OIG Investigation Report on Global Fund Grants to Kenya

Background

On 5 December 2022, the Office of the Inspector General (OIG) published its report on its investigation into fraudulent and collusive practices in the National AIDS and STIs Control Programme (NASCOP) of Kenya, a unit within the Ministry of Health (MOH). NASCOP is a Sub-Recipient (SR) of the National Treasury, which is the Government Principal Recipient (PR) for the HIV grant.

The report is available here.

For the New Funding Model (NMF) 2 implementation period, a total budget of $25.58 million was granted to NASCOP. From this budget, NASCOP recorded a total of $1.4 million in hotel expenses involving 238 different hotels. During the same period, NASCOP also recorded a total of $1.4 million as payments made for printing expenses. These payments were made through different Electronic Fund Transfers (EFTs) that often included several payments grouped together and presented to the bank through a single bank check.

From a grant management perspective, for the NFM2 period, the grant performance rating of the HIV grant was rated as “B1” (which indicated 60 to 89% progress in the implementation of various activities during the period) and the Secretariat views the relevant risks at the country level as high. For the NFM3 implementation period, the grant has been rated (on a scale of A to E).

In June 2021, the Global Fund Secretariat notified OIG that its Local Fund Agent (LFA) had noted red flags in NASCOP’s financial controls during the latest progress update and disbursement review. The red flags included irregular hotel payments where various hotels that supposedly submitted losing bids confirmed that they had not, in fact, submitted any quotations. The LFA review also noted printing expenditures paid to third parties without supporting documentation.

Based on the LFA’s findings, the Global Fund Secretariat had requested a refund of the falsified payments made to third parties for $42,295 and the non-compliant expenses identified through the review of hotel expenses to the amount of $13,777. The investigation report does not mention if those amounts were refunded.

The scope of the OIG investigation was based on the issues the LFA identified. It also included additional hotel and printing expenses during the NFM2 grant. For the NFM2 implementation period, a total budget of $25.58 million was granted to NASCOP. From this budget, NASCOP recorded a total of $1.4 million in hotel expenses involving 238 different hotels. During the same period, NASCOP also recorded a total of $1.4 million as payments made for printing expenses.

The investigation focused on identifying the individuals responsible for the fraudulent activities and ascertaining whether the fraudulent practices the LFA identified were opportunistic or represented more entrenched wrongdoing.

First Finding

The investigation found systematic fraudulent and collusive practices in the hotel selection process at NASCOP during the NFM2 implementation period which are described in the report.

With its sample verification, the OIG identified $29,992 in overpricing and a non-compliant amount of $204,511 due to fraudulent and collusive practices. Moreover, if the overpricing of contracts continued at the same rate identified in the OIG sample, losses to the Global Fund could be closer to $263,572 (representing 18.7% of NASCOP’s total hotel expenses).

Based on the systematic nature of the fraudulent schemes that OIG discovered at NASCOP, including fabricated quotations, collusion with hotel suppliers, and confirmation of overpricing of 18.7% in hotel procurements, the OIG considers that the full $1.4 million that NASCOP spent on hotel expenses was potentially impacted by fraudulent practices.

Second Finding

Payments for printing services to three vendors without supporting documents resulted in a non-compliant amount of $16,948 which OIG considers to be potentially recoverable.

Third Finding

The lack of segregation of duties, weak financial management system, and non-transparent banking records at NASCOP created an enabling environment for prohibited practices.

Corrective Action

NASCOP no longer employs the two staff (procurement officer and accountant) involved in the fraudulent activities. In response to the OIG's Letter of Findings, NASCOP confirmed that it is improving internal controls and that disciplinary actions would be taken against the former staff identified during the investigation.

Based on the findings , the Secretariat has undertaken to:

1. By 31 May 2023, finalize and pursue, from all entities responsible, an appropriate recoverable amount. This amount will be determined by the Secretariat in accordance with its evaluation of applicable legal rights and obligations and associated determination of recoverability.
2. By 31 May 2023, request the PR to take appropriate action toward all parties responsible for the prohibited practices described in this report.
3. Work with the PR to strengthen controls and oversight of the procurement process identified by the OIG in this investigation by 31 August 2023.
4. Work with the PR to strengthen how it implements payment procedures and recording processes, maintaining proper vendor master data by 31 December 2023.
5. Work with the PR to strengthen mechanisms by 31 October 2023 that permit the validation and reconciliation of payments.

Commentary

The recent experience in Kenya, as related in this report, underlines the importance of the role of an LFA to provide assurance of the proper use of grant funds.

The investigation appears to have been limited to examining only hotel and printing costs. The report does not make reference to other types of expenditure.

Given that the Secretariat had notified OIG in June 2021 that its LFA had noted red flags in NASCOP’s financial controls, it appears surprising that there was no mention of this ongoing investigation in the OIG audit report on the grants to Kenya published on 11 March 2022. However, OIG has explained that to maintain the integrity of an investigation, the presumption of innocence and due process, the OIG does not comment publicly on ongoing investigations.

The second action to be taken by the Secretariat – to request the PR to take action – should surely already have happened by the time this report was published. Nor does it take five months to request action. Perhaps the intention – not stated – was to include action to be taken by the PR; but that raises the final issue:

Secretariat actions 2-5 all require working with the PR, the National Treasury. It is unclear how the National Treasury performs its supervisory PR role in the civil service setup and, therefore, the extent to which it is responsible for the control weaknesses that occurred. NASCOP is an SR which is located within the MOH and it is difficult to see how the PR will be able to make the necessary changes within the MOH. A government ministry (in this case the PR) cannot intervene to make procedural changes in another ministry without following due civil service procedures, which are notoriously slow and cannot be determined by the Secretariat. Surely the Secretariat will have to focus its attention not on the PR but on the MOH if it wants to achieve the appropriate corrective actions?

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