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Distribution: All staff members at Headquarters  
established offices and Permanent Missions

## **Director-General's Administrative Instruction No.19**

### **Office of Internal Oversight Services Investigation Guidelines**

1. This bulletin contains the Investigation Guidelines of the Office of Internal Oversight Services (IOS).
2. The present Guidelines take into account, inter alia, best practices of other UN Organizations and Specialized Agencies in the UN System as well as the generally accepted investigation standards for international organizations as laid down in the "Uniform Guidelines for Investigations" (UGI), 2<sup>nd</sup> edition, which was endorsed by the 10<sup>th</sup> Conference of International Investigators, held in June 2009.
3. IOS has, as a result, formally adopted these guidelines for their work, with effect from January 2012.



**OFFICE OF INTERNAL OVERSIGHT SERVICES**

# **2012 INTERNAL OVERSIGHT SERVICES**

## **INVESTIGATION GUIDELINES**

**Effective Date: 16 January 2012**

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## **Introduction**

1. These Guidelines describe the general procedures followed by the Office of Internal Oversight Services (IOS) in conducting fact-finding and investigative activities into alleged wrongdoings. The term "wrongdoings" refers to cases of alleged fraud, misconduct and mismanagement - i.e. behaviours that may result in irregularities, waste of resources and/or violations of UNIDO's regulations, rules or administrative issuances. Such wrongdoings may constitute a breach of conduct on the part of UNIDO staff members, as defined in Staff Regulation 11.2 and the corresponding Staff Rules, or a breach of contractual duties on the part of other UNIDO personnel and contractors.
  2. These Guidelines reflect generally accepted investigation standards for international organizations as laid down in the "Uniform Guidelines for Investigations" (UGI), 2nd edition, which was endorsed by the 10<sup>th</sup> Conference of International Investigators, held in June 2009.
  3. Investigations will be conducted, to the extent possible, in line with these Guidelines and the UGI. However, failure to strictly adhere to these Guidelines may not constitute grounds for claiming a violation of due process, particularly where such failure is not prejudicial to the case or does not constitute a fatal procedural flaw.
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## A. Mandate

4. The responsibility for investigating alleged wrongdoings has been delegated to IOS in Financial Rule 109.1.15 (b)<sup>1</sup>, the IOS Charter<sup>2</sup>, and the UNIDO Secretariat Structure Terms of Reference.<sup>3</sup>

5. Possible allegations of wrongdoing which fall under IOS's investigative mandate include, but are not limited to:

- Misuse of UNIDO-entrusted funds, including for personal gain or gain by another.
- Abuse of position, including for personal gain or gain by another.
- Solicitation or receipt of kickbacks or bribes.
- Wilful misrepresentation (fraud).
- Corruption.
- Coercion.
- Collusion.
- Embezzlement.
- Work harassment.
- Sexual harassment.
- Discriminatory practices.
- Retaliation, including retaliation against alleged whistle-blowers.<sup>4</sup>
- Abuse of authority.
- Conflicts of interest.
- Abuse or misuse of UNIDO property or funds, including those related to travel, benefits, allowances, or petty cash.

## B. Definitions

6. For the purpose of these Guidelines,

a. An "investigation" or "fact-finding exercise" is the administrative procedure by which IOS gathers, documents, and analyses information relating to an alleged wrongdoing. IOS may obtain this information from informants, complainants, witnesses or subjects, or discover it through direct observations or examination of records and documents. The aim of the process is to report to management on whether wrongdoing has occurred and, if so, the persons or entities who may be responsible for the wrongdoing.

b. A "staff member" is a person hired by UNIDO under the 100, 200 or 300 series of the staff rules.

c. "Personnel" refers to a broader category of employees including not only staff members but also holders of any other form of contract of service with UNIDO, such as a special service agreement, consultancy contract or internship agreement.

<sup>1</sup> UNIDO/DGB/(B).74/Rev.2 dated 18 August 2006: Rule 109.1.15 (b) "[t]he office will also be responsible for conducting fact-finding in case of alleged fraud, misconduct and mismanagement with a view to safeguarding the Organization's interests and ensuring accountability" – as amended or superseded, where applicable.

<sup>2</sup> UNIDO/DGM/(M).92/Rev.2 of April 2011 – as amended or superseded, where applicable.

<sup>3</sup> UNIDO/DGB/(O).95/Add.7 dated 26 February 2010: "[IOS] Conducts fact-findings with regard to alleged fraud, misconduct and mismanagement with a view to safeguarding the Organization's interest and ensure accountability" – as amended or superseded, where applicable.

<sup>4</sup> UNIDO/DGB/(M).116 dated 1 March 2010 "Protection against retaliation for reporting misconduct or cooperating with audits or investigations" – as amended or superseded, where applicable.

- d. A "contractor" is a person or entity that has entered into a contractual relationship with UNIDO for provision of goods and/or services.
- e. A "complainant" is an individual who communicates information that wrongdoing may have occurred and claims that this wrongdoing breached his personal rights.
- f. An "informant" or "whistleblower" is an individual who communicates information that wrongdoing may have occurred.
- g. A "witness" is a person who is in a position to provide information relevant to the matter under investigation. This information may come from the witness' knowledge of a factual situation, or from his or her expert knowledge of a business process or typical situation. The category "witness" does not include subjects and complainants.
- h. A "subject" is a person or entity against whom an allegation has been made and who has become the focus of an investigation.
- i. An "allegation" is something that has been asserted as a matter of probable fact, without yet having been proved by evidence.
- j. "Evidence" is anything that may incline the mind of a reasonable person to accept or reject the existence of a fact. It includes documents and records, verbal statements, tangible items or the physical condition of those items.
- k. "IOS staff" means the Director and staff of IOS, including any consultants or contractors engaged by IOS, and such other staff members assigned to IOS.

### **C. Investigative Principles & Standards**

7. The IOS Charter, in line with the UGI, relies on preponderance of evidence – whether something is more probable than not – as the standard of proof to determine whether wrongdoing has occurred. Accordingly, IOS will employ this standard of proof as a minimum requirement for the purpose of its investigations.
8. IOS accepts complaints and reports of alleged wrongdoing from sources inside and outside UNIDO, including anonymous sources. Information from anonymous sources is assessed according to the same standard as any other information received. IOS may also discover alleged wrongdoing through its other oversight activities.
9. IOS staff must be personally objective and organizationally independent. If this independence or objectivity is called into question during a particular investigation, the Director, IOS, after reviewing the facts, may decide to take any necessary action to ensure that the required standards for independence and objectivity are fully respected.
10. Confidentiality is essential to protect the reputation and rights of the subject and other participants in an investigation, as well as the overall effectiveness of the procedure.
11. The duty to preserve confidentiality of information relating to an investigation exists equally for staff members and for IOS staff. This duty remains upon separation from UNIDO.
12. IOS will ensure the confidentiality of the information it holds with appropriate physical, electronic and procedural controls.
13. IOS staff are prohibited from communicating information concerning investigative work to any person who is not a necessary participant in the investigative process or the ensuing disciplinary proceedings, or who is not otherwise authorized or required to receive the information by virtue of his or her official duties.

14. The identity of the subject and other sensitive information will only be disclosed to interviewees at the discretion of IOS staff, with due regard to the UNIDO policy on whistleblower protection.
15. IOS will not pay a reporting person or a witness for information. Within the limits of available funds, IOS may assume responsibility for reasonable expenses incurred by witnesses or other sources of information to meet with IOS.
16. The subject of an investigation is presumed innocent until such time as the investigation has been completed and a final determination has been made as to whether or not misconduct occurred.
17. IOS reports only to the Director-General.

## **D. Rights & Obligations of Staff Members**

### **D.1. Duty to Cooperate:**

18. Staff members have an obligation to report allegations of fraud or any other breach of the rules and regulations of UNIDO, in compliance with UNIDO/DGB/(M).94, dated 6 June 2005, and paragraph 19 of the Standards of Conduct for the International Civil Service.
19. Staff members who report wrongdoing or cooperate with IOS are protected against retaliation according to the provisions of UNIDO/DGB/(M).116, dated 1 March 2010.
20. Wilfully providing information to IOS with the knowledge that it is false or with intent to misinform is considered as a separate case of wrongdoing.
21. All staff members have a duty to cooperate fully with IOS. Such cooperation includes, but is not limited to, the following:
  - a) All staff members must make themselves available to be interviewed and must reply fully and truthfully to all reasonable questions asked;
  - b) All staff members must provide IOS staff with any relevant items that are in their possession including, but not limited to, documents and other physical items or property; and
  - c) All staff members must preserve and protect the confidentiality of all information shared or discussed with IOS staff.
22. The Director, IOS may report to the Director-General any failure to cooperate with IOS in its work.

### **D.2. Due Process and Fairness in Investigation:**

23. A staff member who is a subject of an investigation will be:
  - a) Notified of the investigation, as explained below;
  - b) Provided with an opportunity to be heard by IOS before IOS reaches any conclusion;
  - c) Provided with the draft investigation report for factual comments, within an assigned deadline, before the final report is completed.
24. IOS will generally notify a staff member that he or she has been identified as an alleged wrongdoer immediately after IOS's decision to initiate an investigation, when the staff member's identity is already known, or as soon as findings lead IOS to focus on that particular staff member.
25. However, the Director, IOS may, at his or her discretion, decide that the subject of an investigation should not be notified thereof, taking into account the nature of the alleged wrongdoing, the evidence that needs to be collected and the possibility that advance notice would jeopardize the

fact-finding process. In such case, IOS staff will notify the subject at the latest at the beginning of their first interview by IOS.

26. The Director, IOS may, at his or her discretion and on a need-to-know basis, inform other persons of the existence of an investigation in order to protect UNIDO's interests, to safeguard UNIDO property and/or to secure relevant evidence.

27. In the interests of the Organization, the Director-General may authorize temporary administrative measures that he deems appropriate to prevent the risk that the subject of an investigation tampers with evidence, influences witnesses, or otherwise impedes IOS's fact-finding process. Such measures shall not be deemed to be disciplinary measures.

## **E. Investigative Process**

### **E.1. Overview of the Investigative Process**

28. The investigative process is split into three major phases: allegation intake, investigative activities and reporting. The intake phase can also be split into three sub-activities: receipt of complaints or wrongdoing reports, preliminary evaluation and case prioritization. The following sections cover each of these phases.

29. Depending on the complexity of the matter and the priority of the case, IOS aims at completing an investigation within six months from the receipt of a wrongdoing report.

30. Annex A presents the investigative phases in a schematic way and in graphic format, as well as the relationship between the investigative process and the system of internal justice of UNIDO.

### **E.2. Allegation Intake**

#### **E.2.1. Receipt of Complaints and Wrongdoing Reports**

31. Allegations may be received in person, by physical mail, by email (hotline email address), by telephone (dedicated telephone number), by fax, as well as through a dedicated, web-based reporting tool (<http://www.unido.org/wrongdoing>).

32. IOS may also become aware of allegations that require further evaluation and investigation, as appropriate, in the course of its other oversight duties.

33. The Director, IOS may accept new information relating to an investigation that has already been closed, with a view to evaluating the credibility of this information and the need to re-open an investigation.

34. IOS registers all allegations it receives.

#### **E.2.2. Preliminary Evaluation**

35. Upon receipt, IOS evaluates each complaint or report of wrongdoing in order to assess the credibility and value of the allegation. When evaluating a report, IOS staff may need to contact the complainant and/or informant for further background information or clarification in order to decide whether to formally open an investigation. IOS may also need to gather basic information about the alleged facts and to secure readily available evidence.

36. IOS assesses each reported allegation to determine whether all of the following requirements are met:

- a) The allegation falls within IOS's mandate;



- b) The allegation relates to UNIDO and to a staff member or another person or entity in contractual or other relationship with UNIDO; and/or affects its property, resources, programmes or activities;
- c) The allegation is of sufficient gravity to warrant investigation;
- d) An investigation is feasible, based on: (i) the length of time that has elapsed since the alleged wrongdoing occurred; (ii) the specificity of the information received; (iii) the availability of necessary records, evidence and witnesses.

37. In performing its assessment, IOS may consult with management, the Focal Point for Ethics and Accountability, the Human Resources Management Branch and/or the Office of Legal Affairs.

38. Based on the evaluation process, the Director, IOS determines whether or not an allegation warrants initiating an investigation.

39. In the event that no investigation is warranted, the Director, IOS will inform the whistleblower of the outcome of the evaluation when the whistleblower is a staff member or indicated his or her interest to be informed. The Director, IOS, may also inform the person or entity that is the subject of the allegation, especially when this person or entity has become aware of the allegation and its evaluation by IOS.

40. Should a reported allegation fall outside IOS's mandate or authority to investigate, the Director, IOS may, as appropriate, refer the matter to the relevant internal officials or to another organization, or recommend to the Director-General to consult the Office of Legal Affairs on whether it should be referred to the relevant national authorities.

### **E.2.3. Case Prioritization**

41. The responsibility for prioritizing investigations lies with the Director, IOS. In prioritizing investigations, the Director, IOS takes into account the gravity of each allegation, the related risks to UNIDO of not acting promptly, the requests of UNIDO management and any other relevant factors.

42. Within IOS resources, the Director, IOS will make all efforts to ensure that investigations are conducted in the most efficient and effective manner and are completed in the shortest possible time.

43. Based on the evaluation and prioritization process, the Director, IOS decides when to initiate an investigation.

## **E.3. Investigative Activities**

### **E.3.1. General Principles**

44. The purpose of investigative activities is to discover, collect, record and analyse relevant evidence, both inculpatory and exculpatory.

45. Investigative activities include interviews; the collection and analysis of documents, electronic data and other material; the review of assets and premises of the Organization; and any other appropriate investigative techniques.

46. IOS may engage qualified external parties to assist in an investigation.

47. IOS is responsible for deciding which investigative activities it utilizes in a particular case. However, IOS will duly consider requests for performing specific investigative activities, whether submitted by the subject or any other interested party.

48. For purposes of conducting an investigation, IOS shall have full and complete access to all relevant information, records, personnel, and property of UNIDO, in accordance with the IOS Charter. IOS staff have the right to obtain clarifications and request statements from relevant persons.

49. Access to electronic records, including official email accounts, requires the prior approval of the Director-General.

### **E.3.2. Interview Procedures**

50. During the course of an investigation, IOS staff may interview various individuals including complainants, informants, subjects and witnesses. These individuals are referred to as interviewees. The purpose of an interview is to give the interviewee an opportunity to be heard, to elicit information relevant to the matter under consideration, and to record the interviewee's statement as evidence. The interviewee is invited to present his/her best recollection and understanding of a situation and to provide any relevant documents and information. Interviews differ from other forms of conversation in that they are meant to be recorded as evidence.

51. In the event that an interviewee declines to interact with IOS or to respond to particular questions, this fact will be recorded together with the reason for the refusal, if given. Participating in interviews is part of the more general duty of staff members to collaborate with IOS, as explained in D.1. supra.

52. Interviews are conducted face-to-face, to the extent possible. In some cases, it may be more appropriate and feasible to conduct the interview by telephone or other electronic means. IOS may also send a written query to the interviewee, as an alternative or a complementary step to the interview.

53. The following practices will apply to IOS interviews:

- a) IOS notifies the interviewee in advance that he or she is invited for an interview and proposes the time, date and place of the appointment, with the exception of those cases referred to in paragraph 25, above.
- b) The interviewee attends the interview alone. In exceptional circumstances, IOS may authorize an observer to accompany the interviewee.
- c) Interviews are conducted in one of the working languages of UNIDO familiar to the interviewee. The Director, IOS may decide to employ a translator in case the interviewee does not have sufficient knowledge of a working language.
- d) To the extent possible, interviews are conducted by two persons, depending on the nature and the circumstances of the interview.
- e) The interviewee is not entitled to review evidence that is part of the investigation file. However, IOS staff may disclose such information in the course of the interview, at the discretion of the interviewers. In particular, IOS staff will disclose evidence for examination by the subject in the course of the interview, and invite his or her comments thereon.
- f) IOS will prepare a written record of the interview and, if feasible, invite the interviewee to review and sign it. IOS may audio- or video-record interviews, at the discretion of the interviewer. This will be notified to the interviewee.
- g) The interviewee is not entitled to retain a copy of the record of interview. The purpose of this practice is to mitigate the risk of a breach of confidentiality.

## **E.4. Reporting results of an investigation**

### **E.4.1. Preparation of the final report to the Director-General**

54. Upon completion of an investigation, IOS compiles the investigative findings in a draft investigation report, which typically includes Introduction, Methodology and Scope, Investigative Details, Findings, Conclusions and Recommendations. IOS may compile in a separate *Advisory report* internal control-related findings and recommendations that do not directly relate to the alleged misconduct but may warrant further managerial review.

55. IOS provides the subject of the investigation with a copy of the draft report, not including recommendations, and invites him/her to correct any factual inaccuracies within a specified timeframe. IOS will correct any reported factual inaccuracy that they concur with, and will attach the subject's comments to the final report.

56. At its discretion and with due respect for confidentiality, IOS may consult with management, the Focal Point for Ethics and Accountability, the Human Resources Management Branch and/or the Office of Legal Affairs before finalizing its report.

57. The Director, IOS, reviews the draft investigation report and determines whether IOS finds sufficient information and evidence to substantiate the complaint.

58. When information disproves the allegations or is insufficient to substantiate the allegations, the Director, IOS, may decide to close the case and to copy to the Director-General for information, with no further recommendation. When there is sufficient information to substantiate the allegations, the Director, IOS submits the final report to the Director-General for a decision on further action, including to close the case or to refer the report to HRM for the initiation of disciplinary proceedings against the subject.

#### **E.4.2. Communication of the outcome of the investigation**

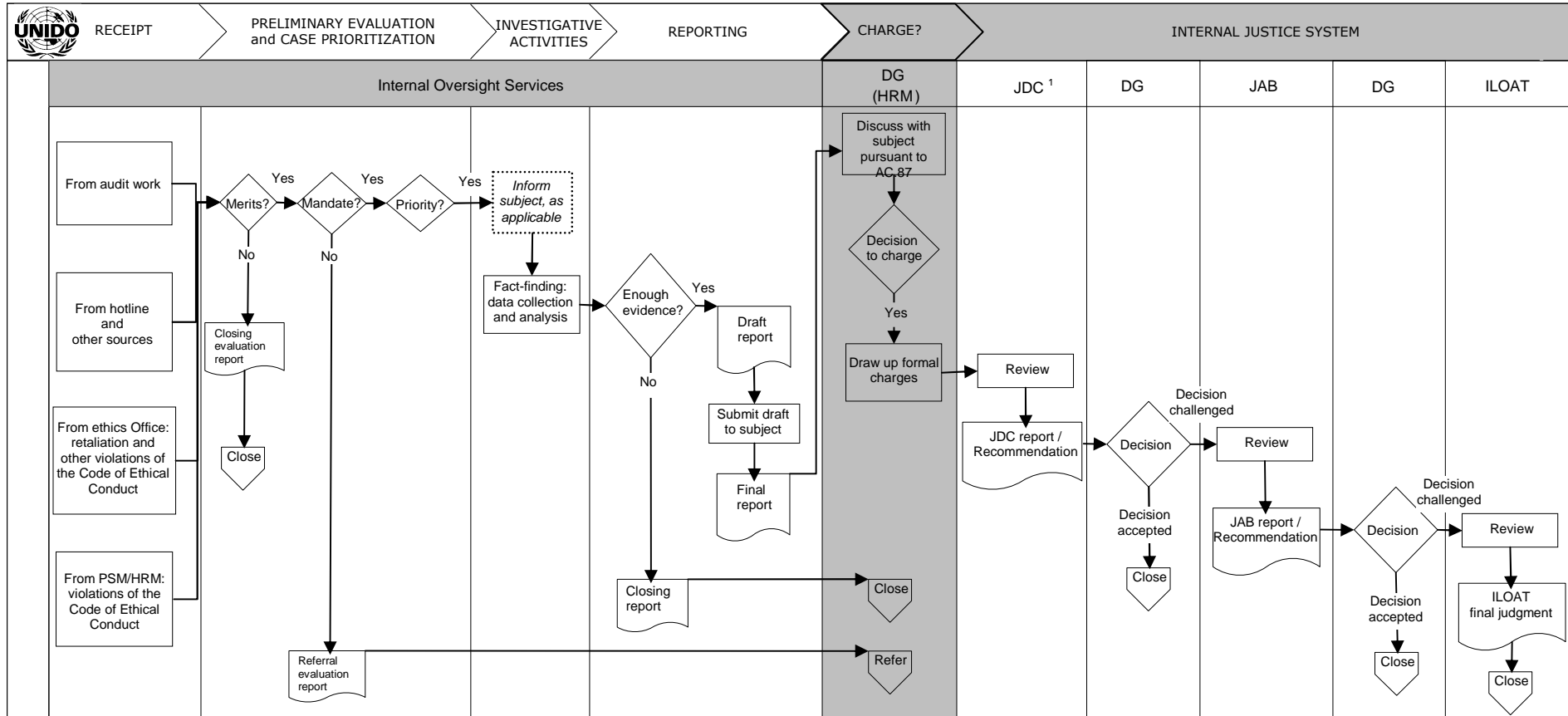
59. IOS reports are confidential documents addressed to the Director-General. Decisions to release a copy of an investigation report and/or to communicate the outcome of an investigation rest with the Director-General. IOS may only inform the subject, the complainant and/or the author of the wrongdoing report, as applicable, that it has concluded the investigation and submitted its final report to the Director-General.

60. If the Director, IOS has reasonable evidence of potential criminal conduct by any person, he/she may recommend to the Director-General that, in consultation with the Office of Legal Affairs, the issue be referred to the relevant national authorities.

### **F. Amendment**

61. The Director, IOS, may, from time to time, propose amendments to these Guidelines in the light of new developments and best investigative practices.

**Annex A: Overview of the Investigative Process and Interaction with the Internal Justice System**



(1) Following the drawing up of formal charges, the matter can be referred to the JDC, or a disciplinary sanction agreed with the subject without referral to the JDC, or the subject summarily dismissed for serious misconduct, also without referral to the JDC but with the right of appeal to the JAB.