



# **Policy to Address Fiduciary Risk and Fraud**

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## 1. Purpose

This document aims to clarify the Humanitarian Development Peace Nexus Response Mechanism's (NEXUS) policy and procedures related to financial risk and fraud, including procedures for reporting and investigating suspicions of fraudulent activity. UNOPS provides the Secretariat of the NEXUS Mechanism (hereinafter "Secretariat") and serves as trustee of the financial resources of NEXUS. The functions of UNOPS include but are not limited to disbursing financial resources, reporting on all financial and operational aspects relating to NEXUS, ensuring monitoring of the implementation of activities and fulfilling other functions, as set out in the European Union Contribution Agreement concluded between UNOPS and the EU (NEXUS donor).

## 2. Context

As a funding mechanism, there is a need for UNOPS/NEXUS to establish a standard policy on financial risk and fraud. As NEXUS allocation decisions are made by the Steering Committee and translate into funding through contractual agreements (grants, service agreements, etc.) between UNOPS and various other parties, this common standard shall be based on the UNOPS Policy to Address Fraud and Corruption<sup>1</sup>. The UNOPS Policy is part of the wider risk management framework of UNOPS which includes risk and fraud related provisions covering various areas, including but not limited to procurement, staffing, financial regulations and rules, financial declaration statements, accountability and oversight, internal control, internal audit and investigation.

This document will not replace the UNOPS policy but serves to provide additional Fund specific context. Additional NEXUS-specific safeguards take account further requirements of NEXUS donors where applicable, in particular relating to the reporting obligations of the Implementing Partners and suppliers in relation to fraud.

## 3. Definitions

Within the UNOPS Policy to Address Fraud and Corruption (15 March 2018), fraud is defined as **"a knowing misrepresentation of the truth or a concealment of a material fact to induce another to act to his or her or another person's detriment."**

UNOPS manages public funds that have been entrusted to the organization. We must, therefore, meet the highest standards of integrity and competency and demand no less from those that wish to work with or for us. We will not work with any Implementing Partner/supplier who does not meet these standards of integrity and competency.

Implementing Partners/Grant Recipients, Sub-Grant Recipients, Contractors, Sub-Contractors who have a legal agreement with UNOPS and/or receive UNOPS funding are defined as **"Suppliers"** in UNOPS terminology. These can include but are not limited to INGOs, CBOs, CSOs, LNGOs, Organizations, Institutions, Companies, and Individuals.

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<sup>1</sup> OI.ED.2018.01 Policy to Address Fraud and Corruption available at <https://content.unops.org/documents/libraries/policies-2020/operational-directives-and-instructions/internal-audit-and-investigations-charter/en/OI.ED-Policy-to-Address-Fraud-and-Corruption.pdf?mtime=20200306122358>

### 3.1 Forms of fraud

Below, a list of examples of different forms of fraud that are punishable in the context of Nexus:

<b>Offenses leading to Implementing Partner/supplier sanctions</b>	<b>Description</b>
Corrupt Practice	Someone offers, gives, or receives anything valuable with the intention to influence another. For example, kickbacks and bribes: <ul style="list-style-type: none"> <li>• If an organization or contractor offers something valuable to make sure they win the bid.</li> <li>• This can be money or something else, e.g. a car.</li> </ul>
Fraudulent Practice	Intentional misleading of someone to gain an advantage. For example: <ul style="list-style-type: none"> <li>• An organization or contractor misstating its financial records or hiding the true ownership of the organization or contractor, which would be misrepresentations.</li> <li>• An organization or contractor submitting forged receipts to support expenditure.</li> <li>• An organization or contractor fabricating past experience.</li> <li>• An organization or contractor altering or forging documents.</li> </ul>
Coercive Practice	Someone harms or threatens to harm any party or its property to improperly gain influence over it. For example: <ul style="list-style-type: none"> <li>• Threatening to harm someone’s family if they are not given an award.</li> </ul>
Collusive Practice	An agreement between two or more parties to limit competition by deceit or fraud. For example: <ul style="list-style-type: none"> <li>• Agreement by organizations or contractors to divide a market, thus</li> <li>• misrepresenting the independence of the relationship between the colluding partners</li> </ul>
Unethical Practice	Conduct or action that breaks UNOPS’ rules of doing business. For example: <ul style="list-style-type: none"> <li>• Accepting a valuable gift or service from an organisation that was or is in the process of being sub-contracted by UNOPS to perform some of the deliverables.</li> <li>• You or your family has a financial interest in an organization or contractor bidding on UNOPS grants or business.</li> </ul>
Obstruction	An act that interfered with or fails to cooperate with an investigation. For example: <ul style="list-style-type: none"> <li>• Not responding to IAIG’s request for an interview or records.</li> <li>• Not answering questions truthfully.</li> <li>• Destroying documents.</li> </ul>

<b>Criminal Offenses</b>	<b>Description</b>
Bribery	To offer or agree to give a thing of value with intent to influence or reward an agent in connection with business/transaction.
Conspiracy	An agreement to do an unlawful act; includes mutual understanding and cooperation between two or more people to accomplish said unlawful act.
Money Laundering	The transfer of monies that are a product of criminal activity; obtaining profits from criminal activity.
PSEA	More details in Nexus Operational Guidelines

### 3.2 Consequences of Fraud/Sanctions

Four main consequences are defined:

- a) Implementing Partner/Supplier sanctions
- b) Criminal prosecution
- c) Reputational damage
- d) Economical damage

#### a) Implementing Partners/**Suppliers sanctions**

Investigations are conducted by UNOPS Internal Audit and Investigations Group (IAIG), based in Copenhagen, Denmark. Implementing Partners/suppliers found to be participating in fraud or serious misconduct may be subject to suspension, termination and/or debarment from future grants and contracts with, or receiving any future funding from UNOPS or other UN agencies. Suspension temporarily prohibits Implementing Partners/suppliers from implementing UNOPS funded activities during an IAIG investigation prior to the commencement of formal sanction proceedings. Termination foreshortens an ongoing grant or contract. Debarment formally prohibits a supplier from bidding on UNOPS grants, procurement exercises, or participating in its activities. Sanctioned Implementing Partners/Suppliers are published on the UNOPS public website<sup>2</sup>.

#### b) **Criminal prosecution**

Criminal penalties include: Imprisonment, fines, forfeiture of assets and of benefits received as a result of illegal activity.

#### c) **Reputational damage**

Implementing Partners/suppliers found to be participating in fraudulent conduct lose their legitimacy in the public eye. Reputational damage leads to a decrease in trust and less utilization of services provided by organizations and contractors associated with fraud.

#### d) **Economical damage**

Fraud can destroy entire institutions, organizations and companies. Draining funds from institutions, organizations and companies for private gain can result in loss of willing implementing partners, donors, business partners and loss of employment for innocent people.

Those found to have been involved in fraudulent and corrupt activity or to have been negligent in the exercise of supervisory duties will be subject to disciplinary proceedings. Action will also be taken to recover any funds that have been lost or misused unless a case is submitted to the Steering Committee with a strong justification for not pursuing recovery. Similarly, funding may be

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<sup>2</sup> Sanctioned vendors are published here: <https://www.unops.org/business-opportunities/vendor-sanctions>

recovered, and future funding withheld from funding recipients where arrangements for preventing or detecting fraud and corruption fail to improve.

For UNOPS staff members, pursuant to Staff Rule 10.1 (b), and as mentioned in [Operational Instruction Ref. OI/IAIG.2020.01, Investigations and Measures Relating to Misconduct Allegations Against UNOPS Personnel](#), UNOPS will pursue recovery for any financial loss attributable to the staff member's misconduct (fraud, theft), or gross negligence, or recklessness, in the management of funds.

## 4. Procedures in case of suspected fraud

### 4.1 Duty to report

Anyone suspecting a fraud case has a duty to immediately report fraud or suspicion:

- Grant recipients/Sub-grant recipients/Contractors/Sub-contractors and all their personnel: Required to report fraud or suspicion of fraud immediately. Organizations can continue their internal investigations after reporting, but initial reporting must occur within **five (5) working days to report suspicions of fraudulent actions.**
- UNOPS Personnel: REF.OI.ED.2018.01 provides that all personnel have a duty to report fraud

Anyone can use the following UNOPS channels for reporting fraud, misconduct or corruption, e.g. by email, phone and mail:

- NEXUS Programme Manager David Gilmore
  - by email [davidgi@unops.org](mailto:davidgi@unops.org),
  - by phone +95 1657278
  - by postal mail No. 12(O), Pyithu Lane, 7 Mile, Mayangone Township, Yangon, Myanmar.
- Via email: [investigations@unops.org](mailto:investigations@unops.org), [InternalGrievances@unops.org](mailto:InternalGrievances@unops.org), [ethicsofficer@unops.org](mailto:ethicsofficer@unops.org)
- Online: <https://secure.ethicspoint.eu/domain/media/en/gui/105317/report.html>
- By mail: UNOPS/Internal Audit and Investigations Group, Marmorvej 51, 2100 Copenhagen, Denmark

Depending on the issue and potential exposure of the reporter at hand, such reporting may follow your own organisation's fraud policy (if existing) and thus may reach the Secretariat through the channels you have established under your policy, e.g. through the Country Director or internal audit or an investigator. You are however still required to report such suspicion/investigation within five (5) working days to the Secretariat so that a joint investigation can be conducted if deemed necessary by the Secretariat.

Please refer to the UNOPS Speak Up Portal for more guidance:  
<https://secure.ethicspoint.eu/domain/media/en/gui/105317/index.html>

## 4.2 Procedures for reporting

Fraud cases could appear at various levels:

- Within the Secretariat's office;
- Involving a direct Implementing Partner/supplier;
- Involving a sub-grant recipient or sub-contractor; and
- Outside the circle of UNOPS/NEXUS contractual relations, but within the organizations that are involved in the management and implementation of the Programme's activities.

For cases that occur at the different levels, the following reporting mechanisms are recommended:

### **a) Suspicion of fraud within the Secretariat**

For suspicions of fraud that arise within the office of the Secretariat, UNOPS Operational Instruction OI.IAIG.2020.01 – Investigations and Measures Relating to Misconduct Allegations Against UNOPS Personnel<sup>3</sup> – stipulates a duty to report for all personnel. Suspected fraud should be reported to the supervisor or via one of above cited channels directly to IAIG.

### **b) Suspicion of fraud involving a direct Implementing Partner/supplier**

Implementing Partners and Contractors shall be obliged to promptly report instances of suspected fraud within their offices (e.g. when being investigated) as soon as possible, within five working days of suspicion, to the Secretariat or to one of the provided channels under section 4.1. Reporting of suspected episodes of fraud is a mandatory requirement under UNOPS/NEXUS grant agreements and contracts.

The Programme Manager, who is the focal point for fraud control within the Secretariat, when informed of such fraud suspicions, shall monitor such cases and ensure that progress or final findings are documented in the Secretariat's records.

### **c) Suspicion of fraud involving a sub-grant recipient or sub-contractor**

Grant recipients, sub-grant recipients, contractors and sub-contractors and all their personnel are obliged to promptly report instances of suspected fraud within the offices of sub-recipients of grants and sub-contractors as soon as possible, within five (5) working days of suspicion, to the Secretariat if such cases pose a risk to the financial or reputational standing of the Programme.

### **d) Suspicion of fraud outside the circle of NEXUS contractual relations but within an entity that is involved in the management and implementation of the Programme's activities**

Steering Committee members as well as the Secretariat shall share relevant information if they become aware of ongoing investigations or allegations outside UNOPS/NEXUS (including from media and members of the public) against UNOPS/NEXUS Implementing Partners/suppliers (Implementing Partners, Contractors, Sub-Grant Recipients, Sub-Contractor or any of their personnel), or other stakeholders and shall provide means for whistle-blowers to raise their concerns (e.g. through contact information and the UNOPS public website). Such information shall be reviewed to determine whether it could impact on UNOPS/NEXUS's financial or reputational standing and whether lessons could be drawn to strengthen the Programme own risk mitigation framework.

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<sup>3</sup> The full text of OI.IAIG.2020.01 is available at:

<https://content.unops.org/documents/libraries/policies-2020/operational-directives-and-instructions/internal-audit-and-investigations-charter/en/OI.IAIG-Misconduct-Allegations-Against-UNOPS-Personnel.pdf?mtime=20200306122408>

## 5. Investigations

Investigations into cases of suspected fraud shall be the responsibility of UNOPS Internal Audit and Investigations Group (IAIG). The Director, IAIG, will make an initial assessment of the reported incident and may, at his/her discretion, decide that a preliminary assessment be conducted. Based on the preliminary assessment, if any, and/or IAIG's initial assessment, the Director, IAIG shall determine whether a formal investigation should be conducted.

All investigations are confidential. Allegations not substantiated are closed.

## 6. Closure of fraud cases

Suspected fraud cases may be recommended for closure by the Secretariat after the matter has been investigated, appropriate penalties applied, funds/assets recovered and remediation of any identified fraud control weaknesses. If these outcomes cannot be achieved, the Secretariat is requested to be able to demonstrate that the organisation concerned has done their utmost to achieve them. Conversely, a case may be closed if it is determined that fraud has not occurred.

## 7. Prevention of fraud

All contractual agreements of UNOPS/NEXUS with grant-receiving Implementing Partners, as well as contractors and personnel, are in the name of, and managed by, UNOPS/NEXUS. UNOPS has put in place a wide range of management procedures and fiduciary controls, managed under the oversight of the UNDP/UNFPA/UNOPS Executive Committee, including representation of member states. Specific to NEXUS, financial and fraud risks are dealt with through the following mechanisms:

### a) Pre-emptive: Due Diligence Assessments (DDA)

For all IPs, the Secretariat carries out due diligence assessments as part of its fund management obligations. These assessments evaluate the financial, operational, governance, and safeguarding principles within an organization including: fund flow systems; staffing and staff capacity; accounting and cash management policies and procedures; audit procedures; reporting and monitoring systems; project management and governance configuration; and information systems. This assessment will form the basis for a risk determination which will be undertaken by the Secretariat. The assessment may prompt recommendations or requirements, especially for high risk areas, to strengthen a partner's capacity during the life of the grant. Implementation of recommendations is monitored by the Secretariat.

### b) Fraud Prevention Training

Implementing Partners, Sub-Grant Recipients, Contractors and Sub-Contractors are obliged to ensure that the NEXUS policy on fraud is widely understood within their organizations/companies and also communicated to beneficiaries as part of their beneficiary accountability commitments. Fraud prevention training provided by the Secretariat is mandatory for all Implementing Partners. The training is with the intention to improve their beneficiary feedback mechanisms, increase awareness of areas susceptible to fraud, as well as strengthen their own internal mechanisms for detecting cases of fraud, as an essential measure to mitigate any risk of fraud.

Please see the section 8 for resources that Implementing Partners can use for the dissemination of this policy internally.

### c) Detection of fraud through monitoring of Implementing Partner activities in the field

All projects are visited regularly as defined in the Operational Guidelines. Project visits include visits to field offices and discussions with project and support staff, determining whether activities are progressing within the framework of the grant agreement's work plan and whether adequate

management and oversight processes are in place. Findings from field trips are shared with the NEXUS management team and catalogued systematically. Delays, deviation from work plans and weaknesses within the management of the project (including governance, finance, procurement/logistics, fund flow, HR, and other administration) trigger discussions within the Secretariat office and with IP representatives, aiming to address such risks through strengthened systems and adjustments of work plans/revisions of grant agreements where this is in the interest of the Programme and in line with the objectives of providing support to project beneficiaries. Serious weaknesses and non-performance may prompt the suspension of the grant to allow for a more thorough assessment to determine whether or not a grant should be terminated.

#### **d) External audits of Implementing Partners**

All non-UN Implementing Partners are audited annually by an independent audit firm. The areas of focus include: a) effective, efficient and economical use of resources; b) reliability of reporting; c) safeguarding of assets; and d) compliance with applicable legislation. All audit reports are published on the UNOPS [Reports Publicly Available](#)<sup>4</sup> webpage. In cases where there is no added value in a full audit of an Implementing Partner (e.g., if previous audits did not result in any 'high risk' recommendations or where the grant agreement has already expired), the Secretariat may recommend to carry out an expenditure verification.

#### **e) Audits of the Secretariat**

The Secretariat is audited at the end of the programme by UNOPS' Internal Audit and Investigations Group. This audit consists of two parts: i) an audited financial statement, which is composed of the statement of audit opinion together with the signed financial statements; and ii) a management letter or report. The audited financial statement shall be provided to the donor as a way of giving assurance on the use of donor funds and is also published on the UNOPS public website's [Accountability](#) section.

## **8. Resources**

<https://www.unops.org/about/governance/accountability/iaig> – UNOPS public website, Internal Audit and Investigation Group Section

[UNOPS Operational Instruction OI.ED.2018.01](#) – Policy to Address Fraud and Corruption

[UNOPS Operational Instruction OI.IAIG.2020.01](#) – Investigations and Measures Relating to Misconduct Allegations Against UNOPS Personnel

[UNOPS Operational Instruction OI.PG.2021.02](#) – Policy on Vendor (Implementing Partner/Supplier/Contractor) Sanctions

[Speak Up Portal](#) – guidelines on how to report fraud

[Nexus Operational Guidelines](#) – describes guidelines applicable in the implementation of Fund activities

[UN Open Educational Resource](#) on anti-corruption, ethics and integrity

The Secretariat recommends the methodology of using an example scenario – which could be built on past cases, or likely scenarios of potential ethical conflicts – to hold workshops on Fraud Prevention within each organization to remind all personnel of the obligations and consequences.

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<sup>4</sup> Available at this URL: <https://www.unops.org/about/governance/accountability/iaig/reports>