

FRAUD/CORRUPTION PREVENTION AND INVESTIGATION POLICY

Purpose

ADRA in Vietnam (hereafter called ADRA) has a zero tolerance principle to fraud and corruption. As an organization that condemns and fights corruption as one of the key drivers of poverty, it requires its own employees and stakeholders at all time to act and comply with its **zero tolerance principle** by fully conforming to all procedures and policies adopted to prevent corruption and fraud. All employees should therefore be irrefragable in their personal conduct.

ADRA will deal with fraud and corruption in a firm and quickly manner, including a detailed investigation when necessary regardless if the fraud or corruption is caused by its staff or the signed contractors. In some cases the action of the signed contractors may be the responsibility of ADRA, directors and staff. Fraud and corruption may lead to punishment (including labour disciplines, immediate dismiss staff and terminate labour contract) and legal actions (including civil lawsuit and criminal procedure).

Fraud/corruption Prevention and Investigation Policy (hereafter called "this policy") is built to explain the moral standards to fraud and corruption investigation which ADRA expects staff and the signed contractors will follow as well as to guide how to report the prohibited behaviours. **This policy will be published publicly on ADRA Vietnam's website and be mentioned as a fraud/corruption clause in all agreements and contracts with ADRA.**

Scope of the policy

This policy is applied to parties (including staff, consultants, agencies, and companies) who sign contracts and agreements with ADRA or ADRA's Project Office(s).

Signed contractor is referred to any third party who signs agreement with ADRA. Signed contractors include (but not limited to) fund receivers, implementing parties, service parties (such as transportation, customs dealers...), consultants, agencies, middle companies, representative offices, governmental officers, service providers, suppliers, partners.

Related Policies and Procedures (Apply for ADRA staff only)

This policy should be read in conjunction with the following documents:

- Code of Conduct for ADRA staff
- ADRA Labour Regulation
- ADRA Human Resource Policy Manual
- ADRA Finance Policies and Application Manual.

Prohibited behaviours

Definition

Fraud involves the act of deceit against the organisation in order to obtain a personal or collective advantage, avoid an obligation or cause a loss.

AusAID - one key donor of ADRA has a clear and zero tolerance policy to fraud which required all implementing offices and partners to follow. Here are some main points of their policy which are applied for ADRA's projects.

According to the *Commonwealth Fraud Control Guidelines 2002*: Dishonestly obtaining a benefit by deception or other means

- **Dishonesty** involves a mental element.
- To act dishonestly, a person must have intended the act or have been reckless.
- Obtaining encompasses:
 - ownership
 - possession
 - control
- It can involve obtaining a benefit for someone else.

If an implementing partner was to dishonestly select a beneficiary for an ADRA disaster relief project, this would amount to fraud even if that implementing partner did not directly receive a benefit for him or herself.

A **benefit** is defined very broadly... can be either tangible or intangible

- Tangible benefits include:
 - Submitting false travel acquittals to obtain cash.
 - Assisting a supplier to overcharge ADRA and accepting a payment or other benefit in return.
- Intangible benefits include:
 - Obtaining personal information about another individual without permission.
- **Deception** includes conduct (either intentional or reckless) that deceives.
- Generally, if deception exists, the dishonesty aspect will also exist.
- There are also conducts that are dishonest but do not necessarily involve a deception. For example, the theft of an ADRA vehicle from a parking lot would amount to fraud, even though it does not necessarily involve deception.

Corruption involves the act of dishonestly obtaining an advantage from a third party by abusing an entrusted power for private gain.

Bribery involves the act of offering, promising, giving, accepting or allowing any excess payments or other benefits, by or for a government staff or for anyone else to get or maintain an improper transaction or benefit.

Neither fraud nor corruption are restricted to monetary or material benefit, but could also include intangible benefits.

Benefit is not restricted to benefit of the individuals involved but could be of their family members.

Other examples of fraud and corruption:

- deception, bribery, forgery, extortion, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion;
- theft or use of property, proprietary data or intellectual property for improper purposes;
- deception (e.g. misrepresentation of qualifications to obtain employment);
- intentionally false expense reports, or financial status (for example, approve false financial statements) of an office, a project, an activity, ..., for example through forged documents;
- providing favours or money to judges or other government officials to pursue personal or ADRA goals;
- falsifying expense reports of activities;
- false report of any account with any department heads or any auditors of ADRA;
- paying kickbacks (bribe is located outside the contract);
- conflict of interest caused financial losses for ADRA.

Gift

Contract signatories with ADRA should not receive or give gift, party or any benefit under any type which may be considered as bribery or benefit to suppliers or individuals and/or the name of ADRA. However, small gift with no material value may be accepted or be given in appropriate situation provided with no suspected corruption, fraud or conflict of interest.

Who can commit fraud against ADRA

Fraud can be perpetrated against ADRA by any of the following:

- ADRA staff members
- contractors
- members of partner governments and other organizations
- external individuals
- a collusion of parties both within and external to ADRA

Responsibility of signed contract with ADRA

All contract signatories are responsible for maintaining resources provided by ADRA in secure way and use for ADRA's purpose, and report immediately if there is any suspected fraud or activities (see investigation part).

Contract signatories with ADRA should support ADRA in any investigation by providing related information and cooperate with investors (such as involving interviews, providing documents...).

Representatives of ADRA and contract signatories must have, and be seen to have, high standards of personal integrity.

Signed contracts have to ensure appropriate method to prevent, identify and report in time any risk of fraud and corruption.

In any situation ADRA staff do not promise, offer or accept any help, money or valuable things (in form of money or not) from any government officers to:

- influence on any action or decision of the government;
- persuade government officers to act or not act against their responsibility;
- reserve or transfer job or contract for any individual or company;
- even if bribery is common in the location, or if the signed contract ensures that bribery is accepted in local practices, any requirement related to creating favourable condition, payment in cash, gift or entertainment or any other behaviour should be solved by:
 - Refuse and explain that according to the law and the Policy, and the signed contract with ADRA, organization/staff are not allowed to provide those mentioned above; and
 - Report as guided in this Policy.

Red alert

It is not easy to identify corruption or fraud. The contract signatories should pay attention when there is a warning signal. The following signals do not cover all but can alert fraud and corruption:

- unusual cash payment or lots of gifts;
- staff never takes annual leave and insist on working with some specific contractors by him/her self;
- sign contract without authorization while the manager is absent;
- lose document or vouchers related payments, expenses or decision.

Report

ADRA encourages the contract signatories to report any suspected behaviours which may violate this Policy.

▪ When to report your concern

It is not necessary to have firm evident of mistake because sometimes the reporter is not sure if the suspected behaviour is fraud or corruption or not. This is the reason why suspected or real violation can be reported according to this Policy. The report with good purpose will not receive any discipline or similar action even if no mistake is found by the investigation. ADRA encourages individual to write his/her name on the report to support the investigation. However, anonymous report will be investigated if needed. The anonymous report will be investigated very carefully to protect the person from a wrong report.

VERY IMPORTANT!!!

Should you detect a fraud

– Report immediately

Should you suspect that a fraud may have been committed

– **Report immediately**

Should you receive an allegation that, if true, would amount to fraud

– **Report immediately**

Remember... you do not require proof before reporting an alleged or suspected fraud!

- **How to share your concern**

The contract signatories should report immediately to senior staff of ADRA about his/her concern.

If the reporter sees that the problem is not solved properly or cannot report as the way mentioned above, the reporter can contact directly with the following people:

1. Country Director
 2. Programs Manager
 3. Finance Manager
- By calling to 84 24 3852 5183

Investigating Suspected Fraud or Corruption

All reports will be sent to senior staff and relevant people. After receiving the report, the person in charge will have appropriate solution based on the nature, scope, and serious level of the accusation. The solution may include an investigation and monitoring and if needed, a consultancy with others such as internal auditor, Country Director, lawyer, and internal or external advisors (legal expert, tax expert, accountant ...).

No retaliation/ no slander

ADRA strongly disapproves of and will not tolerate any form of retaliation against employees who report concerns **in good faith** regarding ADRA's operations. Any employee who engages in such retaliation will be subject to discipline up to and including termination.

An employee who has made a report of suspicious conduct and who subsequently believes s/he has been subjected to retaliation of any kind by any ADRA employee is directed to immediately report it to the Country Director. Reports of retaliation will be investigated promptly in a manner intended to protect confidentiality as much as practicable, consistent with a full and fair investigation. The party conducting the investigation will notify the employee of the results of the investigation.

However ADRA will not tolerate individual or co-operative that use the encouragement to report of suspected mistake to deteriorate someone's good name and harm him/her.

Data security and protection

Report and the name of the reporter will be kept in security as high as possible and in accordance with the law. Reports and investigation document will be kept on legally basis and demand.

As part of the investigation, the following actions may be conducted: the detailed description of violated behaviour, (ex: description of situation and context), personal data of the reporter (except anonymous report), information of all people involved in the report (name, address, job...). Personal information will be kept in security. If required by the local legal authority, the individual will be informed that he/she is accused of wrong behaviour and his/her personal data will be disclosed by ADRA according to the law.

Seek recovery

ADRA policy requires it to seek:

- the recovery of the proceeds of the fraudulent activity.
- the application of appropriate civil, administrative or disciplinary penalties.

When the investigation proves who are involved in the fraudulent or corruptive activity and invests how amount to fraud or corrupt, the accused person or the collective will be responsible for recovering the damaged in a certain circumstance.

Compliance with Policy

Compliance with this Policy is very important for ADRA. ADRA encourages the contract signatories to report their concern of any suspicious action against this Policy. Violated action will be treated appropriately and may lead to (i) terminate contract, agreement with signed party immediately; (ii) disciplines (terminate labour contract) to ADRA staff, and (iii) dismiss senior staff, directors. Beside, ADRA can sue such as civil lawsuit for any lost or damaged or criminal procedure. ADRA may be required by the legal law to report on any accusation even if it is not done.