

IDLO Anti-Corruption and Anti-Fraud Policy

Introduction

With its mission to strengthen the rule of law and promote good governance around the world, the International Development Law Organization (“IDLO” or the “Organization”) is committed to fighting corruption and fraud, which are antithetical to the Organization’s core values of integrity, independence, transparency, and accountability. This commitment is internal as well as external, as corrupt and fraudulent conduct by IDLO Employees can impair the effective functioning of the Organization, deplete its resources, diminish donor trust, and damage IDLO’s image and reputation.

The IDLO Anti-Corruption and Anti-Fraud Policy (“Policy”) aims to raise awareness of corruption and fraud risks, set out IDLO’s corporate position and standards expected of all employees, give concrete and practical advice to IDLO Employees on detecting and preventing corruption and fraud, and provide a framework for combatting such activities. IDLO management is committed to ensuring that this Policy is followed and fully implemented, including through training and periodic evaluations of the effectiveness of the Policy.

Scope and Application

All IDLO Employees must comply with the terms of this Policy with respect to any and all activities and operations involving the Organization. The Policy is not, however, intended to describe the full range of fraudulent, corrupt or otherwise prohibited employee conduct, and should be read in conjunction with IDLO’s Code of Conduct as well as other applicable policies, such as the Procurement Policies and Procedures (PPP) and the Whistleblower and Anti-Retaliation Policy. Any Employee who suspects or becomes aware of corruption or fraud involving IDLO, its Employees, or individuals or entities with which IDLO has contracted or otherwise does business must report it promptly to IDLO Management (e.g. his supervisor, Director, Country Director, Office of the General Counsel, and/or Internal Auditor/Compliance Officer) and it will be investigated. The Organization will take disciplinary action against any Employee found to have acted in violation of this Policy or to otherwise have engaged in fraudulent or corrupt activity, up to and including termination, recovery of any financial loss, and reporting to law enforcement. The Organization will similarly take appropriate action with respect to any corruption or fraud involving individuals or entities with which IDLO does business, including termination of the relationship, recovery of any financial losses, and reporting to law enforcement.

Please contact IDLO’s Office of the General Counsel (OGC), the Internal Auditor/Compliance Officer, or the Country Director for additional guidance in interpreting or applying this Policy, or to suggest improvements. The Policy will be reviewed annually by OGC. Any amendments to the Policy must be authorized by the Director-General.

Domestic and International Law Relating to Fraud and Corruption

Almost all countries have laws prohibiting bribery of their public officials and criminalizing corrupt activity. While the privileges and immunities accorded to IDLO and its Employees in certain countries where IDLO operates may not make such laws applicable to IDLO and its Employees as a legal matter, it is the policy of IDLO to adhere to all such laws or to the provisions of this policy and other IDLO policies where they are more demanding. Employees found to have violated local law relating to fraud or corruption can expect IDLO to waive any applicable privileges and immunities if requested by local law enforcement authorities. Additionally, a number of IDLO donor countries have laws applicable to corrupt activity abroad, such as the Foreign Corrupt Practices Act of the United States, and include specific anti-corruption undertakings in their grant agreements with IDLO. IDLO is committed to fully implementing all such undertakings and this Policy is not intended to derogate from or limit those undertaking in any manner.

The international community has supported anti-fraud and corruption efforts through various international conventions which commit member parties to cooperate in combatting such activity, including through the enactment of comprehensive anti-corruption laws. Such conventions include but are not limited to: the United Nations Convention Against Corruption, the United Nations Convention Against Transnational Organized Crime, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the African Union Convention on Preventing and Combatting Corruption, the OAS Inter-American Convention Against Corruption, the Council of Europe Criminal Law Convention on Corruption, the Council of Europe Civil Law Convention on Corruption, and the EU Convention Against Corruption Involving Officials. IDLO is committed to supporting these conventions and their member parties in implementing and adhering to their provisions.

1. Definitions

"Anything of value" means any benefit, consideration or item of pecuniary value, including but not limited to: money; gifts; "loans," whether or not repaid; use of credit cards; sexual favors; overpaying for purchases; fees and commissions; hidden interest in business transactions; investment opportunity at below market value; contracts; medical, educational or living expenses; travel, meals, lodging, shopping or entertainment expenses.

"Appearance of Impropriety" refers to conduct which even if not unethical, immoral, or inappropriate as a matter of fact, could reasonably be construed as such by an objective observer.

"Bribe" means giving or receiving money or Anything of Value to corruptly influence the actions of a decision-maker.

"Collusion" means an agreement by two or more persons or entities to defraud another or to do or obtain something forbidden by law, i.e., bid rigging.

“Corruption” means the offering, giving, receiving, or soliciting of Anything of Value to improperly influence the actions of another party either directly or indirectly.

“Donor” means any public or private entity that makes a monetary or in-kind donation to IDLO of any value or type.

“Employee” means anyone operating under an IDLO employment contract including, but not limited to, the Director-General as well as IDLO directors, staff members, consultants, secondees, interns, special service contractors, and volunteers.

“Family Member” means a parent, spouse, spousal equivalent, child, sibling, uncle, aunt, first cousin, or grandparent.

“Fraud” or **“Fraudulent Conduct”** means the use of deception with the intention of pursuing personal or private interests at the expense of the Organization or others, or to avoid an obligation. Examples of Fraud or Fraudulent Conduct include, but are not limited to: misappropriation of assets; embezzlement and theft; receiving a private gain in return for favoring a candidate in a recruitment process; participation in sham transactions; making false or deceptive statements; forgery or alteration of accounting records or vouchers; falsely claiming overtime, medical expenses, travel/subsistence allowance, or sick leave; and Collusion.

“Governmental Authority” means any foreign or domestic governmental body at any level, including executive, legislative, and judicial bodies, and any department, agency, or instrumentality thereof.

“Service Provider” means any individual, company, or entity not controlled by a Governmental Authority (i.e., is privately-owned and operated) that is engaged to provide goods or services to or on behalf of the IDLO, such as attorneys, accountants, lobbyists, agents, brokers, vendors, contractors, and other persons whom IDLO has used or is using to conduct its operations.

“Project Partner” means any entity, governmental or private, with which IDLO, through an agreement, grant, contract, or other financial arrangement, works to implement a program or project and which makes a contribution to the end product or beneficiary population.

“Public Official” means: (a) an officer or employee of a Governmental Authority or international organization, or any person acting in an official capacity or exercising a public function for or on behalf of any Governmental Authority or international organization; or (b) any political party, party official, or candidate for political office.

2. Prohibited vs. Permissible Payments to Public Officials and Service Providers

When interacting with Public Officials, Project Partners, and Service Providers, IDLO Employees should take special care to ensure that they do not engage in conduct that reflects negatively upon the Organization or is incompatible with the proper discharge of their

duties. Any actions to undertaken with the intent to improperly influence the conduct of another party or to receive a bribe or other prohibited payment will constitute a breach of this Policy. A general list of “do’s and don’ts” is attached at Annex 1. Unauthorized payments are an area of particular concern and are discussed in depth here.

2.1 Prohibited Payments

As a general rule, IDLO Employees shall not offer, pay, promise, or authorize the payment of Anything of Value to a Public Official or Service Provider in order to influence any act or decision of that official or party.¹ Offering a Bribe in exchange for some business advantage is prohibited regardless of whether it is made directly or indirectly through another party. IDLO Employees should take extra care when interacting with Public Officials or Service Providers and their Family Members to avoid even an appearance of impropriety.

Likewise, IDLO Employees shall not solicit or receive the payment of Anything of Value from any third party made in order to influence or reward any act or decision on behalf of IDLO. Soliciting or receiving a Bribe in exchange for providing a benefit to a third party is prohibited regardless of whether it is solicited or received directly or indirectly through another party. IDLO Employees should take extra care when interacting with Public Officials or Service Providers and their Family Members to avoid even an appearance of impropriety.

2.2 Permissible Payments for Legitimate Business Purposes

Payments made to or for the benefit of Public Officials or Service Providers may, however, be permissible if they are for a *legitimate business purpose and consistent with local law*. For example, payments for the delivery of training or to reimburse meals, travel, or accommodation costs incurred by a Public Official/Service Provider are acceptable as long as they are directly related to IDLO’s programs or projects or other *bona fide* business matters, are permissible under local laws, and do not pose a conflict of interest. On the same basis, it is also permissible to compensate Public Officials for their attendance at IDLO-sponsored workshops/trainings and to provide reasonable honoraria to speakers and presenters.

2.3 Gifts

Gifts, hospitality and other benefits may not be given on behalf of IDLO or received by IDLO Employees to or from Service Providers, Project Partners, or Public Officials unless they are: 1) acts of courtesy and are of modest value; 2) do not compromise the integrity and/or the reputation of any of the parties; and 3) do not create the Appearance of Impropriety.

Permissible gifts and hospitality should also have all the following characteristics:

- not be a cash payment;

¹ Restrictions on media engagement with regard to making payments to media representatives for the purpose of providing coverage of IDLO activities or impact can be found in Administrative Notice No. 02/2013 (March 15, 2013).

- be provided in connection with a *bona fide* and legitimate business purposes;
- not be motivated by the desire to exercise improper influence or the expectation of reciprocity;
- be reasonable according to the circumstances;
- be commensurate with generally accepted standards of professional courtesy; and
- comply with local laws and regulations applicable to the Public Officials or Service Providers.

Monetary or in-kind contributions made by an IDLO Employee in his or her personal capacity to support Public Officials are not prohibited by this Policy to the extent permissible under national law, if such payments are an exercise of an individual's political right guaranteed by the constitution or laws of the host country, are made by a national of that country, are made without reference to IDLO, and the intention is not to exert undue influence or receive a benefit for or on behalf of IDLO.

3. Falsification of Records

Misleading or false entries that conceal the source or nature of expenditures or receipts are included under the definition of Fraud. Forging documents, preparing false entries, falsifying record logs and expense claims, and creating fictitious invoices are all strictly prohibited under this and other IDLO policies.

4. IDLO Measures to Prevent Fraud and Corruption

Corruption or Fraudulent Conduct by Project Partners and Service Providers acting on behalf of the Organization has the same detrimental effect on IDLO as similar conduct engaged in by IDLO Employees. As a result, IDLO strives to vet Project Partners and Service Providers to avoid working with any that are disreputable and engage in corrupt or fraudulent conduct. The early detection of possible compliance and integrity concerns allows IDLO to avoid associating with individuals or entities that could expose the Organization to serious financial and reputational risks while contributing to the overall integrity and transparency of IDLO's operations.

While there is no foolproof approach to screening potential Project Partners and Service Providers, IDLO Employees can minimize risk to the Organization by conducting, where appropriate, anti-Corruption and anti-Fraud due diligence (see sub-section 4.1 below and Annex 2) on potential Project Partners and through proper procurement practices for the engagement of Service Providers and, in all cases, by including certain contractual provisions in its agreements with such entities.

Any procurement of goods or services on behalf of IDLO must be made in accordance with IDLO's Procurement Policy and Procedures (PPP) or, where contractual obligations dictate otherwise, with procurement rules of another party so long as they are regarded as reflecting international best practices. Selecting potential Service Providers through a competitive

procurement process conducted in accordance with the PPP significantly reduces the risk of fraud and corruption.

Please note that the requirements of a particular donor agreement will prevail over IDLO's own due diligence standards to the extent they are stricter.

4.1 Due Diligence

Conducting appropriate anti-Corruption and anti-Fraud due diligence on prospective Service Providers and Project Partners is essential to prevent the Organization from retaining or partnering with disreputable entities. Carrying out due diligence is also necessary to demonstrate to auditors and donors that IDLO has made sufficient efforts to vet entities with which it works and use its resources wisely. Accordingly, before retaining a Service Provider or engaging on a project with a Project Partner, IDLO shall conduct due diligence appropriate under the circumstances that is documented and maintained in IDLO's records. The extent of due diligence required should correspond to the level of the perceived risk. For example, if the relationship being contemplated is financial in nature (e.g., a sub-grant to a partner organization), a greater degree of scrutiny is required than, for example, in the case of a non-binding memorandum of understanding. Furthermore, there are some potential partners that, by their very nature, present greater risk. Thus, an unfamiliar or newly-established NGO or contractor will require a more extensive inquiry than a better known and respected entity. Additional guidance on procedures and good practices relating to implementing partners is provided in *Working with Implementing Partners – A Users' Guide* and the *Sub-Project Toolkit*.

While the nature and extent of due diligence will vary depending on the attendant risks presented by the location and type of services to be provided by the Service Provider or the location and type of project to be co-sponsored with the Project Partner, due diligence should be conducted in an appropriate manner to determine whether the Private Provider or Project Partner:

- is qualified and appropriately licensed to perform the service or undertake the business venture (e.g., by confirming with the licensing body that the Service Provider or Project Partner is authorized to operate under local law);
- has a successful track record with IDLO or another reputable IGO/NGO;
- has the requisite reputation in the field;
- has any conflicts of interest;
- is willing to and capable of complying with accounting best practices, including retention of original receipts and adequate bookkeeping;
- is or employs a Public Official or Family Member of a Public Official;
- has adopted appropriate policies to prevent corruption and fraud; *and*

- has not engaged in activities that are against IDLO’s mission and values (including, but not limited to, terrorism, drug trafficking, human trafficking, or sex crimes).

Due diligence of prospective Service Providers and Project Partners can include such illustrative activities as the following:

- obtaining from the prospective Service Provider or Project Partner a completed due diligence questionnaire;
- ascertaining the reputation and past dealings of the prospective Service Provider or Project Partner with their current and past stakeholders. Appropriate methods might include references from past or present clients, financial references, searches of publicly available sources, background checks, etc.; and
- Visiting the offices of the prospective Service Provider or Project Partner in the location where the services are to be performed to ensure that it is a legitimate entity.

IDLO shall update its due diligence on Service Providers and Project Partners at appropriate regular intervals. Annex 2 to this Policy contains a list of “Due Diligence Background Checks,” which was produced by the International Anti-Corruption Resource Center. This can be used as a resource on the types of information needed to conduct due diligence and what methods can be used to obtain it.

4.2 Written Agreements

Including anti-Corruption and anti-Fraud provisions in IDLO’s agreements is an important way to protect the Organization and prevent corrupt or fraudulent activities involving a Service Provider or Project Partner. Contracts and agreements with Service Providers or Project Partners on behalf of IDLO must be in writing, and unless based on pre-approved contract templates, be approved in advance by OGC. In addition, contracts and agreements with Service Providers and Project Partners valued at 2,500 euros or more, unless otherwise authorized by OGC, shall incorporate some or all of the following provisions as follows:

Required:

- a representation and warranty that the Service Provider or Project Partner is aware of the requirements of, is in compliance with, and will abide by the terms of this Policy and applicable law;
- a right to call for the removal of staff of a Service Provider or Project Partner that have been found to have engaged in such activities;
- a requirement that the Service Provider or Project Partner submit originals (not copies) of any required financial receipts; and
- a right to terminate the contract, without penalty, in the event the Service Provider or Project Partner violates such representations and warranties.

Recommended:

- a right to audit the Service Provider or Project Partner's books and records in the event that IDLO has a good faith reason to believe that the Service Provider or Project Partner has acted in violation of this Policy or applicable law.

Contracts and agreements below the 2,500 euro threshold should also include such provisions where appropriate under the circumstances. Additionally, all contracts and agreements should include additional anti-fraud and anti-corruption provisions as appropriate including, for example, special anti-money laundering or anti-terrorism financing provisions to comply with applicable Donor agreement requirements.

4.3 Accurate Record-Keeping and Payment Processing Procedures

IDLO shall make and keep books, records, and accounts which, in reasonable detail, accurately reflect any transactions involving expenditures on behalf of the Organization, including all expenditures related to Service Providers and Project Partners, and the reasons or justifications for such expenditures, and all contracts, invoices, and receipts relating to the purchase of goods and services. No payment or receipt on behalf of IDLO may be approved or made with the intention or understanding that any part of that payment or receipt is to be used for a purpose other than that described in the relevant books and records. IDLO also shall devise and maintain a system of internal accounting controls sufficient to provide assurances that transactions are properly authorized and recorded.

5. Reporting, Investigation, and Disciplinary Action

IDLO employees have an obligation to promptly report all known or suspected incidents of Corruption or Fraud, as well as any other illegal, improper, or unethical conduct, which will be reviewed and investigated. All information received and the identity of the person providing the information shall be treated by the Organization confidentially to the extent possible within the legitimate needs of an investigation. When reporting known or suspected fraud or corruption, IDLO Employees are encouraged to provide as much detail and documentation as possible.

IDLO will view any violation of this Policy or failure to report a violation as a serious matter that warrants disciplinary action, up to and including termination of employment.

If you have any questions about this Policy, its interpretation, or its application to potential activity, or if you would like to report a known or suspected violation of this Policy, please contact OGC, the Internal Auditor/Compliance Officer, or relevant Country Director, or submit your report through the procedures described in IDLO's Whistleblower and Anti-Retaliation Policy.

April 2016

Annex 1: General Do's and Don'ts

- **DO** report any interactions or relationships that you suspect violate this Policy to OGC, the Internal Auditor/Compliance Officer, and/or the relevant Country Director.
- **DO** be sensitive to and avoid interactions that may create even an Appearance of Impropriety.
- **DO** report any potential conflicts of interest to OGC and the relevant Country Director prior to IDLO beginning work with a Project Partner or Service Provider.
- **DO** seek guidance from OGC, the Internal Auditor/Compliance Officer, and/or relevant Country Director as needed to determine whether a contemplated interaction with a Public Official or Service Provider is appropriate and in compliance with this Policy and other applicable IDLO policies.
- **DO** conduct due diligence of all Project Partners and Service Providers before entering into an agreement with such entities.
- **DO** enter into written agreements with all Project Partners and Service Providers that contain anti-Corruption and anti-Fraud provisions, as well as any other provisions required by Donors.
- **DO** ensure that agreements for services are specific and detailed and that compensation is reasonable and in accordance with prevailing market rates.
- **DO** follow contract payment provisions when paying a Service Provider or Project Partner, and always ensure that IDLO receives a detailed invoice that fully and accurately describes the services provided and expenses incurred.
- **DO** ensure that any benefits that are provided to Public Officials or Service Providers, such as meals, travel, and attendance payments, are for a legitimate business purpose, permissible under local law, and conform to the requirements of this policy.
- **DO** keep receipts and invoices for any expenses paid on behalf of a Public Official or Service Provider.
- **DO** exercise appropriate care in managing funds, resources, and/or assets of IDLO and follow appropriate financial, procurement, and other applicable procedures and mechanisms to mitigate the risk of Corruption or Fraudulent Conduct.
- **DON'T** turn a 'blind eye' to evidence that gives rise to a suspicion of Fraud or Corruption involving IDLO on the part of a Public Official, Project Partner, Service

Provider, or other IDLO Employee regardless of your views as to whether such conduct is endemic locally.

- ***DON'T*** hide or fail to disclose a potential conflict of interest or material fact in any hiring, contract, procurement or other decision that involves yourself or others, for example, if you have a close relationship with the head of a potential partner organization or a particular candidate or a potential provider. Recuse yourself from your role in any such decision if your participation would give rise to an Appearance of Impropriety.
- ***DON'T*** enter into relationships with Project Partners or Service Providers that raise “red flags” during the due diligence process without authorization from OGC.
- ***DON'T*** sign off on any documents which are in languages you cannot understand; in such circumstances seek a translation first.
- ***DON'T*** abuse your position and any attendant privileges and immunities for personal profit or at the expense of the Organization.
- ***DON'T*** provide or receive anything of value (including cash, gifts, travel, entertainment, charitable or political contributions, or other things of value) to or from a Public Official or Service Provider in exchange for a business or other advantage for IDLO or you.
- ***DON'T*** provide anything of value to Family Members of any Public Officials or Service Providers.
- ***DON'T*** make Facilitation Payments (i.e., modest payments to prompt a Public Official to perform or expedite a routine, non-discretionary act that he is otherwise required to perform as part of his duties) unless in exigent circumstances or with the prior authorization of OGC.²

² Additional guidance on Facilitation Payments can be found in OGC Advisory 02/2014 which is available on Piazzale.

Annex 2: Due Diligence Background Checks

This guide is based on advice provided by the International Anti-Corruption Resource Center.

Background Check Number One:

IS THE COMPANY A LEGITIMATE BUSINESS, WITH THE CREDENTIALS AND EXPERIENCE IT CLAIMS IN ITS BID OR PROPOSAL?

Many companies involved in corrupt or fraudulent practices are shell companies, organized solely for the purpose of obtaining fraudulent contracts, without any staff or permanent business premises. The following checks will help identify them:

- Does the firm have a website or appear on the Internet, in a manner consistent with its purported size and experience, and the firm's representations in its bid or proposal?
- Is the firm listed in on-line or hard copy telephone, business or Chamber of Commerce directories, appropriate to its claims?
- Are the company's listed address and telephone numbers correct? Do reverse address and telephone searches to identify the real persons or companies listed at the address or telephone number.
- Use map and satellite photo sites where available to view the purported premises.

Primary sources of information:

Call and visit purported business location; check local telephone, business and corporate directories.

Background Check Number Two

HAS THE FIRM OR INDIVIDUAL BEEN THE SUBJECT OF DEBARMENT, SUSPENSION, INVESTIGATION, LEGAL ACTION OR NEGATIVE PUBLICITY?

Primary sources of information:

Internet searches; On-site background checks for smaller or local firms not listed on the Internet; Check with prior clients, employers and donors, local NGO's and trade associations and local media sources.

Background Check Number Three

DOES THE FIRM HAVE THE CAPACITY (EXPERIENCE, PERSONNEL AND RESOURCES) TO DO THE PROPOSED WORK?

Primary sources of information:

- Check if a bidder, contractor or consultant has the necessary experience and resources to perform the proposed contract;
- On-site background checks for smaller or local firms not listed on the Internet;
- Check references with prior employers and donors, local business directories and trade associations.