



## **PROCEDURES FOR REPORTING AND PROCESSING OF ALLEGATIONS OF FRAUD AND CORRUPTION IN MCC OPERATIONS**

The following procedures address *Formalizing Lines of Internal MCC Reporting* in accordance with Section 5.2.1 of the Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (CEO-2009-2.2) (the “Policy”). The procedures are intended to implement the Policy by ensuring that allegations of fraud and corruption are adequately and consistently addressed internally by MCC staff and referred to the Office of the Inspector General (“OIG”) for investigation. Terms defined in the Policy and used herein have the meanings assigned to them in the Policy.

### **1.1. Reporting of Allegations in Threshold Programs**

Any MCC staff member having knowledge of an allegation of fraud and corruption in an MCC threshold program will:

- (a) report such allegation to the OIG<sup>1</sup>; or
- (b) report such allegation to the managing director of the Threshold Program; or
- (c) report such allegation to both the OIG and the managing director of the Threshold Program.

In the event that an allegation of fraud and corruption in an MCC threshold program is reported to the Intake Team (as defined in Section 1.2.1.a of these procedures), the Intake Team shall ensure that the allegation is referred to the managing director of the Threshold Program consistent with (a) above. MCC staff members are encouraged to report allegations directly to the OIG and nothing provided herein should be construed otherwise. In the event that a report is made to the managing director of the Threshold Program consistent with (b) above, MCC will notify the OIG of the allegation immediately.

MCC threshold programs are generally administered by other USG agencies. In such instances, allegations regarding fraud and corruption in the threshold program are subject to the reporting and enforcement structures set forth in the particular partner agency’s regulations. MCC will expeditiously inform the partner USG agency of any allegation of fraud and corruption where it appears that the partner agency does not already know of the allegation. All allegations received by MCC will be reported to OIG, regardless of whether individual MCC staff member has reported the allegation separately to OIG.

A decision for MCC to take any action (other than reporting as indicated above) based on an allegation of fraud and corruption in its threshold programs will be made by the applicable Deputy Vice President, Department of Policy and Evaluation, in consultation with the Department of Administration and Finance (“A&F”), the Office of the General Counsel (“OGC”) and the partner

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<sup>1</sup> Contact information for the OIG is found at <<http://www.usaid.gov/oig/hotline/hotline.htm>>.



USG agency. Such action may include administrative interventions and administrative sanctions as applicable or appropriate.

## **1.2. Reporting of Allegations in Compact Programs**

The procedures set forth in this Section 1.2 apply to allegations received in connection with both compact development and compact implementation.

Any MCC staff member having knowledge of an allegation of fraud and corruption in the development or implementation of a compact will:

- (a) report such allegation to the OIG<sup>2</sup>; or
- (b) report such allegation to the Intake Team (defined below); or
- (c) report such allegation to both the OIG and the Intake Team.

MCC staff members are encouraged to report allegations directly to the OIG and nothing provided herein should be construed otherwise. In the event that a report is made to the Intake Team consistent with (b) above, MCC will notify the OIG of the allegation immediately after MCC receives the allegation.

In the event that the MCC staff member reports the allegation to the Intake Team, or if the OIG informs the Intake Team of such allegation, the Intake Team, in consultation with A&F and OGC, will determine if immediate action is necessary to preserve MCC assets or protect the legitimacy of a compact-funded activity, such as an individual procurement. This determination will be made based on an assessment of the allegation on its face, without the collection of any additional facts or documents (other than those submitted with the allegation), and is intended to preserve the status quo until the OIG determines if there will be a criminal investigation of the allegation.

In the event the OIG declines to conduct a criminal investigation and returns the matter to MCC for action, the Intake Team, in consultation with A&F and OGC, will conduct a Credibility Assessment. The “Credibility Assessment” is a process by which MCC determines the seriousness and legitimacy of an allegation by gathering and clarifying the facts but without such a degree of investigation that the evidence would be compromised or that would result in an undue delay.

### **1.2.1. Credibility Assessment**

#### **a. Intake Team.**

The Intake Team is one or more staff members appointed by the Vice President of the Department of Compact Operations (“DCO”), to carry out the duties set forth in these procedures. Unless otherwise determined by such Vice President (in consultation with OGC and A&F), the Intake Team is comprised of the staff in the following positions: (i) Senior Director in DCO with expertise in fiscal accountability or procurement matters; (ii)

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<sup>2</sup> Contact information for the OIG is found at <<http://www.usaid.gov/oig/hotline/hotline.htm>>.



Managing Director in DCO; and (iii) the deputy vice president for the applicable region in DCO. The Intake Team, in consultation with A&F and OGC, will conduct a Credibility Assessment in connection with any allegation reported to it after the OIG returns the matter to MCC for action with confirmation that OIG will not conduct a criminal investigation.

Members appointed to the Intake Team must be at the Director level or higher, and of sufficient training and experience to assist with the conduct of an effective Credibility Assessment into the allegation. Information on reporting allegations to the OIG and the Intake Team will be posted on MCC's intranet, and, for external audiences, on MCC's public website.

b. Support to and Consultation with the Intake Team.

The General Counsel will assign an attorney to be available to advise the Intake Team on an ongoing basis. The attorney will ensure that the Intake Team compiles sufficient information to make a Credibility Assessment, and will review the Intake Team's report for legal sufficiency and compliance with the Policy, these procedures, and all applicable laws and regulations.

A&F also will assign a liaison to advise and inform the Intake Team on an ongoing basis. The liaison will ensure that the OIG is informed of any allegations in a timely manner and that the documentation is retained for further inspection.

c. Credibility Assessment Procedures.

The Intake Team, through the Credibility Assessment, decides whether a reasonable person with knowledge of the relevant facts and circumstances would conclude that the alleged fraud and corruption occurred and that it falls within MCC's definition of fraud and corruption, as such is set forth in the Policy. Although the Intake Team works together to analyze the credibility of allegations, the applicable Deputy Vice President of DCO ("DVP"), has the decision-making authority regarding the outcome of the credibility determination. As such, the Intake Team as a whole is responsible for collecting sufficient information so that the applicable DVP may make an informed decision as to whether the allegation of fraud and corruption is substantiated. The Intake Team will initiate and conduct discussions and/or collect documents from the relevant implementation support team/transaction team members and the MCC resident country mission.

The Credibility Assessment is not an investigation, but rather is a mechanism to gather information and clarify basic facts surrounding the allegation. After collecting such information, the Intake Team will write a summary of its findings, and make a recommendation as to the initial credibility of the allegation of fraud and corruption. The estimated timeframe for conducting a Credibility Assessment is approximately three working days.

d. Decision Making.

The applicable DVP, based on the findings of the Intake Team and in consultation with A&F and OGC, will make a decision regarding the credibility of the allegation of fraud and corruption. The DVP also may consult, as appropriate to the situation, with other MCC departments prior to making a decision that the allegation of fraud and/or corruption is substantiated or unsubstantiated.

e. **OIG Reporting and Records.**

The Intake Team will record all allegations of fraud and corruption that it receives, together with the results of any Credibility Assessment, in a standard format. In addition to forwarding any allegation to OIG immediately after MCC receives such allegation, MCC also will share a copy of any Credibility Assessment determination or any notice issued in connection with Section 1.2.2 of these procedures with the OIG.

**1.2.2. Notice of Credibility Assessment and Administrative Intervention and Administrative Sanctions.**

a. **Administrative Intervention and Administrative Sanctions.**

Once a Credibility Assessment has been completed and a finding of credibility has been made, if the DVP recommends a course of MCC action that includes administrative intervention or administrative sanction, s/he will consult with the Vice Presidents of OGC, A&F and DCO, as well as any other relevant department. Relevant considerations during consultations with other MCC departments may include the scale of fiduciary risk to MCC, the scale of programmatic risk to MCC, the scale of reputational risk to MCC, the scale of legal risk to MCC, the need for consistency in MCC's responses to allegations, and the likelihood that the action giving rise to the allegation may occur again. After such consultations, the applicable DVP will make a decision, report the decision to the OIG, and, if applicable, deliver the notice of such decision as set forth below. Any notice provided for under this Section 1.2.2 is not intended to replace any notice required pursuant to any applicable compact, contract or supplemental agreement (as such is defined in the applicable compact).

b. **With Respect to an Allegation Against an Accountable Entity or other Host Government Representative Involved in Compact Development.**

In the event that the applicable DVP decides that formal administrative intervention or administrative sanction is necessary in accordance with Section 1.2.1 of these procedures with respect to any allegation against an Accountable Entity or other host government representative involved in compact development, s/he will issue, in coordination with the Intake Team, OGC and A&F, a notice to the Accountable Entity or other host government representative involved in compact development. MCC will provide a copy of such notice to the OIG. The notice will state the general nature of the allegation and describe, as may be appropriate under the circumstances, the results of the Credibility Assessment and MCC's right to take action in the matter. If the applicable DVP decides that no administrative

intervention or administrative sanction is necessary in connection with an allegation against an Accountable Entity or the host government representative involved in compact development, and if the Accountable Entity or other host government representative is unaware of the allegation, no notice to the Accountable Entity or other host government representative involved in compact development will be required.

c. **With Respect to an Allegation Against a Third Party (Including in the Procurement Process).**

If the applicable DVP decides that no administrative intervention or administrative sanction is necessary with respect to any allegation against a third party, and if the person or entity is unaware of the allegation, no notice will be required hereunder.

In the event that the applicable DVP decides that formal administrative intervention or administrative sanction is necessary in accordance with Section 1.2.1 of these procedures with respect to any allegation against a third party, s/he may issue, if appropriate, a notice to each person or entity subject to such administrative intervention or administrative sanction. If such a notice is issued, MCC will provide a copy thereof to the OIG.

In the event that the applicable DVP decides that the person or entity subject of an allegation must be precluded from participating in an MCC-funded procurement under any compact or compact development program, MCC will issue notice of such restriction to such person or entity. Any such notice regarding preclusion from procurements will state the general nature of the allegation and describe, as may be appropriate under the circumstances, the basis for a decision that the allegation is substantiated, MCC's right to take action in the matter, and the opportunity for the person or entity to respond to the allegation. The applicable DVP and the Intake Team will allow fourteen (14) calendar days for the entity or person subject to administrative sanction to respond to the allegation, and may consider the response in connection with the ultimate decision resulting from the Credibility Assessment. Any course of action under this Section 1.2.2 must be reported to the Vice Presidents of OGC, A&F and DCO.

**1.2.3. Administrative Interventions and Administrative Sanctions.** Upon reviewing the results of the Credibility Assessment and taking into account the factors stipulated in Section 1.2.2(a) of these procedures, MCC may take administrative interventions and/or administrative sanctions to address the matter, including those described below.

- **Administrative interventions**, in the event that fraud and/or corruption are detected, may include, but are not limited to:
  - a. Declaration of misprocurements for procurements over which MCC has an oversight role;
  - b. Assigning MCC staff or consultants to provide heightened oversight of particular transactions determined to be most at-risk;



- c. In consultation with the OIG, performance of additional audits, or focusing existing audit requirements on areas of concern; and
  - d. Modification of thresholds that trigger MCC approvals related to contracting or the contract administration process.
- ***Administrative sanctions***, in the event that fraud and/or corruption are detected, may include, but are not limited to:
    - a. Prohibition from further participation in any MCC funded programs if contractors and third parties (excluding the Accountable Entity) commits the fraud and/or corruption;
    - b. Administrative measures such as temporary or permanent ineligibility, removal from competition in a procurement activity, assignment of an adverse performance rating under MCC's contractor past performance reporting system, withholding of MCC disbursements for payments on affected contracts, and other similar actions;
    - c. In the event an Accountable Entity employee commits an act of fraud or corruption, recommendation to the Accountable Entity or other appropriate government official to take administrative action as appropriate; and
    - d. Termination of the Threshold program, compact negotiations or the compact if the government or the Accountable Entity commits the fraud and/or corruption.

## 2. ADDITIONAL INFORMATION

**2.1. Reorganization.** The roles and responsibilities of MCC positions and offices set forth herein will continue to apply to the successor position or office performing the functions of its predecessor until these procedures are modified, revoked, or superseded.