

Guideline on Mitigating Conflicts of Interest (Cols) in EIF-funded projects and policies

November 2019

Approved by the EIF Board at the 29th EIF Board meeting, 13-14 November 2019

Background

1. As part of the Value for Money (VfM) Action Matrix approved by the EIF Board in June 2018 and established EIF rules and procedures, all the EIF constituencies (EIF Donors, least developed countries (LDCs), EIF Agencies, ES and TFM) are requested to mitigate the Cols that may occur in the EIF-funded projects and policies.
2. This Guideline is to clarify the definition of Cols in the EIF context; refer to the existing policies and the role and procedures in the implementation of such policies.

EIF policies on mitigating Cols

3. An actual Col arises in a situation where financial or other personal or professional considerations compromise an individual's objectivity, professional judgment, professional integrity and/or ability to perform his or her responsibilities. Perceived or potential Cols exist in situations where an individual member of the concerned organization, a member of the individual's family or a close personal relation has financial interests, personal relationships or professional associations with an outside individual or organization, such that his or her activities within the organization could appear to be biased vis-à-vis the organization by that interest or those relationships.
4. The EIF policies governing Cols are reflected in: (i) the Compendium for EIF Phase Two, paragraph 32 of Section 5, "Strengthening Governance", Point C (Guarding against potential conflicts of interest); (ii) the Memorandum of Understanding (MOU) governing the agreement between the TFM (UNOPS) and Main Implementing Entities (MIEs), Clause 8.8; (iii) the "neutrality" clause of the Tier 1 and Tier 2 Implementation modality; and (iv) the Cols clause of procedures of feasibility studies. A summary of these policies is presented in the annex.

Implementation guidelines

5. Real or perceived Cols can arise at various stages of a project cycle¹. In the EIF context, it is crucial to address this at the processing of procurements, the preparation of project proposals, the selection of MIEs/Sub-Implementing Entities (SIEs) and in the EIF Board procedures.
6. The EIF and its governance structure at both global (EIF Board, EIF Steering Committee, ES and TFM) and national levels (EIF National Implementation Arrangements) as well as MIEs and SIEs shall be subject to the ethical policies and regulations of their respective entities/organizations on Col, including fraud, corruption in relation to Cols and mitigation measures.

¹ Project cycle activities include but are not limited to identification, preparation, review, approval, implementation, evaluation and closure.

7. During the appraisal of the implementation capacity of the MIE, the TFM will verify if the MIE has in place rules and procedures to mitigate CoIs. The MIEs will undertake the same process when sub-contracting SIEs.
 8. EIF partners will ensure that these Guidelines are fully implemented when they are selected as MIEs or SIEs by the LDCs, based on their own internal rules and procedures for CoIs.
 9. Whenever required, the EIF encourages the LDCs and the MIEs to use the UNOPS email² (fraudhotline@unops.org and/or ethicsofficer@unops.org), a secure hotline for a confidential communications channel for reporting CoI, abuses, corruption, fraud and the like as a means for improving the transparency and safeguards measures for the EIF programme.
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² Refer to the TFM letter of 21 June 2016 to EIF Focal Points and Coordinators of EIF National Implementation Units regarding Reporting Wrongdoing at the Project Level.

ANNEX: SUMMARY OF EIF POLICIES ON MITIGATING COIS AND PRACTICES

1. In the Compendium for EIF Phase Two³, paragraph 32 of Section 5, "Strengthening Governance", point C (Guarding against potential conflicts of interest), it is stipulated that:

"A special consideration affecting the governance of the multi-partner EIF is the need to avoid conflicts of interest in situations where partner institutions that have a governance role may also have a financial interest in EIF activities. To date, such situations have primarily involved EIF Partner Agencies, although they may also arise with government implementation of EIF projects and certain Donor roles. To some extent, the EIF Board Rule of Procedure anticipates the possible conflicting roles of Agencies in its provision that an EIF Board "consensus shall include the representatives of the Donors, the LDCs and the WTO, taking into consideration the views of the other five Core Agencies" and that "in the event that no consensus can be reached, the Donors and the LDCs shall have recourse to a vote". To meet accepted standards for impartial governance, the EIF in EIF Phase Two has sharpened its policy statement in the EIF Board Rules of Procedure⁴ that protects the Chair of the EIF Board against perceived conflicts of interest in the decision-making function of the EIF Board."

2. The Memorandum of Understanding (MOU) governing the agreement between the TFM (UNOPS) and MIEs and the latter with SIEs for the implementation of EIF-funded projects has a dedicated clause (8.8) indicating that the MIE *"undertakes to take all necessary precautions to avoid conflicts of interest, favouritism or corrupt practices. In particular, no employee, officer or agent of the Beneficiary shall participate in the selection, award or administration of a contract supported by EIF funds if a real or apparent conflict of interest would be involved"*. These Guidelines aim to mitigate CoIs at all levels of the EIF project cycle.
3. The CoI provision under the EIF Guidelines on Feasibility Studies⁵ indicates that: *"in an effort to prevent conflicts of interest within the EIF programme, entities (apart from government entities) that benefit from a feasibility study request funding to undertake such work, cannot subsequently serve as main implementing entity for a Tier 2 project, if one is to be developed and approved by the EIF Board based on such an activity"*. This principle is also applied to similar studies funded by the EIF, such as Diagnostic Trade Integration Studies and Project Preparation Grants. Indeed, the Agencies, consulting firms and/or any EIF partner implementing the DTIS/DTIS Update, feasibility study or project preparation grants leading to a project or a proposal in an action matrix, shall not be considered as MIE candidate for such project and/or action if funded by the EIF.
4. For confidential reporting, the EIF requires LDC governments and MIEs to have in place a policy set and a mechanism against corruption⁶, including mitigating measures for CoIs. Whenever this is not available, the EIF encourages the LDCs and the MIEs to use the UNOPS email⁷, a secure hotline or a confidential communications channel for reporting CoI, abuses, corruption, fraud and the like as a means for improving the transparency and safeguards measures for the EIF programme. This will allow for anonymous communications in such manners as to ensure that persons using this confidential channel

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https://www.enhancedif.org/en/system/files/uploads/compendium_for_eif_phase_two_for_web_upload.pdf?file=1&type=node&id=4792

⁴ Any EIF Board Member shall recuse himself or herself where he/she or the Agency he/she is representing could be seen in a CoI. Should any EIF Board Member be unsure as to the applicability of this rule, he/she should consult with the Chairperson, the Executive Director of the ES (ED) and/or the Executive Officer of the TFM. The EIF Board may also decide that there is a CoI and that the EIF Board Member be excluded from the discussion and the decision on the issue concerned or be replaced for the discussion and decision by another Member from the same constituency of the group concerned (LDC or EIF Donor Group).

⁵ https://www.enhancedif.org/en/system/files/uploads/eif_feasibility_studies_-_procedures_0.pdf?file=1&type=node&id=4378

⁶ See the Guidelines on Tier 1 and Tier 2 projects.

⁷ Refer to the TFM letter of 21 June 2016 to EIF Focal Points and Coordinators of EIF National Implementation Units regarding Reporting Wrongdoing at the Project Level.

understand how it functions. Also, they will not be subject to retaliation or mistreatment or any kind of victimization for raising genuine and proven concerns that could trigger an investigation process using UNOPS/Internal Audit and Investigation Group services through an approach that protects whistle-blowers using UNOPS policies that are established to that effect.

5. A potential or perceived CoI situation could arise for the ES and the TFM staff due to the roles of UNOPS as hosting the TFM and the World Trade Organization (WTO) as hosting the ES, when these organizations are the proposed MIE of a proposal to be funded by the EIF Trust Fund (EIFTF)⁸. In such a situation, the delegation of authority of the EIF Board to the ED to approve such proposals shall be transferred to the EIF Board.



⁸ The EIF Board has ruled in the terms of reference for the TFM in the Compendium for EIF Phase Two that whenever UNOPS as the hosting entity of the TFM is recommended by an LDC as the MIE or the SIE of an EIF-approved activity, EIF Board approval is mandatory, in order to avoid CoI as the manager of the EIFTF.