

21 January 2011

TO: All UNFPA Headquarters Staff
All UNFPA Field Office Staff
All UNFPA Representatives
All UNFPA CST Directors/Staff

FROM: Sean Hand
Director, Division for Human Resources



SUBJECT: Practice of UNFPA in cases of allegations of misconduct (April 2009 – December 2010)

From time to time, UNFPA may publish disciplinary measures and related actions taken by the Administration following allegations of misconduct. The purpose of this publication is to achieve an increased level of transparency in the administration of issues of conduct, to inform staff members of the practice of UNFPA in taking action on such allegations, and to ensure that members of the staff are informed about common examples of misconduct and possible consequences. Furthermore, this circular is also an opportunity to recall important information concerning the conduct required of international civil servants and the procedures relating to allegations of misconduct.

I. Reporting and investigation processes concerning misconduct

The reporting and investigation process concerning allegations of misconduct is established in the following primary UNFPA policy documents:

(1) With regard to all types of alleged misconduct, the UNFPA Policy on Accountability, Disciplinary Measures and Procedures.¹ Allegations of misconduct shall be reported to the Director, Division for Oversight Services;

(2) With regard to the specific issue of misconduct in the shape of harassment, sexual harassment and abuse of authority, the UNFPA Policy on Harassment, Sexual Harassment and Abuse of Authority.² Allegations of harassment, sexual harassment and abuse of authority shall be reported to the Director, Division for Human Resources, in accordance with the procedures established in that policy;

(3) With regard to the specific issue of sexual exploitation and sexual abuse, the UNFPA Policy on Special Measures on Sexual Exploitation and Sexual Abuse³ together with the United Nations Secretariat policy of the same title, which expressly applies to the staff of separately administered Funds and Programmes, including UNFPA (ST/SGB/2003/13 of 9 October 2003, attached to the text of the UNFPA policy).

Furthermore, the UNFPA Fraud Policy⁴ examines various aspects of fraud. Fraud constitutes misconduct. The Fraud policy also recalls the reporting procedures for misconduct. UNFPA staff members are also reminded that under the terms of that policy a confidential Helpline⁵ managed by the Division for

¹ Available on the PPM, Human Resources, Personnel Policies and Procedures, 13th folder entitled: "Conduct, Misconduct, Disciplinary Measures and Procedures".

² See above.

³ See above.

⁴ See above.

⁵ At: <http://web2.unfpa.org/help/hotline.cfm> or go to www.unfpa.org and click on "UNFPA Integrity Helpline"

Oversight Services has been established, which any staff member, contractor or other person may access at www.unfpa.org (click on "UNFPA Integrity Helpline").

II. Disciplinary measures

Disciplinary proceedings and disciplinary measures, if any, are instituted against staff members under Article X and Chapter X of the Staff Regulations and Rules, and the terms and procedures contained in the UNFPA Policy on Accountability, Disciplinary Measures and Procedures.⁶ Individuals contracted on Special Service Agreements or Service Contracts are not subject to those rules and procedures. They are subject, however, to the terms of their contracts, which include provisions for contract termination.

III. Harassment and abuse of authority

I again wish to take this opportunity to make more specific and detailed reference to UNFPA's Policy on Harassment, Sexual Harassment and Abuse of Authority. As stated in this policy, every staff member has the right to be treated with dignity and respect, and to work in an environment free from discrimination, harassment and abuse. All staff members are obliged to ensure that they do not engage in or condone behavior that could constitute harassment, sexual harassment or abuse of authority. Furthermore, managers and supervisors, in particular, should not only lead by example but should maintain open channels of communication and ensure that staff members who wish to raise their concerns in good faith can do so freely and without fear of adverse consequences.

With specific reference to preventive action, it warrants mentioning that behaviors associated with harassment and abuse of authority in particular, are most often demonstrated over a period of time and hence prompt action taken at the outset can put offenders on notice and might prevent the further occurrence of this type of behavior. At the same time, the disparity in power or status may make direct reporting by the aggrieved person through informal or formal channels daunting. For this reason, I wish to reiterate that implementing UNFPA's zero tolerance policy towards harassment, sexual harassment and abuse of authority is the collective responsibility of us all.

In this context, I would like to recall that the Office of the United Nations Ombudsman, which services UNFPA through the Funds and Programmes Ombudsman, is an informal option for off the record, confidential and impartial assistance for the resolution of concerns and conflicts that are related to employment. An ombudsman can assist staff members in looking at the issue from all perspectives, helping the staff member to identify options and to assess them with a view to determining the best option for a resolution. For more information, the website of the Office of the Ombudsman is available at <http://www.un.org/en/ombudsman/index.shtml>.

IV. The UNFPA Ethics Office

I also wish to draw your attention to UNFPA's Ethics Office which was established in January 2008. The overall goal of this office is to cultivate and nurture a culture of ethics, integrity and accountability within the Organization. The Ethics Office aims at increasing staff awareness of the core values and principles of the UN and on the observance of ethical standards and expected behaviors with the aim of safeguarding the respect and dignity of staff and the adoption of sound ethical practices when dealing with partners, vendors and stakeholders. The Ethics Office also provides advice and guidance to staff at their request and in confidence, on conflicts of interest and other ethics-related issues.

The Ethics Office also administers UNFPA's Policy on Protection against Retaliation for Reporting Misconduct or for Cooperating with an Authorized Fact-Finding Activity.⁷ UNFPA is committed to fostering a non-retaliatory culture so that staff members are able to report acts of misconduct without fear of reprisal,

⁶ See footnote 1 above.

⁷ Available on the PPM, Human Resources, Personnel Policies and Procedures, 13th Folder on "Conduct", entitled: "Protection against Retaliation (2008)".

reprimand or any other form of retaliation and to take swift and appropriate action in cases in which retaliation has occurred.

V. Practice of UNFPA in cases of allegations of misconduct

1. A UNFPA Country Office retained the services of two individuals under service contracts in remote locations away from the capital. Both service contractors were entitled to the payment of fees on a monthly basis ("salary").

In 20 cases and over a time frame of approximately 20 months, the Admin/Finance Associate in the Country Office submitted, for the approval of the Assistant Representative, two salary payments per month instead of one, *i.e.* one true and one fraudulent payment. One payment request was submitted for approval in the form of a Non-Purchase Order ("Non-PO") Payment Voucher ("PV") and the corresponding request in the form of a Purchase Order ("PO"). After each approval, the Admin/Finance Associate used fake proxy documents purporting to authorize him to retrieve the fraudulent salary payment on behalf of the relevant service contractor in cash.

In each of the 20 cases, the Assistant Representative authorized two salary payments for the month in spite of the fact that the time frames between his/her respective approvals of the true and the fraudulent payments amounted to only short periods of time. In fact, in three cases he/she approved the true and fraudulent payments on the same day; in four cases within a time frame of just one day; in three cases within two days; and in three further cases within four days.

The Admin/Finance Associate abandoned his post during the investigation and was separated from UNFPA on that basis. Following the investigation, UNFPA referred the case to the Government of the host country for its consideration of prosecution of the Admin/Finance Associate and for assistance in asset recovery. With regard to the Assistant Representative, UNFPA imposed a disciplinary measure of summary dismissal for misconduct in the form of gross negligence.

The Assistant Representative appealed the measure to the (then existing) UNDP/UNFPA/UNOPS Disciplinary Committee but failed to prevail before the Committee.⁸

2. A staff member was investigated for significant departures from the UNFPA procurement procedures. The staff member resigned, and the resignation took effect prior to the conclusion of the investigation. Another staff member failed to cooperate in the investigation by providing contradictory information on different occasions to investigators. That staff member received a disciplinary measure of censure.
3. A staff member holding buyer functions in a Country Office conducted a procurement exercise for the retention of an independent contractor to provide technical assistance in the context of a UNFPA-assisted programme. In preparation for the procurement exercise, the staff member solicited recommendations from the UNDP Country Office with respect to potentially suitable contractors. In a reply email, UNDP provided a list of four potential contractors and their contact details. The Operations Manager in the Country Office reviewed the list and subsequently instructed the staff member to proceed with the competitive procurement exercise on the basis of the list provided by UNDP. However, the staff member opened the UNDP email, created a space in it and typed the name and contact details of a fifth individual into that space, using a font identical to the font in the UNDP email. Thereafter, the staff member inserted the document in its altered form in the procurement file and used it as the basis of the bid solicitations. The individual so entered in the list submitted the lowest bid in the bid solicitation process.

The subsequent investigation did not adduce evidence of bid rigging. However, the evidence showed that the staff member had materially altered the UNDP email, without the consent of the sender, and

⁸ The matter was not reported in the circular of 6 May 2009 entitled "Practice of UNFPA in cases of allegations of misconduct and serious misconduct (January 2007 to April 2009)", UNFPA Circular No. UNFPA/CM/09/02, UNFPA/REP/09/02, UNFPA/RR/09/02, in order not to prejudice possible action by the member state Government.

had passed it off as a true document, including by inserting it into in the procurement stream. Following discovery, the procurement process was halted and declared null and void. The staff member received a disciplinary measure of separation from service.

4. A staff member with procurement experience in a Country Office conducted a procurement exercise and obtained three quotations. An investigation revealed that two of the three quotations had not been issued by the vendors in question. Rather, they constituted forgeries and listed significantly inflated prices for the commodities in question. A third quotation was a true document and purported to include the lowest bid, albeit still inflated. The staff member forwarded all three bids to the bid analysis committee, which recommended the lowest bidder for award.

During the investigation, the staff member argued that he/she had obtained all of the quotations from a third person outside of UNFPA or the UN. He/she admitted that he/she had not verified that the quotations were true. However, the third person, who was also interviewed, denied that he had provided the two forged quotations to the staff member, but confirmed that he had solely provided the true quote to the staff member.

UNFPA afforded the staff member the benefit of the doubt. Therefore, it held him liable not for procurement fraud but, instead, for gross negligence in that he/she had relinquished control over the procurement process, failed to confirm the veracity of the quotations and simply passed on what he/she had received from the third person. By doing so, the staff member had accepted that the procurement process might be undermined by a third person's fraud. The staff member received a disciplinary measure of separation from service.

5. In accordance with an agreement between UNFPA and the United Nations Office for Project Services ("UNOPS"), UNOPS, upon appropriate requests issued by UNFPA to UNOPS, retains individual contractors for services with UNFPA at Headquarters. The applicable procedures provide that after the services have been provided, the requesting UNFPA officer certifies, by signing a so-called certification-of-payment form, that services have been rendered.

In the instant case, UNOPS entered into an "Individual Contractor Agreement" with an individual for the provision of support services to UNFPA. The individual forged the requesting UNFPA officer's signature on three separate certification-of-payment forms. Subsequently, the contractor submitted the forms directly to UNOPS for payment.

As a consequence, UNFPA changed its certification and payment procedures. Since 16 October 2009, solely the requesting officer or his/her designee are authorized to forward the certification-of-payment form to UNOPS for payment. The individual consultant is not authorized to forward the certification-of-payment form to UNOPS. Accordingly, UNOPS has been instructed on 15 October 2009 not to initiate any payment on the basis of a certification-of-payment form that has been forwarded or transmitted to it by the consultant.

6. On four occasions, a staff member altered medical doctors' receipts by inflating the amount paid to the medical doctor by one hundred or two hundred US Dollars, depending on the case. The staff member then submitted the receipts for reimbursement to the insurance carrier. To obtain reimbursement, the staff member certified that he/she had, indeed, incurred the medical expenses claimed.

The insurance carrier concluded that the medical claims were fraudulent and referred them to UNFPA for further investigation. An investigation conducted by UNFPA equally concluded that the doctors' receipts had been inflated and that, therefore, the reimbursement claims addressed to the insurance were fraudulent. The staff member received a disciplinary measure of dismissal.

7. An investigation revealed that an individual formerly retained by a UNFPA Country Office under a special services agreement had committed theft of UNFPA-owned fuel. Given that the investigation gave rise to a credible allegation that the individual had committed a crime against UNFPA, the matter was referred to the authorities of the country of nationality of the concerned individual.

8. On the basis of an investigation, the Organization concluded that a staff member had committed several violations of regulatory provisions related to procurement and finance. Such violations included the failure to conduct a sealed, competitive and international tender exercise although required in the instant case; the failure to award the contract to the lowest bidder; and the failure to submit the procurement contract to the appropriate contracts review committee. Furthermore, the staff member had received authorization to disburse funds for a specific purpose and by a specific date. Instead, the Organization found that the staff member had instructed individuals under his/her supervision to retrieve and retain the funds in cash. The staff member then authorized payment to an individual who was not, in fact, the vendor of the authorized goods under the relevant contract. Finally, the staff member saw to it that the funds were spent on a different purpose and during different years than authorized. A disciplinary measure of dismissal was imposed on the staff member.
9. A staff member included three false documents purporting to constitute three vendor quotations in the procurement stream. Further, the staff member failed to conduct a sealed, competitive and international tender exercise although required in the instant case. Finally, the staff member failed to refer the contract in question to the appropriate contracts review committee. A disciplinary measure of separation from service was imposed.
10. The disciplinary measure as described in item 9 on page 4 of the circular UNFPA/CM/09/02 dated 6 May 2009 has been annulled.