



European Investment Bank

EIB Guidelines on Fighting Corruption and Fraud

Introduction

The EIB regularly reviews and updates its general policy on fighting corruption and fraud. These “EIB Guidelines on Fighting Corruption and Fraud” bring together as an overview the main edited elements of its present approach to the issue, drawing on published Codes of Conduct, the Guide to Procurement, and internal guidelines and charters, including conditions introduced into its finance contracts.

Definition

The EIB defines corruption and fraud as the abuse of public or private office for personal gain. This means any behaviour in which people improperly and unlawfully enrich themselves or those close to them, or induce others to do so, by misusing their position.

The EIB’s Commitment

The EIB affirms a zero tolerance when credible evidence of corruption exists among its staff or EIB-financed projects. The EIB is committed to:

- ensuring the highest possible standards in the conduct of its business. As the policy-driven bank of the European Union (EU), the EIB supports and promotes policies and procedures adopted by the EU Member States to fight corruption and fraud, and in compliance with relevant EU directives;
- supporting initiatives taken by the Member States and the EU to ensure the adoption of best practice to combat money laundering, and international terrorism, etc.;
- implementing the recommendations for financial institutions in preventing money laundering of the OECD Financial Action Taskforce on money laundering, especially in countries on the Taskforce’s non-cooperation list. This applies to EIB operations outside the EU or in the Acceding Countries;
- cooperating with the Member States’ authorities and the Union’s Anti-Fraud Office (OLAF) in combating fraud (<http://www.eib.org/about/structure/Department.asp?dep=191>);
- protecting its financial interests and those of third parties by putting procedures in place to detect and take disciplinary and/or judicial action against corruption and fraud;
- maintaining a financial control framework. Control functions are exercised by the Bank’s Internal Audit and external auditors and are reviewed by its statutory Audit Committee, which reports directly to the Bank’s Board of Governors, representing the Bank’s shareholders, the EU Member States;
- maintaining high standards of ethics and behaviour for EIB Management, control functions and staff, including rules on conflict of interest, insider information, acceptance of gifts, improper use of influence, etc., which are set out in relevant codes of conduct;
- providing guidance and rules for its project promoters and those providing goods or services to such projects on how to combat corruption and fraud, as outlined in its published “Guide to Procurement”.

Tackling cases of corruption or fraud

- Any member of the Bank’s staff who becomes aware of evidence which gives rise to a presumption of the existence of possible cases of fraud, corruption or any other illegal activity detrimental to the financial interests of the Communities shall inform without delay the Secretary General or the Head of Internal Audit or, if he considers it useful, OLAF directly. They shall inform each other. In the same circumstances, the members

of the Bank's organs shall inform the President or, if they consider it useful, OLAF directly.

- The Secretary General and the Head of Internal Audit together – or, where appropriate, the President – shall transmit without delay to OLAF any evidence of which they are aware from which the existence of irregularities may be presumed.
- Internal Audit shall enjoy full independence in the performance of this task, in accordance with the Charter for Internal Audit (<http://www.eib.org/publications/publication.asp?publ=154>).

Screening and investigation

(i) Within the Bank

- Where the Director of OLAF decides to initiate an investigation within the Bank, he shall contact the latter's Secretary General and inform him of the purpose of the investigation, how it is to be conducted and the names of the agents responsible for carrying it out.
- The Secretary General, Internal Audit and the services and staff of the Bank shall be required to cooperate fully with OLAF's agents and to lend any assistance required to the investigations. With that aim in view, they shall supply OLAF's agents with all useful information and explanations.
- All information provided in connection with, or relating to, a suspected case of fraud as well as the identity of the suspect shall be treated with the strictest confidentiality. The identity of the person suspected of having committed fraud shall only be made known to those for whom this information is necessary. All documents concerning investigations into suspected cases of fraud inside the Bank shall be classified "strictly confidential" in accordance with the Bank's confidentiality rules.
- The identity of the member of staff reporting facts relating to a case of suspected fraud shall be treated with the strictest confidentiality. If the provider of the information so requests, his or her identity shall remain secret throughout the investigation and shall not be recorded in the files.
- The Bank's staff and the members of its organs must in no way suffer inequitable or discriminatory treatment as a result of having communicated the information referred to in the preceding paragraphs.

Initial survey

- OLAF, in coordination with the Head of Internal Audit, is responsible for the conduct of any initial survey of cases of suspected fraud. As determined by the decision of the Board of Governors (<http://www.eib.org/about/structure/Department.asp?dep=191>), the initial survey is to establish whether or not there is any evidence of fraud and to submit a recommendation for further action or to close the file if there is no evidence of fraud.
- If, following an internal investigation, no case can be made out against a member of an organ of the Bank or of its staff against whom allegations have been made, the internal investigation concerning him shall be closed, with no further action taken, by decision of the Director of OLAF, who shall inform the interested party and the Bank in writing. The Head of Human Resources, or where appropriate the President, shall inform the suspected person(s), if any, and the member of staff who reported the suspicion. Should any new facts or circumstances come to the attention of OLAF, the Head of Internal Audit or the Secretary General, the investigation shall be reopened.
- The Audit Committee and the external auditors shall be informed without delay of all facts brought to light in the initial survey as well as of the recommendations made by OLAF regarding further action.

- The President, in liaison with OLAF, shall determine whether the Bank's Internal Audit resources require additional support, such as involvement of the external auditors, or recourse to other external assistance or expertise, or to national police authorities. The terms under which external bodies might assist or participate in investigations in the Bank shall be determined and agreed upon separately, depending on the circumstances and requirements of the investigation¹

Disciplinary and other measures

- Any disciplinary measure against a member of staff based on the results of investigations shall be taken in accordance with the provisions of the Bank's Staff Regulations.
- Any decision on waiving of immunity in connection with these investigations shall be taken in accordance with the Protocol on the Privileges and Immunities of the European Communities.
- The procedures outlined above do not prejudice any other existing internal or external legal remedy to which the Bank may have recourse in the investigation or prosecution of fraud. They may be subject to review in the light of experience.

(ii) Measures regarding non-members of the Bank's staff or governing bodies

Following the provisions for suspected fraud within the Bank, OLAF and/or the Head of Internal Audit will be the contact point to receive complaints of suspected corruption and fraud.

Loan Agreement conditions

(i) Fraud and Corruption

- In its operations outside the EU Member States and the Acceding Countries each loan agreement between the Bank and a State-owned borrower, or a borrower whose commercial risks are assumed by a State, contains provisions against fraud and corruption.
- The Borrower undertakes to inform the Bank if it is aware or ever becomes aware of evidence of fraud or corruption within its organisation in connection with the project financed by the Bank.
- At the Bank's request, the Borrower undertakes to investigate allegations of fraud or corruption and to facilitate any investigation proposed by OLAF.
- The Borrower must also report to the Bank on measures it takes to obtain compensation for damage suffered and to prevent recurrence of fraud or corruption in connection with a Bank-financed project.
- The Borrower must maintain its own records on the project and it must designate a senior officer competent to speak to the Bank on matters of fraud and corruption.

(ii) Money laundering

- In its support for the fight against money laundering, particularly in its activities outside the European Union, the EIB is committed to ensuring that it only works with well established promoters or intermediaries, applies strict procedures for the disbursement of funds, and verifies the destination and movement of the funds. Moreover, it regularly makes site visits to monitor the physical progress of projects.
- Loan Agreements signed with private sector borrowers implementing projects in non-EU Member States require the Borrower to ensure the legitimacy of the funds invested in the company and project. The Borrower is obliged to inform the Bank if he learns or suspects that such funds are of illicit origin. The Bank is also informed of any significant change in the project or company ownership. The Borrower must designate an officer

¹ This is without prejudice to the provisions of the agreement between the Bank and the Grand Duchy of Luxembourg of 24 February 1986 regarding access to the Bank's premises ("Accord entre la Banque européenne d'investissement et le Gouvernement du Grand-Duché de Luxembourg").

responsible for contact with the Bank on these matters. The Bank is committed to passing information on suspected criminal activity to OLAF and/or the authorities concerned.

(iii) Procurement and project implementation

- The EIB requires that project promoters, as well as tenderers, contractors, suppliers and consultants under Bank-financed contracts observe the highest standard of ethics during the procurement and execution of contracts.
- Tenderers for works, goods or services on EIB-supported projects have to include a "Covenant of Integrity" in the tender, or the contract of supply. This pledges that the directors, employees and agents of the tenderer will not engage in any Prohibited Practice (see below) in the tendering, execution or supply of any works, goods or services for the project. They are to inform the Bank of any Prohibited Practice that comes to their attention.
- Prohibited Practices are defined as:
 - Corrupt Practice - offering, giving or promising any improper advantage to influence the action of a Public Official, or threatening action, to gain an improper advantage.
 - Fraudulent Practice – a dishonest statement or act to influence improperly the procurement process or the execution of a contract to the detriment of the project owner, including collusion to prevent fair and open competition.
- If the EIB determines that there are indications of prohibited practices during the procurement process or during the execution of the contract, it may:
 - decline to accept a promoter's preferred choice for award of a contract;
 - cancel all or part of the Bank financing allocated to a contract for works, goods or services.
- As a general rule, for international procurement procedures, the Bank will require the promoter to insert in the tender documents a clause that:
 - grants the promoter, the Bank and auditors appointed by either of them, the right of inspection of the records of the contractor, supplier or consultant in connection with any Bank-financed contract; and
 - provides for the duty of the contractor, supplier or consultant to preserve these records generally in accordance with applicable law for at least six years and to make them accessible to the Bank.