

Procedures for the Conduct of Investigations by the Inspectorate General of the EIB Group

Introduction

1. This document sets out the “Procedures for the Conduct of Investigations” by the Inspectorate General (IG/IN) of the European Investment Bank Group (EIB)¹.
2. The Procedures set forth herein:
 - a. Are to be read in conjunction with the “Policy on Preventing and Deterring Corruption, Fraud, Collusion, Coercion, Money Laundering and the Financing of Terrorism in European Investment Bank Activities”;
 - b. Apply to all investigations conducted by IG/IN in the EIB and EIB’s activities; and
 - c. Are applicable to the EIF with provision to be made for its separate governance structure.

Receipt of an Allegation

3. IG/IN shall accept reports of suspected corruption, fraud, collusion, coercion (collectively “prohibited practices”²) from any source within or outside the EIB, including complaints from anonymous or confidential sources. IG/IN may also open cases of its own volition, for example arising out of press reports of “prohibited practices” in EIB activities. IG/IN shall respond to all such reports as set forth below.³
4. To the extent feasible, IG/IN should contact the complainant to acknowledge receipt of the complaint and to obtain as much other information concerning the allegation as possible, such as:
 - a. A complete description of the alleged wrongdoing;
 - b. The alleged connection to the EIB’s financing or other activities;
 - c. The names and locations of the persons or entities involved;
 - d. The approximate dates or time frame of the transactions;
 - e. An estimate of the amount of EIB or project funds at risk;

¹ The procedures are handled by IG/IN in compliance with and without prejudice to the Board of Governors’ Decision on 27 July 2004 concerning EIB’s cooperation with OLAF.

² The EIB Policy cites definitions of corrupt practice, fraudulent practice, coercive practice and collusive practice which emanate from the International Financial Institution (IFIs) Anti-Corruption Task Force’s “Uniform Framework for Preventing and Combating Fraud and Corruption,” agreed to in September 2006 by the leaders of seven major IFIs, including the EIB. See: www.eib.org/publications_unlisted/ifi-anti-corruption-task-force-uniform-framework.htm

³ Allegations concerning issues of money laundering or the financing of terrorism (as defined in the EC Directive 2005/60 of the European Union on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing) will be handled by the EIB’s Office of the Chief Compliance Officer in an analogous way. The principles of independence, professional standards, access to information, confidentiality, and the rights of staff will apply equally in the investigation of AML/CFT cases.

- f. The location and description of any potentially relevant documents, data or records;
 - g. The names and locations of other persons who may have information regarding the alleged misconduct and be willing to provide it to IG/IN;
 - h. The basis for the complainant's knowledge;
 - i. The complainant's motive to report; and/or
 - j. Any concerns of the complainant regarding possible reprisals or personal security.
5. If the complainant is anonymous or insists on anonymity, IG/IN should request that he or she contact IG/IN again at an agreed date and time in the future to respond to possible further questions based on the results of the initial review.
6. IG/IN shall promptly record the essential information in the IG/IN case management system. "Essential information" should, where possible, include:
- a. The name of the IG/IN staff member who received the complaint;
 - b. The date and method of contact with the complainant;
 - c. The identity of the complainant, if disclosed;
 - d. A brief summary of the allegations, including the type of wrongdoing alleged (e.g., product substitution, bid rigging, etc.) and the parties alleged to be involved;
 - e. The connection to the EIB, if any, including the description and location of the project or operation involved; and
 - f. Any other information that the IG/IN staff member considers significant.

Evaluation of an Allegation

7. After receipt of a complaint or becoming aware of an issue, IG/IN shall seek to:
- a. Confirm that the alleged wrongdoing involves an EIB operation (including EIB-financed projects within or outside the EU), or member of staff, and if so;
 - b. Determine whether:
 - i. The alleged misconduct represents either a sufficient material risk⁴ to the EIB or is of sufficient public interest to justify an investigation; and
 - ii. An investigation is feasible, based on the age of the reported transactions, the specificity of the information received, and the availability of necessary records or witnesses and other relevant information; and
 - c. If the above criteria are met, IG/IN should objectively evaluate the reliability of the complaint. This may involve, among other steps, reference to:
 - i. EIB project, financing, or other documents and files data;
 - ii. Prior complaints involving the suspected parties received by the EIB or OLAF;
 - iii. Background checks of business and media databases; and
 - iv. Other relevant sources of information.

Decision whether to Open a Case

8. Based on the evaluation outlined in paragraph 7, the Head of IG/IN shall decide whether to open a case.

⁴ Factors to be considered include the operational, financial and reputational risk to the EIB and its activities.

9. If the Head of IG/IN decides to open a case, he shall:
 - a. Promptly record the decision in the case management system;
 - b. Assign a case number to the complaint, for tracking purposes; and
 - c. Prepare an initial investigative plan. The plan shall include the IG/IN personnel to be assigned and an initial assessment of the time and resources needed to undertake the investigation.
10. After opening a case, IG/IN shall promptly notify the European Anti-Fraud Office (OLAF) and provide it with the necessary information.⁵
11. OLAF may, at the invitation of IG/IN or on its own initiative, participate in or take the lead in any investigation including those inside the EIB.
12. If the Head of IG/IN decides not to open a case, he shall:
 - a. Promptly record the decision in the case management system;
 - b. Make the information regarding the allegation and its evaluation available upon request to appropriate parties, including the President and the Vice President responsible for investigations, the Secretary General, the Audit Committee, OLAF and the external auditors; and
 - c. Include the number of cases evaluated but not opened in the IG's "Annual Report of Fraud Investigations" submitted to the Management Committee, the Audit Committee, OLAF and the external auditors.

Purpose of an Investigation

13. The purpose of an investigation by IG/IN is to examine and determine the veracity of allegations or suspicions of prohibited practices affecting EIB activities or involving members of staff.

Sources of Information

14. Sources of information for an investigation shall include, but not be limited to:
 - a. Documents of any type;
 - b. Electronic data;
 - c. Video, audio and photographic data;
 - d. The results of inspections and tests;
 - e. The investigator's observations; and
 - f. Information provided by witnesses (orally or in writing), including the subject of the investigation.
15. IG/IN will not pay a witness for information. It may pay or reimburse reasonable expenses incurred by a witness as the result of his or her cooperation with IG/IN.
16. IG/IN may seek the advice or assistance of other departments inside EIB, and/or may engage outside consultants and subject matter experts to assist it in an investigation.

Documents

17. With regard to documents that may be required as evidence in an administrative or other legal proceeding, IG/IN shall:

⁵ See Regulations 1074/1999 (Euratom) and 1073/1999 (CE) at:
http://eur-lex.europa.eu/LexUriServ/site/en/oj/1999/l_136/l_13619990531en00010007.pdf

- a. Attempt to identify and use the original document or, if the original is not reasonably available, reliable copies;
- b. Preserve, as far as reasonably practical, all documents in the condition they were received; and
- c. Be able to identify when and where the document was obtained, by whom and from whom.

Electronic Data

18. With regard to electronic data, IG/IN shall:

- a. Obtain such data:
 - i. From the most reliable source reasonably available; i.e., the location or facility that maintains the most complete, accurate and current data;
 - ii. In a manner that, as far as reasonably practical, protects its integrity, and which ensures that the data has not been altered, tampered with or corrupted in any manner; and
- b. Be able to identify when, where and how the data was obtained, by whom and from whom.

19. With the approval of the Director of the Department of Human Resources, and in accordance with applicable laws, rules, regulations, policies and procedures, IG/IN may access and copy potentially relevant electronic data and email created, copied or received by an EIB member of staff using the EIB IT system.

Inspections and Tests

20. IG/IN may:

- a. Conduct on-site inspections of any works, structure, facility or other property relevant to an investigation, and record the results photographically or otherwise; and
- b. In appropriate cases, obtain the assistance of subject matter experts from other departments of the EIB or from outside.

Information from Interviews

21. As regards all interviews conducted by IG/IN, both within and outside EIB, including interviews of the subject of an investigation:

- a. Interviews shall be conducted:
 - i. In the language in which the witness and investigator are comfortable, or otherwise with the assistance of an interpreter; and
 - ii. By two investigators, if IG/IN deems appropriate.
- b. IG/IN shall promptly prepare a written record of the interview;
- c. IG/IN, may in its discretion, provide a copy of the record of interview for the witness to review, or to review and sign; and
- d. Interviews may be recorded electronically, with the knowledge and consent of the witness.

IG/IN Missions

22. As part of an investigation, IG/IN may:

- a. Review documentation kept by borrowers, promoters, contractors, consultants, suppliers and third parties, according to the provisions of the EIB finance contract involved and the EIB Guide to Procurement;
 - b. Conduct on-site inspections;
 - c. Interview witnesses and/or the subject(s); and/or
 - d. Consult other parties including those undertaking relevant audits or investigations.
23. Upon completion of a mission, IG/IN should promptly prepare a record of mission activity.

Findings

24. The findings of an investigation shall be based on:
- a. The most reliable factual information available, and reasonable inferences and conclusions drawn from established facts;
 - b. To the extent feasible, documents, electronic data, or tests and inspection results that have been authenticated as accurate by their authors, recipients, or custodians, or by other persons with direct knowledge of their authenticity;
 - c. To the extent feasible, statements from witnesses who have direct knowledge of the facts and circumstances in issue;
 - d. Information that has been corroborated to the extent possible by other reliable sources, including other witnesses, documents or data; and
 - e. Credible exculpatory as well as inculpatory information.
25. Investigative findings may include IG/IN's:
- a. Comments on the perceived credibility and behaviour of a witness, including the subject of the investigation; and
 - b. Recommendations for the appropriate action to address the issues under investigation.

Obstruction of an Investigation

26. If the investigative findings indicate that a member of staff:
- a. Made a knowingly false statement to IG/IN in a complaint or during the course of an investigation;
 - b. Failed to comply with his or her obligation to cooperate in an investigation, as required by the EIB Staff Code of Conduct and the "Guidelines on Fighting Corruption, Fraud, Money Laundering and the Financing of Terrorism;" or
 - c. Otherwise attempted to hinder, impede or obstruct the investigation,

IG/IN shall refer the matter to the President for appropriate and proportionate disciplinary action.

Concluding an Investigation

27. The standard of proof that shall be used by IG/IN to determine whether a complaint or allegation has been substantiated shall be whether the information, taken as a whole, shows that an investigative finding is more probable than not.

28. Where the Head of IG/IN determines that a complaint or allegation has been substantiated, the findings shall be documented in a note to file and referred to the relevant authorities within and/or outside the EIB for appropriate action.
29. If, after reasonable investigation, IG/IN determines that a complaint or allegation has not been substantiated, it shall document the findings in a note to file and close the case.
30. IG/IN may re-open a case that has been closed if credible new information is received or if it is warranted by other circumstances.
31. The person who made the report, if known, shall be informed of the actions taken at the conclusion of the case, where appropriate.

Reports of Findings

32. IG/IN shall distribute the note to file for all substantiated and unsubstantiated cases simultaneously to the President and the Vice President responsible for investigations, the Vice President responsible for the affected business area, the Secretary General, the Audit Committee, OLAF and the external auditors.
33. In addition, IG/IN shall submit a status report of all cases in which at least an initial evaluation was done ten times annually for information to the Audit Committee, the External Auditors, OLAF, the President and Vice Presidents concerned. This report shall also be submitted at least five times annually to the Management Committee.

Other Matters

34. All documentation and information for opened and unopened, substantiated and unsubstantiated cases shall be kept in a secure and confidential manner by IG/IN and shall be retained for at least five years.
35. All investigations conducted by IG/IN are administrative in nature.
36. Where necessary, arrangements will be made on a case-by-case basis to investigate an allegation of misconduct on the part of any staff member of IG/IN.
37. As with the Policy, these procedures shall be updated as appropriate based on:
 - a. Changes to the "Policy on Preventing and Deterring Corruption, Fraud, Collusion, Coercion, Money Laundering and the Financing of Terrorism in EIB Activities";
 - b. Experience gained in implementing the procedures;
 - c. The evolution of best practices;
 - d. Any other changes that the EIB judges necessary and appropriate.