



Independent observer
of the Global Fund

OIG RELEASES REPORT ON INVESTIGATION OF FUNDS MANAGED BY AN SR IN INDIA

Claims that at least \$872,000 was misappropriated

SR denies the allegations

On 31 October 2011, the Global Fund's Office of the Inspector General (OIG) released the final report of an investigation into a portion of two HIV grants to India. The investigation, which was launched in February 2011, concerned \$1.28 million transferred by a sub-recipient (SR), the India Network for People Living with HIV/AIDS (INP+) to the Positive Support Fund (PSF). The principal recipient (PR) for the two grants was the Population Foundation of India (PFI). The HIV grants were from Rounds 4 and 6.

The OIG said that it found credible and substantive evidence that \$872,000 was misappropriated and should be returned to the Global Fund, and that the amount misappropriated could be as much as the full \$1.28 million transferred to PSF.

According to the OIG, grant funds were transferred to a shell corporation, PSF, controlled by a principal of INP+, Mr. K.K. Abraham, and some of the funds were used for purposes personal to him. The OIG said that there is substantive and credible evidence that Abraham purposefully took advantage of his position, first as President and then as General Secretary of INP+, to engineer transfers of grant resources to PSF, an organisation which he controlled as its President and a lifelong Board Member, and for which he was the primary signatory on the organisation's bank accounts.

The OIG said that Abraham was a driving force behind creating PSF, served as its most senior officer, and made the significant and substantive decisions in both PSF and INP+, including how funds were to be

expended. “These facts and circumstances created a conflict of interest, and were in breach of the terms of the grant agreement.”

The OIG said that it found various other forms of what it called “fraud, abuse and mismanagement” within INP+ and PSF. For example:

- the leadership of INP+ concealed and misrepresented its contributions to PSF;
- PSF paid for utilities, rent and other costs related to an apartment owned and occupied by Abraham and an associate;
- compensation paid to certain staff members was under-reported to the Global Fund; and
- PSF provided few services since its inception.

The OIG said that it found evidence that INP+ retaliated against whistle-blowers and other critics of PSF by disaffiliating two state-level networks and removing a board member from office after they raised concerns about the function and funding of PSF.

Finally, the OIG found that the PR, the Population Foundation of India (PFI), failed to fulfil its oversight responsibilities with respect to INP+, and did not act “with energy and enthusiasm” to make appropriate changes and obtain recoveries of lost sums once the problem was identified. The OIG said that despite multiple requests, PFI did not bring about the necessary change in INP+ management, did not exercise proper control and fiduciary oversight of this SR, and failed to require misappropriated grant funds to be returned.

The OIG recommended that the Global Fund immediately seek to recover all outstanding losses – i.e., at least \$872,000 – and that grant funds that are still in accounts owned or controlled by PSF’s leadership be immediately returned to the Fund.

The OIG also recommended that the Global Fund require the PR, PFI, to make any future cooperation with INP+ subject to certain conditions – including that INP+ reimburse the losses, and remove Abraham from his position and bar him from any activity related to Global Fund grants.

In its report, the OIG said that it was first notified of allegations of financial mismanagement within INP+ in March 2010, and that at the request of the CCM and the Global Fund Secretariat, it deferred launching an investigation pending an independent review of INP+ by an audit firm selected by the CCM. (The audit firm was KPMG.) According to the OIG, the KPMG review confirmed that INP+ violated the relevant grant and sub-grant agreements by transferring grant funds to a closely affiliated organisation, PSF, which failed to use these monies for programme-related purposes. However, the OIG said, because the KPMG review lacked a forensics component, it was not able to determine the full amount of loss to the Global Fund, and to identify all of the parties responsible for the loss.

The OIG said that KPMG submitted its final report to the CCM and the Global Fund in October 2010, but that neither the PR, PFI, nor the CCM required the misappropriated funds to be repatriated by PSF, and that the individual responsible for the misappropriation remained in senior positions in both organisations, INP+ and PSF.

The total value of the two grants, which were eventually consolidated into one grant, was \$45.0 million, The total value of the contracts with INP+, as SR, for the period 2005-2010, was \$15.8 million.

Reaction and follow-up

INP+

The audit report contains extensive comments from INP+ on the investigation’s findings. INP+ implied that

some money was transferred from INP+ to PSF, but categorically denied that any Global Fund money had been transferred to PSF, and said that its grant “has not been used for any purpose outside its broad core activities.” INP+ also said that the process of the investigation was flawed, discriminatory and biased, and that the Global Fund was not authorised to investigate PSF because PSF has never received any grant from the Fund.

With respect to the allegation that the INP+ retaliated against whistle-blowers, INP+ said that “the purported whistle-blower has an agenda and an axe to grind” and had been involved in many “criminal cases.” The full set of comments from INP+ can be found on pages 68-86 of the OIG’s report.

In response, the OIG said that INP+ had failed to address the evidence that INP+ transferred Global Fund grant funds to PSF; and that the assertion by INP+ that all Global Fund grant monies were used for programme-related activities was “contrary to evidence.” The OIG’s response to the comments from INP+ can be found in paragraphs 135-143 of the report (there are no page numbers in this section of the report).

Concerning the allegation that PSF paid for utilities, rent and other costs related to an apartment owned and occupied by Abraham and an associate, Abraham told GFO when we were preparing this article that this apartment served as a registered office of PSF.

Abraham also told GFO that it considers the OIG report to be “illegal,” and that the OIG acted simultaneously as accuser, investigator and judge.

On 21 November 2011, INP+ President Jahnabi Goswami sent an email to Simon Bland, Chair of the Global Fund Board. GFO has obtained a copy of the email. Goswami said that the money which the OIG categorised as “losses” came from the 8% fee for overhead and management expenses related to the funds INP+ was managing as SR, and that this money was “managed carefully” and vested with a subsidiary of INP+ [presumably, PSF]. Goswami told Bland,

“It is a sad day for the fight against HIV/AIDs in India that INP+, the oldest and largest network of PLHA in India, is returning money to the Global Fund. We do so under duress, with a loud protest, since this money was neither lost nor misappropriated, but sitting in plain sight, unutilized pending clarity from the Global Fund on valid use of overhead/ management expenses that were not expended but saved. We feel penalized for having saved money, an odd situation by any imagination.”

PFI and the CCM

The investigation report also contains comments from the PR, PFI, and the CCM. Neither set of comments dealt with the substance of the OIG’s findings concerning INP+. However, the CCM took issue with the OIG’s statement that the CCM had asked the OIG to defer its investigation while the investigation conducted by KPMG was underway. Further, the CCM objected to the inclusion in the audit report of the statement by the OIG that the CCM failed to act to require PSF to return the misappropriated funds because, the CCM said, the CCM is not a legal entity and so does not have the legal authority to recover funds. Finally, the CCM expressed frustration with the way the OIG handled the situation with KPMG and the CCM.

When we were preparing this article, PFI told GFO that, on 12 October 2011, PFI sent substantive comments to the OIG on the draft OIG report, but that the OIG chose to include only an annex to PFI’s comments in the final investigation report. PFI said that the OIG report contains “assumptions and misconceptions rather than credible and substantive evidence.”

Concerning the OIG’s comment that PFI failed to act with “energy and enthusiasm,” PFI said that it had responded promptly and positively to all requests from the Global Fund. PFI said that upon learning that INP+ had transferred funds to PSF, PFI immediately arranged for an audit to be conducted. When the

audit confirmed that some transfers had occurred, PFI said, it immediately wrote to INP+ insisting that the transfers be reversed. PFI said that as a result of its persistence, some of the money was retrieved from PSF. PFI said that when it tried to arrange for a second, more detailed audit in January 2011, the OIG “stopped PFI from doing so,” because the OIG was about to start its own investigation.

In the comments that it sent to the OIG on 12 October 2011, PFI said that it rejects many of the conclusions of the investigation report and “any liability to reimburse any program monies.” PFI said that it had not violated any of the conditions of the grant agreement.

Global Fund Secretariat

The investigation report reproduced a letter dated 10 October 2011 from Mark Eldon-Edington, Director of Country Programs for the Global Fund, in which Edington said that the Secretariat “fully supported” the findings of the investigation and would undertake “strong action” to recover the losses.

Edington said that Abraham had not fully recused himself from matters relating to programmes supported by the Global Fund, and that this had heightened the Secretariat’s concerns about the ability of INP+ “to take the corrective actions necessary to enable it to implement a Global Fund-supported grant.” Edington said that the Secretariat has therefore not authorised PFI to enter into a new agreement with INP+. (The previous agreement with INP+ lapsed in 2010.) Abraham told GFO that he had recused himself from matters related to the Global Fund grants, but that he had not recused himself from INP+.

In his letter, Edington outlined a series of measures that the Secretariat is implementing. These measures are described on pages 91-93 of the report.

The report of the OIG investigation in India, and all of the OIG reports released on 31 October 2011, are available on the Global Fund website [here](#).

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