all required procedures in an open and transparent manner to ensure that all necessary information related to a case is obtained. Consequences for failure to adhere to the policies on corruption including sexual harassment, fraud and mismanagement need to be clear to partners, grantees, sub-grantees, staff and members of advisory boards.

2.2.2. Confidentiality

We advocate the observance of confidentiality with regard to suspicions of corruption including sexual harassment, fraud and mismanagement. Staff and members of the (advisory) boards and committees will observe confidentiality in all matters relating to corruption including sexual harassment, fraud and mismanagement. If corruption including sexual harassment or fraud or mismanagement is suspected within a project, programme, consortium or network, we may cooperate with other donors who are working with this particular project, programme, consortium or network. In the event that several other donors are involved with such a project, programme, consortium or network, we will, after forming a donor alliance, strive to streamline the investigation and reduce redundancies. In addition,

depending on the contractual agreement between us and our donors, our donors may also be included in this cooperation. Our organization will do its best to ensure that the ad hoc teams of internal and external stakeholders that are established to investigate and resolve cases of corruption including sexual harassment, fraud and mismanagement adhere to this confidentiality policy.

2.2.3. Capacity building

We advocate sound management to ensure that projects, programmes, consortiums or networks achieve their intended results; that the resources used to deliver are protected from waste, fraud and mismanagement; and that reliable and timely information is obtained, maintained, reported and used for decision-making. A respectful, fair and ethical approach will be used in addressing suspected and actual cases of corruption, fraud and mismanagement. We will act upon such cases with the intention of strengthening the capacity of a project, programme, consortium or network to comply with all stated items in our policy on corruption including sexual harassment, fraud and mismanagement, any contractual agreements with us, and contractual agreements with any sub-grantee organizations or networks receiving funds. However, we will not tolerate the failure by grantees or sub-grantees to take appropriate action when corruption including sexual harassment, fraud or mismanagement is suspected, including resolving any governance and/or financial reporting obligations as outlined in the contractual agreements and our policies on corruption including sexual harassment, fraud and mismanagement.

2.2.4. Accountability

We will always take the necessary steps to recover any losses arising from fraud, theft or other misconduct, including legal action. Further grant funding support will only be provided once an organization can show that it has taken appropriate action and that its financial reporting and monitoring procedures are sufficiently rigorous to prevent the recurrence of corruption including sexual harassment, fraud and mismanagement. If an advisory committee member of the Foundation is shown to have engaged in corrupt or fraudulent conduct including sexual harassment, that person will be relieved of his or her position, and legal action against that person will be considered. The Foundation's staff operates under its own integrity policies.² If a staff member of the Foundation is shown to have engaged in corrupt or fraudulent conduct, the Board will follow the provisions of the Foundation's integrity policy. Legal action against this person will be considered.

2.2.5. Measures

The organisation has established a mandatory protocol that will be followed in case of an integrity breach.

The available information will be analysed, and if the analysis confirms that accountability is unsound, appropriate measures will be taken. At the least severe level, the periodic instalments will still be paid. Appropriate measures are:

- Request for additional underlying information and carry out an external audit
- Stop making instalment payments
- Reclaim payments
- Take legal action

² Integrity policy, codes of conduct, and procedures on acting as a prudent employer and employee adopted on 1 January 2013/revised 1 March 2018

3. PREVENTION AND RISK MANAGEMENT

3.1. Prevention

Intolerance of corruption including sexual harassment, fraud and mismanagement starts with prevention. Prevention starts with norm-setting, as well as with knowledge and awareness on the part of the grantees, advisory board members, and staff. This means that all parties must be familiar and comply with all contractual obligations, principles, policies, procedures. They must also take precautions to mitigate the risks and consequences associated with corruption including sexual harassment, fraud and mismanagement. The Foundation ensures that all grantees are familiar with the formal and legal relationship with the Foundation, including the procedure on corruption including sexual harassment, fraud and mismanagement and the whistle-blowing procedure. We also make sure that indicators on corruption including sexual harassment, fraud and mismanagement are incorporated into its monitoring tools. Due diligence, monitoring and risk management procedures are designed to prevent, uncover and deal with corruption including sexual harassment, fraud and mismanagement. Building relationships between the Foundation and the grantees, and gaining knowledge of respective boundaries, rules and procedures, are also of instrumental value for prevention.

3.2. Awareness

Employees of the Foundation must be aware of the possibility of financial irregularities, and they must know how to act in order to avoid unnecessary stress on the Foundation's partner organization. Internal checks at, or signals from parties outside the partner organization, may indicate to the Foundation that something may be wrong at the partner organization.

3.3. Risk management

Prevention tools relating to corruption including sexual harassment, fraud and mismanagement are incorporated into the due diligence research and risk assessment at the start of each funding. Possible risks are monitored throughout the funding term.

3.4. Formal relationship

Each project, programme, consortium or network receiving funds from the Foundation must be formally and legally bound to the Foundation by an agreement. The agreements must contain an anti-fraud and corruption clause and refer to instructions for financial control and reporting. The agreement must stipulate that the other party or parties is/are responsible for their financial and other management and control, as well as for the implementation, monitoring and evaluation of the project, programme, consortium or network.

The agreement ensures that the funds received are used efficiently for the purposes for which they have been granted. Last but not least, the other party or parties must implement anti-corruption and anti-fraud policies for the full duration of a project, programme, consortium or network, and all of their employees must be aware of this policy. Additional conditions may be incorporated into the agreement to mitigate risks based on the outcome of a due diligence investigation, risk assessment or other indicators.

All agreements are governed by Dutch law. In cases involving corruption including sexual harassment and fraud, however, both contract and criminal laws may apply, depending on the laws of the country where fraudulent actions revealed.

3.4.1. Monitoring

Monitoring focuses on the on-going status of the project, programme, consortium or network, while evaluation is more profound and used to assess the impact of the programme. Monitoring is an on-going process and must be done continuously, while evaluation can be done at the midpoint and end of a project, for example. Monitoring can be done by internal staff while evaluations can be prepared by either internal or external staff. Both require data collection and field observations. The implementing organization is initially responsible for monitoring. An evaluation is often carried out in dialogue with the donor, possibly by an independent person or organization. The results are reported in the progress report or evaluation.

3.4.2. Relationship-building

Monitoring of grants by reporting, audited reports, site visits and evaluations will ensure that organizations keep governance structures and procedures in place, and that they know about and properly utilize these structures and procedures.

3.4.3. Whistle-blowing

We encourage the raising of concerns about possible corrupt or fraudulent behaviour including sexual harassment by people employed by grantees. Such concerns will be treated confidentially and will be properly investigated.

Concerns may be raised anonymously by sending an email to whistleblower@[domain.ext] or via a button on one of our websites. Concerns about possible corrupt or fraudulent behaviour including sexual harassment by staff or advisory committees can be raised externally via the Complaints Handling Procedure. Members of the committees can report such concerns to the executive board or its confidential counsellor, following the organization's whistle-blowers procedure incorporated into our Integrity policy.³

3.5. Publication of the Policy on integrity breaches

The '*Policy on integrity breaches: corruption including sexual harassment, fraud and mismanagement*' is published on our websites.

³ Integrity policy, codes of conduct, and procedures on acting as a prudent employer and employee adopted on 1 January 2013/revised 1 March 2018