



PANCAP Regional Coordinating Mechanism (RCM)

Conflicts of Interest Policy

Prepared by the PANCAP RCM

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ACRONYMS

CCM	Country Coordinating Mechanism
COI	Conflicts of Interest
LFA	Local Fund Agent
PANCAP	Pan Caribbean Partnership Against HIV and AIDS
PR	Principal Recipient
RCM	Regional Coordinating Mechanism
SRs	Sub Recipients

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I. Preamble

The PANCAP Regional Coordinating Mechanism (RCM) recognizes that in order to serve the public interest and fulfill its core functions it: a) must involve diverse stakeholders, interests and perspectives; b) promote transparency, accountability and integrity and build public trust; c) engender a culture which is sensitive to actual, potential or perceived conflicts of interest and intolerant of misuse of position; and d) address Conflicts of Interest as required by the Global Fund by institutionalizing a Conflicts of Interest Policy and associated procedures. Moreover, the PANCAP RCM is aware that, due to its composition, conflicts of interest currently exist and are likely to occur in the future.

This Conflict of Interest Policy and its associated procedures provide guidance in identifying and addressing actual, potential and perceived conflicts of interest. It is based on clear definitions of potential areas of concern, a duty to disclose conflicts, and outlines procedures for managing these conflicts as they arise. By establishing comprehensive Conflict of Interest Policy and procedures, each RCM member and alternate, the Secretariat staff, and the RCM as a whole, will be able to transparently manage all conflicts of interest and benefit from maintained integrity and high reputation required to efficiently perform their public duties.

II. Conflicts of interest: General Introduction

The concept of Conflict of Interest is applicable in many areas of social life. A Conflict of Interest is a situation in which a person or organization has multiple interests one of which could possibly undermine the integrity of a person and his or her actions because of a possible clash between the person's self-interest or professional interest or the wider public interest.

The presence of a Conflict of Interest is independent of the occurrence of impropriety. Therefore, a Conflict of Interest can be discovered and voluntarily defused before any impropriety occurs. Declaration of a Conflict of Interest is an acknowledgement of multiple roles performed by a person or organization, which could contradict each other. The mere existence of a Conflict of Interest does not necessarily constitute any wrongdoing by the conflicted person or organization. In many situations, including the operations of CCM/RCMs it is not possible to fully avoid Conflict of Interests¹. However, it is important that the conflicts are declared and adequately mitigated in order to prevent their adverse influence on the effectiveness and achievements of the Global Fund investment. Mitigated Conflict of Interest, or Conflict of Interest that has not been realized to the benefit of the conflicted individual or organization, remains a Conflict of Interest.

A Conflict of Interest can be defined as a set of circumstances that creates a risk that professional judgment or actions regarding a primary interest will be unduly influenced by a secondary interest". *Primary interest* refers to the principal goals of the profession or activity, such as the protection of clients, the health of patients, the integrity of research, and the duties of public office. *Secondary interest* includes not only financial gain but also such motives as the desire for professional advancement or the wish to do favors for family or friends, but conflicts of interest rules usually focus on financial relationships because they are relatively more objective, fungible,

¹ Presence of individuals representing organizations, that are recipients of Global Fund funding, (e.g. regional sub-recipient or sub-sub recipient organisations) is often essential for effective RCM operations.

and quantifiable. The secondary interests are not treated as wrong in themselves, but become objectionable when they are believed to have greater weight than the primary interests. The *conflict* in a Conflict of Interest exists whether or not a particular individual is actually influenced by the secondary interest. It exists if the circumstances are reasonably believed (on the basis of past experience and objective evidence) to create a risk that decisions may be unduly influenced by secondary interests.

More generally, Conflict of Interest can be defined as any situation in which an individual or corporation (either private or governmental) is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit. The basic assumption of the conventional treatment of Conflict of Interest is that public good (shared benefit at a societal level) should be prioritized over private interests of individuals or organizations.

An **organizational Conflict of Interest** may exist in the same way as described above, for instance where a corporation provides two types of service to the government and these services conflict (e.g.: manufacturing parts and then participating on a selection committee comparing parts manufacturers). Corporations may develop simple or complex systems to mitigate the risk or perceived risk of a Conflict of Interest. These risks can be evaluated by a government agency to determine whether the risks create a substantial advantage to the organization in question over its competition, or will decrease the overall competitiveness of the bidding process.

RCM members represent their constituencies but may also protect the interests of organizations they work for, govern, or manage. That is why both individual and organizational Conflict of Interest rules equally apply in the context of coordination mechanisms.

Actual, Potential and Perceived or Apparent Conflict of Interest

Potential Conflict of Interest is a conflict that has not been realized but can turn into an actual conflict unless certain precautions are exercised to prevent its realization. Most procedures related to Conflicts of Interest prescribe measures that prevent potential conflicts from actualization. Contrary to having negative connotations, potential conflict bears a positive meaning as it provides the opportunity to prevent transformation of the possibility into an actual conflict, in violation of public responsibility of the concerned individual or organization. In the situation of potential conflict, the conflicted individual or organization has the possibility to exploit their professional or official capacity in some way for their personal or corporate benefit, but have not realized this possibility. Awareness and disclosure of a potential conflict helps to prevent its actualization. Induction and training of RCM members and RCM secretariat staff on the Conflict of Interest issue develop an awareness of conflicts, and assist in their disclosure and mitigation. In RCM functioning, as in public service, potential conflicts of interest are often mandated by constitution or terms of reference of these committees through the requirement that the members have particular experience, expertise, or involvement in the affected area of work or profession. Thus in many contexts potential conflicts of interest are inevitable, and their disclosure and management become a necessary duty of the affected body or organization.

Unless appropriate caution is exercised or necessary action is taken the potential conflict realizes in an actual one, which may be detrimental to the objectives of organization, harmful to its beneficiaries, prevent proper execution of public duties or harm the reputation of conflicted individual or organization. In the situation of actual conflict, the individual or organization in question actually exploits their professional or official capacity in some way for their personal or

corporate benefit. This situation is rare and unacceptable and should be resolved immediately. Responsible individuals should take appropriate action to resolve the conflict if possible and/or face appropriate sanctions.

Perceived or apparent Conflict of Interest can be an existing actual or potential conflict, but also can be an imaginary conflict that does not actually exist. Once discovered, such perceptions of internal as well as external parties should be analysed and verified or refuted. Unless publicly refuted, even unsubstantiated claims related to perceived conflicts can seriously damage the reputation of the affected individual or organization.

III. Examples of Conflicts of interest

Some of the common examples of Conflicts of Interest include:

- Self-dealing, in which an official who controls an organization causes it to enter into a transaction with the official, or with another organization that benefits the official only. The official is on both sides of the "deal";
- Outside employment, in which the interests of one job conflict with another;
- Nepotism, in which a spouse, child, or other close relative is employed (or applies for employment) by an individual, or where goods or services are purchased from a relative or from a firm controlled by a relative;
- Gifts from friends who also do business with the person receiving the gifts or from individuals or corporations who do business with the organization in which the gift recipient is employed. Such gifts may include non-tangible things of value such as transportation and lodging;
- Misinterpretation of research findings and biased professional advice to the benefit of interested parties such as commercial companies or industries such as pharmaceutical industry (e.g. diminishing the prevalence of side effects or exaggerating the effectiveness of treatments), tobacco or mobile communication industry (e.g. diminishing negative influence on human health). Research results may be presented in more attractive manner due to a natural human inclination to please the people who paid for their work. In extreme instances the desire to gain extra benefits results in significant misinterpretation of research findings and complete loss of objectivity and validity of research results. E.g. economists in the USA faced criticism that the profession not only failed to predict the 2007–2008 financial crisis but may actually have helped to create it. In response, the American Economic Association has adopted new rules in 2012 requiring that economists disclose financial ties and other potential conflicts of interest in papers published in academic journals.

Some of the **Conflicts that may occur in the course of Global Fund grant** implementation are listed below:

- Oversight of the selection of recipients of funds. RCM members may be perceived to influence the selection process. Some RCM members may act as consultants of organizations who are applicants for funds;
- Misuse of Power and Voting may happen when key positions (e.g. Chair/Vice-Chair and Committee Chairs) are held by persons whose organizations are Global Fund recipients. Or a large part of RCM membership may represent organizations that are sub-recipients. RCM members who abstain from voting because of a conflicts of interest may still participate in meetings and, therefore, influence decision-making;

- Location of RCM Secretariats or Ethics and Oversight Committees may influence Conflict of Interest perceptions by the stakeholders and general public: when these entities are hosted by Global Fund recipients, perceptions of a lack of impartiality can occur;
- Procurement of goods (including health products) and services. For example, procurement of goods or services by the PR from companies associated with PR management or members of governing bodies. Or CCM/RCM members attempting to influence procurement by PRs in favor of suppliers/providers with which they are closely associated;
- Misrepresentation of data. Manipulation of available research and monitoring data can be used to gain support for one of the programmatic directions at the expense of another. This becomes more common in the context of funding deficit in countries with limited health expenditure.

It is part of RCM's oversight responsibility to pay attention to the disclosure and proper management of Conflict of Interest as well as improper acts among the management and members of governing structures of the recipients of funding.

IV. Conflict of Interest Management Strategies

The simplest way of managing Conflicts of Interest is its complete avoidance, which can be implemented through the removal of conflicted individuals from the affected positions in the management and governing structure. In practice such strategy could be counterproductive. Excessive emphasis on the problems created by financial conflicts of interest may become an obstacle to the productive interaction of professionals. In the context of RCM one must acknowledge the significance of interaction between the membership and their constituencies including PRs, SRs and SSRs who often represent unique technical expertise that is required by the coordination bodies to arrive at the most adequate decisions. As already noted above the existence of potential Conflict of Interest on the coordination bodies is inherent to some of their functions, and greater emphasis should be placed on the mitigation and management of conflicts, as well as increasing their awareness and facilitating disclosure, rather than complete avoidance of the conflicts all together.

More practical Conflicts of Interest management strategies relate to Conflicts of Interest mitigation and include:

- Disclosure. Timely disclosure of Conflicts of Interest allows for more objective and thorough consideration of issues and performance of duties by the involved officials or members of governing structures and helps in addressing perceptions regarding conflicts. Commonly, conflicts are disclosed in Conflicts of Interest declarations that are completed and signed by all relevant individuals. The forms normally require an individual to disclose positions in organizations and other relationships to the bodies or entities that may be involved in Conflicts of Interest. In the case of the RCM the declarations should be completed when the person becomes a member and annually thereafter or as needed;
- Recusal. Commonly those with a Conflict of Interest are expected or required to recuse themselves from (i.e., abstain) decisions where such a conflict exists. For example, if the RCM is conducting a tender to hire consultants for some task, and one of

the consultants being considered is a close relative of one of the RCM members, then that RCM member should not vote on a decision for which the consultant is to be selected. In fact, to minimize any conflict, the RCM member should not participate in the decision-making in any way, including discussions;

- Involvement of independent advisors. In complex situations related to Conflict of Interest, an independent qualified advisor or a consulting company can be commissioned to evaluate the situation and provide recommendations regarding the best possible resolution of the matter involving Conflict of Interest.

V. The PANCAP RCM Conflict of Interest Definitions and Procedures

1. Definitions

1.1. Within the context of the RCM, a conflict of interest occurs when a member or alternate of the RCM or an employee of the RCM Secretariat has the opportunity to use, actually uses, or is perceived as using his or her position to advance personal ambitions or interests, the interests of an institution with which he or she is affiliated, those of a family member, or close associate, or act in a way that disadvantages others in the RCM, grant beneficiaries or the wider public.

1.2. Conflict of Interest includes actual, potential, and perceived Conflict of Interest. A potential Conflict of Interest occurs when a member of the RCM or the RCM Secretariat is placed in a position in which they have the capacity to use their position or status to their advantage, as defined above. A perceived Conflict of Interest occurs when a person believes or suspects that a member of the RCM or the RCM Secretariat uses their position or status to their advantage.

1.3. A close associate of a person includes a family member (spouse, child, sibling, parent, cousin, in-laws), close friend, business partner, or professional associate.

1.4. A person is affiliated with an institution when he or she is an employee or volunteer, or has a financial interest or a technical or governance role with that institution.

1.5. Recusal occurs when a person removes himself or herself from participation in deliberations and decision-making (e.g. voting) when a Conflict of Interest would arise through their involvement.

1.6. The Conflict of Interest may arise in association with gifts, which is defined as including favors, gratuities, or sponsorships whether of a monetary or intangible nature.

1.7. A RCM body refers to any of the organizational or governance structures RCM establishes, including committees, subcommittees, working groups, task teams, and the RCM Secretariat.

1.8. Conflicts of Interest can occur but are not limited to the following processes:

- Selection of principal recipients and sub-recipients;
- Issues relating to assessment, monitoring, and oversight of principal recipients and sub-recipients;

- Renewal requests for a forthcoming phase of a grant;
- A substantial reprogramming of grant funds;
- RCM endorsement of PR reports to Global Fund;
- Discussions of matters for which RCM members or their institutions have a financial interest, such as procurement, contracting, recruitment of staff, etc.

2. Procedures to Manage and Mitigate Conflicts of Interests

2.1. Application of CONFLICT OF INTEREST Policy and Procedures

The Secretariat of the PANCAP RCM will document and archive Conflicts of Interest issues.

The RCM will determine an organ within the RCM structure charged with considering and resolving any Conflicts of Interest issues (e.g. purposeful Conflict of Interest non-disclosure among members).

As appropriate and required, an Ad Hoc Committee on Conflicts of Interest may be established to resolve specific Conflict of Interest-related matters.

2.2. Statutory Declaration and Archiving

All RCM members and alternates shall complete an **Acceptance of Conflicts of Interest Policy and Declaration of Interest Statement (Appendix 1)** at the time of being seated on the RCM and disclose any actual, potential, or perceived Conflicts of Interest at that time. The statement must be completed on an annual basis thereafter and will be updated as needed, whenever a material change occurs in the information. Statements shall be inspected and archived by the RCM Secretariat. These statements shall form part of the official record of the RCM.

All RCM stakeholders should note that in accordance with the Global Fund's grant agreement, PRs are legally obligated to disclose actual, apparent or potential conflicts of interest affecting any persons affiliated with the PR(s) or with SRs, the LFA or the RCM.

2.3. Orientation on Conflicts of interest Policy and Procedures

The RCM Secretariat shall ensure that on taking a seat, and at the first scheduled RCM meeting each year, the members and alternates of the RCM undergo an orientation on the Conflicts of Interest Policy and Procedures and that they are familiar with their responsibilities regarding management of conflicts of interest.

2.4. Principal Recipients and Sub-Recipients

RCM members representing institutions that are principal recipients or sub-recipients shall not provide oversight of their own grants or serve on the Oversight Committee. At its First Meeting held on 4th April 2017, the RCM took a decision that the entire RCM shall also serve as the RCM. They may however engage in discussions during RCM meetings about their grants, and if needed can attend as non-voting participants to provide information on these grants.

RCM members representing institutions that are candidates to serve as a principal recipient or sub-recipient or sub-sub-recipient shall recuse themselves during the selection process of principal recipients, sub-recipients and sub-sub-recipients. This should include both deliberations and voting. Full recusal (including leaving the room during deliberations on critical matters)

ensures that an individual who has a conflict does not affect discussions and voting indirectly and that all RCM members are free to express their opinions.

The party being selected should however be able to present their application or expression of interest and provide the discussants with any additional information they require to inform further deliberations and voting after they obtain the required information and the selected party recuses from the following deliberations and decision.

All RCM members and alternates shall report on procedures regarding resolution of Conflicts of Interest to their constituencies

2.5. Conducting RCM Meetings

Each member and alternate of the RCM will receive an agenda of the meeting at least one week in advance. Members (or his or her alternate) of the RCM must decide whether a Conflict of Interest exists and prepare to recuse themselves from RCM discussions and voting. These members must disclose the nature of such interests to the chairperson.

RCM members or alternates must declare whether a Conflict of Interest exists at the beginning of the RCM meeting, at the time when all agenda items are read or reviewed.

The RCM recognizes that best practice for mitigating Conflicts of Interests requires full recusal of members with a conflict during both deliberations and voting. Therefore, a RCM member with a Conflict of Interest should recuse himself or herself from all deliberations and voting on the topic in question.

Any member or alternate of the RCM may raise the question of a Conflict of Interest prior to or during a meeting. Members may present an allegation of Conflict of Interest to the Chair and Vice Chair of the RCM which is charged with the enforcing the Conflicts of Interest Policy and Procedures and which will investigate each question raised.

2.6. Recusal

When the relevant agenda item is to be discussed and voted on for which a conflicts of interest exists for an RCM member or alternate, members and alternates shall recuse themselves, leave the room, and wait elsewhere. **RCM members and alternates having a Conflict of Interest may not vote on the issue at hand and must not be present in the meeting room during discussion on the issue and when the vote is taken.** Once the necessary votes or decision making have been completed, the RCM member or alternate shall be recalled into the meeting room.

During the deliberations, RCM members and alternates with a Conflict of Interest may be called into the meeting room in their capacity as a representative of their organization or technical specialists to provide required information to the RCM membership. Once they have provided the required information, they will leave the room until recalled.

Whether in the meeting room, outside, or at any other time, the RCM members and alternates shall not attempt to exert their personal influence with respect to topic on which a vote is being taken.

If an individual has a Conflict of Interest on a matter on which a decision is to be taken, and the individual does not recuse himself/herself from deliberations and decision-making, the Ad hoc Committee on Conflicts of Interest of the RCM may decide to remove the individual from these processes.

If the chairperson has a Conflict of Interest, he or she must delegate meeting responsibilities to a vice-chairperson for the period of the deliberation and recuse himself or herself. If a vice-chairperson also has a conflicts of interest, the vice-chair shall also recuse himself or herself and the RCM must elect an acting chairperson for the period of deliberation and thoroughly document the process that was followed.

2.7. Dealing with Gifts and Favors

RCM members are prohibited from accepting gifts under circumstances in which it could reasonably be construed that the gift is motivated by the position as a RCM member or alternate and could substantially affect decisions of the RCM.

RCM members and alternates are prohibited from giving gifts if it could be reasonably construed that the gift is intended to affect the policies or practices of the RCM, a principal recipient, or any of the programs it funds.

2.8. Reporting Suspected Conflicts of interest

If a suspected Conflict of Interest is reported by any party, the RCM chairperson and the Executive Committee of the RCM will review the matter immediately to determine whether the RCM member or alternate has failed to declare an interest and if the breach is his or her responsibility. The issue must be reported to all RCM members. Any substantive issues must be brought to the entire RCM to decide.

If the matter is brought before the RCM for deliberation, the member or alternate shall be requested to withdraw while the matter is being deliberated. Any RCM member or alternate can bring allegations of conflict to the RCM, and such allegations must be discussed.

2.9. Failure to Disclose an Interest

If the RCM learns that an RCM member or alternate has knowingly failed to disclose an interest, the RCM shall take all reasonable measures to revoke any benefit gained. Before taking such action, the RCM shall inform the member or alternate in writing of the Conflict of Interest issue and provide the member or alternate with the opportunity to explain the alleged failure to disclose.

The RCM Chairperson, Vice Chair or RCM member shall refer all available information in relation to the Conflict of Interest to the Ad Hoc Committee on Conflicts of Interest of the RCM, which is charged with Conflicts of Interest matters. The Ad Hoc Committee on Conflicts of Interest shall make a determination on whether a Conflict of Interest exists. If a Conflict of Interest does exist, the Ad Hoc Committee on Conflicts of Interest will make a decision regarding appropriate action to be taken with respect to the individual who has failed to declare the Conflict of Interest.

The full RCM shall consider and vote on the recommendation of the Ad Hoc Committee on Conflicts of Interest at the first meeting following receipt of the determination and recommendation.

Following the RCM's vote on the recommendation, the circumstances of the RCM member or alternate's failure to disclose shall be reported to the member's constituency. The constituency shall be requested to immediately replace the member or alternate who serves on the RCM. In certain circumstances, it may be necessary to establish a temporary committee to deal with failures to disclose a Conflict of Interest and resolve other issues arising from Conflicts of Interests.

The RCM shall report all instances of Conflicts of Interest situations that are in apparent violation of any operative laws to the appropriate official government body responsible for enforcement.

2.10. Documenting Conflicts of Interest

All decisions associated with conflicts of interest will be recorded by the RCM Secretariat and reported in the minutes of the meeting. The record must state: the nature and extent of the conflict; a summary of the discussion; and the actions taken to manage the conflict.

2.11. Periodic Review of CONFLICT OF INTEREST Policy and Procedures

The Conflicts of Interest Policy and Procedures shall be reviewed periodically or as need arises in a manner which is consistent with the RCM's review of other governance documents or earlier as needed.

2.12. Dissemination of Conflicts of interest Policy

This Conflicts of Interest Policy comes into effect upon approval pursuant to the RCM resolution. A copy of the Conflicts of Interest Policy (Annex 1) shall be posted on the RCM website

APPENDIX 1: ACCEPTANCE OF CONFLICTS OF INTEREST POLICY AND DECLARATION OF INTEREST STATEMENT

Upon appointment to the PANCAP Regional Coordinating Mechanism, please complete this Declaration and submit it to the RCM Secretariat prior to attending your first meeting of the RCM. You will be asked to update this annually throughout your term of office.

Section 1: Acceptance of Col Policy

Name _____ of _____ CCM _____ Member/Alternate: _____

Institution: _____

Position in Organisation: _____

Constituency: _____

I, the undersigned, hereby pledge to comply with the Conflicts of Interest Policy of the PANCAP RCM.

As a RCM member or alternate I shall not participate in deliberations, decision-making, making recommendations, or other processes in which I have a conflict of interest, or a potential conflict of interest, as defined in the attached Conflicts of Interest Policy.

I will complete Section 2 of this document concerning my professional and personal affiliations. I promise to declare my conflict of interest to the RCM membership prior to or at the commencement of any RCM meeting at which a relevant matter will be considered. I will state the nature of the conflict of interest and all relevant facts pertaining to my interest. I will then recuse myself from participating in any proceedings concerning the matter.

If another person alleges that I have a conflict of interest, I will respond to this charge and will abide by the decision taken by the RCM.

If I have reason to believe that a person has a conflict of interest in relation to any matter arising from his or her role or responsibilities in the RCM, I will report my belief and the information on which it is based to the chairperson, and will provide such further information as is requested from me by the chairperson to the best of my abilities. I undertake not to make allegations of conflict of interest except in good faith, and on the basis of a genuine belief that such conflict or conflicts could compromise the transparency, accountability, inclusiveness of or public confidence in the RCM.

If I have any questions or need any assistance understanding or complying with the Conflicts of Interest Policy, I will contact the RCM Secretariat for assistance.

I hereby certify that I have received a copy of, and read the PANCAP RCM Conflicts of Interest Policy.

Signed:

Date:

Section 2: Declaration of Interest Statement

Please answer the following questions completely. When done, initial the page.

No	Question	Response
1a.	Where do you work?	
1b.	What position do you hold?	
2.	Are you a member of a Board of Directors, Governing Board or a similar governing structure of an organization? If so, please list the organization(s).	
3.	Are you the owner, co-owner, or stockholder of a private business? If so, please list.	
4.	Do any of your affiliated organizations listed above, serve as a principal or sub-recipient of a Global Fund grant? If so, please list the organization and grant.	
5.	Does a close family member work for or hold an ownership interest in an organization serving as a principal or sub-recipient of a Global Fund grant? If so, please list the person, organization, and grant.	
6.	Do you serve on a RCM committee? If so, please list and identify if you have a leadership role on the committee (Chair, co-Chair, etc.)	
7.	Do the mission or policies of the organization you work for conflict or have the potential to conflict with that of the PANCAP regional disease priorities? If so, for which disease and how?	
8.	Please list any other affiliation or situation you believe may cause a conflict of interest for you.	

Initialed By:

