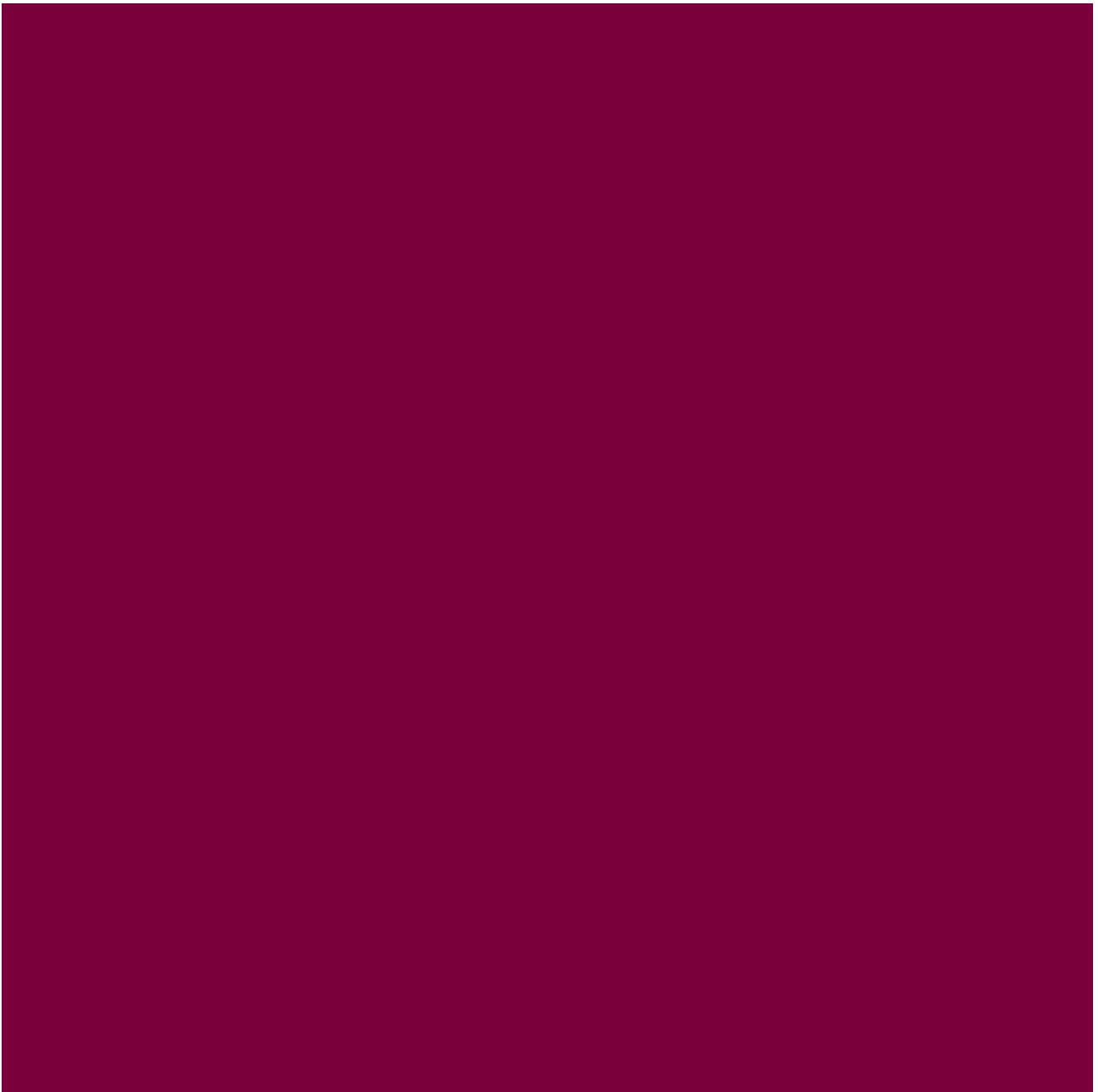


Acting on suspicions of Corruption



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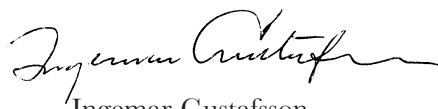
Foreword

Since the mid 1990s, the task of combating corruption in programmes of development cooperation has been given more and more attention. Of course, corruption has always existed and it would be misleading to say that recent decades have been unique in this respect. However, during recent years the production of methods to combat corruption has been intensified and different strategies have been drawn up the purpose, both in international organisations and among donors and partner countries. One guiding principle in these strategies is the importance of fundamental institutions that promote development in society and counteract corruption. Counteracting corruption is thus not an administrative or technical issue but an issue of central importance for development. For donor countries the issue of effects of corruption on the sustainability and effectiveness of development programmes is particularly important. Widespread corruption has the effect that resources allocated to poverty reduction are used illegally for personal gain.

Sida is striving to minimise the risks of corruption. It does this partly with the aid of preventive activities and partly by investigating and taking appropriate action in cases where corruption is suspected. Prevention is a long-term process which includes the issue of how countries are governed. Investigating and following up suspicions of corruption in Swedish contributions is a part of Sida's normal responsibilities.

This guide has been produced for the latter purpose. It states what you can and should do when you, as a Sida officer, suspect or detect corruption. We hope that it will be useful for this purpose.

Stockholm, February 2003



Ingemar Gustafsson
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Bengt Ekman
Chief Controller

Introduction

Why has a guide been produced? Sida's Government Approval Document states that Sida shall strive to combat corruption, particularly in connection with programmes of development cooperation. One important element in this work is to make applicable guidelines more specific and to ensure that Sida works in accordance with the current policy in the area. Accordingly, the guide contributes to strengthening and systematising Sida's anti-corruption activities.

What is the aim? This guide has been developed with the aim of creating an instrument that can show you, as a person working with Sida's programmes, how to proceed when you suspect or detect corruption. The guide is in four sections:

- Checklist of what you can do if you suspect corruption
- Support functions at Sida, their roles and responsibilities
- Definitions
- Examples of corruption in development cooperation

Who has the guide been designed for? The guide has been designed for Sida staff in Sweden or stationed abroad and for local employees at Swedish missions abroad. It is intended to provide guidance for both management and other members of staff. The guide is not intended to be an analytical instrument for detecting corruption or for investigating cases of corruption.¹ Instead, it is intended as an aid for members of staff who suspect or detect corruption and who need guidance to enable them to take the necessary steps to address the issue. By giving prominence to relevant areas of responsibility in Sida's organisation, the guide draws your attention to different functions that can provide you with support. Thus, the guide is not intended to make you an investigator of corruption.

When can the guide be of assistance? The guide focuses on suspicions of corruption in contributions administered by Sida and on instances of corruption that can occur in Sida's organisation in Sweden and abroad. It is not a guide to Sida's efforts to reduce corruption in general in the partner countries. Nor is it intended to provide assistance to prevent corruption in Sida's contributions.

¹ Information of this type can be found in "Good Administrative Practice Counters Corruption. Directives on Sida's task to promote good administrative practice and to counter corruption in development cooperation" Sida/Policy (1997).

Part 1. Checklist

The checklist contains questions that you may ask yourself when you suspect or detect corruption. This section takes up questions of the following type. Who should investigate? Who should take action? Are members of staff obliged to report their suspicions or findings? This section is then supplemented in Part 2, which contains information on support functions in Sida's organisation and their roles in the process.

What is corruption?

According to Sida's anti-corruption rules, corruption in development cooperation occurs when institutions, organisations, companies or individuals profit improperly through their position in an activity and thereby cause damage or loss. This includes giving and receiving bribes, extortion, favouritism and nepotism, as well as embezzlement, fraud, conflicts of interest and illegal monetary contributions to political parties.²

When should I react?

When, in your opinion, corruption can be suspected.

Am I required to report suspicions?

The employment agreement contains a general loyalty clause towards the employer. The loyalty clause requires, among other things, that any suspicions of corruption relating to Sida's activities shall be reported to a representative of the employer. Sida's anti-corruption rules also stipulate that Sida shall never accept corrupt behaviour.

Who is the suspect?

You do not need to identify a specific person. A suspicious course of events is enough, for example an unusual financial transaction. The rest is a matter for investigation.

Who do I contact?

The responsibility for taking action rests with the holder of the right of to use the appropriation in question, normally a manager at Sida or a

² For definitions of the concepts, see sections 3 and 4.

Swedish mission abroad. If you suspect that this person is involved in corruption or has a conflict of interest in the matter, you should contact the individual who has delegated the right to use the appropriation to its current holder.

What are the procedures for dealing with a complaint/an accusation of corruption?

A verbal report is sufficient as a first step, i.e. as the first contact you take. You would speak, for example, to a manager or one of the support functions. However, if the situation requires further action, a written report will be required, partly on account of the sensitive nature of the issue, and partly because other levels of authority may be involved in the process. The same principle applies to managers, i.e. a verbal report is sufficient the first time a manager contacts a support function.

I have received an anonymous tip – how do I proceed?

There is no difference where a tip from an unidentifiable person is concerned. It is the assessment of the alleged circumstance itself that determines whether, and if so how, Sida proceeds in the matter. You merely pass on the information.

Do I have any protection?

The person you contact should know who you are. Anonymous tips are often difficult to follow up. Your name and the information you provide can usually be kept confidential during the investigation. If a government agency takes action after the investigation, confidentiality will not be absolute. When needed, personal protection may also be provided. If you are stationed abroad, issues of personal protection should be taken up with the head of the Swedish mission and with the *Secretariat for security, public access and contingency planning* at the Swedish Ministry for Foreign Affairs.

Who investigates?

It is not the person who suspects corruption who investigates the case. The basic principle is that suspicions of corruption should be reported to the employer. If the suspicions of corruption lead to a report to the police, the main rule is that the police will conduct the investigation. Crimes committed abroad can, in certain cases, be investigated by the police in Sweden. However, investigations in other countries require the participation of the police in the countries concerned. In the agreements on terms and conditions there is a clause requiring partner countries to investigate and prosecute instances of corruption. If Sida makes the assessment that the police and prosecuting authorities in the country concerned are not sufficiently efficient, Sida can take action instead by engaging the internal audit or external auditors to review cases of corruption that are not judged to involve a crime, or as an additional measure when criminal investigations are conducted.³

³ Sida has framework agreements with two firms of chartered accountants under which their services can be called off for special audits, see Part 2, *Division for Accounting, Financing and Financial Control*.

Do I participate in the investigation?

You will probably be questioned during the investigation, but you will have no active role in it.

What action may be taken?

An investigation may result in prosecution and claims for damages. Sida can also act by demanding repayment and/or terminating the project. If employees of Sida or a Swedish mission abroad are found to have been involved in corrupt activities, actions ranging from verbal warnings to dismissal may be taken against them, depending on the degree of their involvement. For those accepting assignments (consultants), these measures can involve cancellation of contracts and can be followed by claims for damages.

Who will take action?

Sida takes action against its employees and those with whom it has agreements. Sida's partners in cooperation are responsible for taking measures against their own employees and contract partners. Where cases involving individuals not covered by agreements are concerned, action will be taken on a case-by-case basis, depending on whether Sida or the partner in cooperation is in the best position to take appropriate measures.

What do I do if nothing happens?

You should proceed to the next management level. You should also contact one of the support functions named in the next section.

Who should be informed during and after the investigation?

The holder of the right of to use the appropriation in question should inform Sida's Division for Accounting, Financing and Financial Control regarding issues involving Sida's internal control system so that steps can be taken to improve the system. Sida's Press Service should also be informed to enable them to prepare to meet any subsequent media inquiries. Reports should be made to the management group on major investigations or investigations that involve matters of principle. (See further in Part 2.)

If I have suspicions of corruption in, for example, a non-governmental organisation that works with Sida, should an audit be used to address the issue?

Experience shows that, if the audit is to uncover corruption, it is necessary to establish a *special audit* that focuses specifically on the corruption issue. Thus, the terms of reference for a special audit of this type must explicitly state that the assignment involves investigating corruption. If the organisation suspected of corruption by Sida is Sida's partner in cooperation, it would not be a good idea for the organisation itself to assume responsibility for the audit. However, it may be a good idea if the organisation's management is actively engaged in combating corruption and the problem is at a lower level in the organisation. However, Sida should know from the outset the level in the organisation at which there are suspicions of corruption.

What do I do if corruption is suspected or detected in Sida contribution that are coordinated with those of several donor organisations?

If corruption is detected in connection with contributions of this type, Sida should pursue the issue in a suitable forum, i.e. within the constellation of donors that has been formed for the purpose and which leads the group of donors.

If I suspect/detect corruption in projects that are financed by other donors, am I required to report this?

There is no general liability to inform other donors of suspicions of corruption in projects in which Sida is not involved. However, Sida will support members of staff who wish to inform other donors of well-founded suspicions.

What should I do if corruption is suspected or detected in cases where Sida channels its support via “silent partnership”?

When a programme of cooperation of this type is established, the division of responsibilities between the silent and active parties is specified in the agreement. The agreement thus specifies the party that is responsible for taking action on suspicions of corruption. When Sida is the silent partner, it should inform the “active party” of any suspicions of corruption. The active party then takes action. In cases involving suspicions of corruption within the partner organisation, i.e. the active party, Sida should act in its customary way.

Which contractual clauses address this issue?

In the agreement on terms and conditions there are normally provisions that require the recipient country to investigate and take measures against corruption. In cases where Sida has an agreement with a consultant and the consultant is shown to be involved in irregularities, Sweden shall, under the same provisions, investigate and take measures.

Does Sida have a special committee that works with issues of this type?

There is no organisational unit at Sida that has the responsibility for working specifically against corruption. Instead, there are certain support functions that work with issues of corruption and other problems. You can read more about such functions in the next section. Additionally, Sida has a security group that consists of the Head of Security (Head of Office Services Division), who is also the chairman of the group, the Director of Human Resources Department, the Head of Information Department, and a representative of the Press Service. Consult the Security Coordinator to determine whether the case in question is a matter for the security group.

Can we blacklist companies involved?

Sida does not blacklist companies and/or individuals. However, in order to assess whether a contractor meets all the requirements for an assignment, Sida requires that information be submitted about the contractor’s legal and financial situation (see Sida’s Manual on Procurement, *Qualification requirements for offerers*).

Who will answer my other questions?

You can, for example, ask the holder of the right of to use the appropriation, the member of the legal staff at the Division for Legal Services and Procurement Advice who is responsible for the country in question, or the Chief Legal Adviser. Questions involving audits to investigate corruption should be submitted to the Division for Accounting, Financing and Financial Control. However, there is no person at the Division for Legal Services and Procurement Advice, the Division for Accounting, Financing and Financial Control or the support functions with the specific responsibility for anti-corruption issues. This means that you will not be able to use the Nice-system to find a specific individual who deals with such issues.

2. Support functions

According to Sida's regulations, the holder of the right to use an appropriation has the main responsibility for ensuring that development cooperation funds are used correctly. However, there are various support functions in Sida's organisation that can provide you with advice and guidance. This section highlights those functions, and also gives prominence to support functions at the Ministry for Foreign Affairs as well as firms of chartered accountants.

2.2 Support functions that should be informed by the holder of the right to use the appropriation: Division for Legal Services and Procurement Advice, Division for Accounting, Financing and Financial Control, and the Press Service

The Division for Legal Services and Procurement Advice

The Division for Legal Services and Procurement Advice should be informed when corruption is suspected, since issues of this type are usually of a complicated legal nature. However, you should first consult with your immediate superior at Sida-S or the embassy or the department controller/field controller.

The Division for Accounting, Financing and Financial Control

The Division for Accounting, Financing and Financial Control has the overall responsibility for ensuring that Sida's internal financial controls function effectively and efficiently. It also has the responsibility for audits, inasmuch as it is responsible for contacts with the auditing firms with which Sida has framework agreements. These auditing firms conduct special reviews on behalf of Sida. You should contact the Division for Accounting, Financing and Financial Control with questions on, for example, making further payments and if and how a special audit should be performed.

Sida's Press Service

Corruption can constitute a crisis situation for the organisation where the mass media are concerned. One of the responsibilities of the Press Service is to identify situations that can be considered a "crisis" of this type. The Press Service must also be prepared if the media contact Sida about a case of suspected corruption.

2.1.2 Other functions: Department controllers, Field Controllers, Division for Personnel Administration, Department for Evaluation and Internal Audit and the Methods Development Unit

Department controllers

The department controller has the responsibility for overseeing the department's operations, and functions as a form of support to the head of department. The controller can also be helpful in explaining routines and the history of any corruption cases in the department.

Field controllers

The field controllers have an overview of internal controls and regulations at the regional departments and missions abroad, and also function as management consultants.

Division for Personnel Administration

The Division for Personnel Administration is responsible for staff health issues. Thus, the division can be a source of support if you experience physical or psychological stress during the process.

The Department for Evaluation and Internal Audit

The Department for Evaluation and Internal Audit receives its assignments from the Board of Directors of Sida. When you suspect corruption in the organisation, you can contact the department to obtain assistance in establishing contacts with external consultants or investigators who can take up the case. The internal audit can accept audit assignments from departments and embassies. However, you should initially contact the Division for Accounting, Financing and Financial Control if you need to bring in external auditing expertise (see previous page).

Methods Development Unit

Methods Development Unit is responsible for Sida's Anti-Corruption Rules. This includes ensuring that the Rules are known within Sida and, when needed, are developed and revised. The Methods Development Unit also has the overall responsibility for coordinating Sida's anti-corruption activities. You can contact the unit if you need to know more about Sida's work with these issues. You can also obtain current reports, addresses with links to international organisations' Best practices, tool boxes and other relevant material, at the Methods Development Unit.

2.1.3 Sida's Director General

Director General

If corruption is detected and Sida intends to terminate the agreement for the contribution, it is normally the Director General who makes the formal decision on termination and any demands for repayment resulting from corruption. Before an action of this type is taken, the Chief Controller should be informed.

2.2 At the Ministry for Foreign Affairs

The Secretariat for Security, Public Access and Contingency Planning

The Secretariat is responsible for assessments of risks and security and also handles matters referring contingency planning at the Ministry's and at Swedish missions abroad. If you serve at a mission abroad, the Secretariat plays an important role for consultations and support on how the embassy should act in the matter.

2.3 Other support functions

Firms of chartered accountants

Local firms of chartered accountants can offer a good support function for embassies and it is recommended that framework agreements are concluded with firms of this type. Local firms of chartered accountants can, for example, assist in identifying the local organisations that the embassy should audit. They can also provide support for reading and interpreting audit reports. Sida Stockholm has framework agreements with two firms of chartered accountants, Ernst & Young and KPMG. Embassies can contact these firms for assessments of local firms of chartered accountants with which embassies can consider for the type of framework agreements mentioned above. The focal point for this function is at the Division for Accounting, Financing and Financial Control.

3. Definitions

With Sida's anti-corruption rules as its point of departure, this section sheds light on the concept of *corruption*. According to the rules, corruption in development co-operation means that institutions, organisations, companies or individuals profit inappropriately from their position in the operations and thereby cause damage or loss. This includes giving and receiving bribes, extortion, favouritism and nepotism, embezzlement, fraud, conflict of interest, and illegal monetary contributions to political parties (see the Anti-Corruption Rules). This section does not claim to describe why or how corruption occurs. Instead, it is an attempt to provide a concrete picture of corruption in its various forms by describing concepts related to corruption. On the basis of the definition given above, corruption often involves criminal acts. In cases of this type, the description of the term is based on its meaning in Swedish criminal law. However, the definitions below are given in simplified form.

Giving and receiving bribes

Definition: Employers and certain persons employed on a contractual basis, who demand or accept improper compensation for their official duties, are liable to charges of receiving bribes. This applies to individuals and contractors in both the public and private sector. The meaning of the term "improper remuneration" may be determined by decisions of Swedish courts of law. Generally, levels of tolerance are quite low in Sweden. Those who give or offer improper remuneration are liable to charges of giving bribes.

Example: A supplier uses enticement in the form of a personal financial reward to persuade an individual in charge of purchasing services or goods or assigning contracts to disregard the rules governing purchases.

Extortion

Definition: Extortion means that illegal compulsion is used to persuade an individual to act or not to act in such a way as to cause financial damage to the individual or someone he or she represents, while producing corresponding gains for the extortionist.

Example: An official with the right to authorise payments is threatened with prosecution for a fabricated crime in the partner country if that official does not authorise payments for goods or services not supplied.

Favouritism and nepotism

Definition: Favouritism is a form of abuse of power that is used to increase political or economic influence. It is characterised by partiality in the distribution of public resources. Nepotism is a form of favouritism which results in the improper favouring of relatives and friends, without due reference to qualifications, particularly in appointments to public posts. Nepotism is sometimes referred to as “friendship corruption.”

Example: A cousin is hired despite having lower qualifications than other candidates, or the company of a childhood friend receives a contract instead of a competitor who submitted a more favourable tender.

Embezzlement

Definition: Embezzlement occurs when an individual retains property with which they have been entrusted and that the individual is to either return or account for. The act results in the victim of the crime suffering financial damage and the embezzler or some other party enjoying a corresponding gain.

Example: Sida funds are intended to be used to build an office as part of a project, but they are used instead for improvements to the project manager’s residence.

Conflict of interest

Definition: Conflict of interest exists when administrators handle or make decisions in a matter in which they have a personal interest or whose outcome can result in gain for or damage to themselves or someone close to them. Conflict of interest can also arise if their handling of an assignment can call into question their impartiality in the matter.

Example: Someone makes a decision on behalf of the partner in cooperation to hire a company in which the person making the decision or a close relative of this person is a part-owner. The administrator is indebted to a party in the matter or is financially dependent on that party.

Fraud

Definition: Fraud is a crime that is committed by anyone spreading misleading information publicly in order to influence the price of goods, securities or other property.

Example: An example of fraudulent behaviour is when a supplier, in order to receive more money, spreads a rumour that there is a nationwide shortage of a certain type of good he wishes to supply.

Illegal monetary contributions to political parties

Definition: Making contributions to political parties where the contributions are not made openly and where legislation prohibits support of this type.

Example: Political parties in the partner countries often have difficulties in financing their regular activities and their election campaigns, and often mix up public finances with party finances. This is sometimes completely legal and sometimes illegal. Voluntary donations are often a legal way of financing political parties as long as this is done in an open and transparent way. Where secret and large donations to parties are concerned,

there is a considerable risk that the donors subsequently make demands to be “thanked” in the form of monopolies, licences, withdrawal of legal charges, etc. One illegal method can be to exert pressure on commercial enterprises owned or partly owned by the state to channel funds to the party. This phenomenon is not unique to developing countries and is difficult to deal with since a great deal happens in a grey zone between legal and illegal actions. Illegal actions must be determined from case to case.

4. Examples of corruption in development cooperation⁴

1. Funds are used in the project but for other purposes than those intended

One example can be that building materials have been budgeted but the funds are used instead for entertainment and to improve the project manager's official house and garden and the expenditure is then entered on the account for building materials.

To discover this type of irregularity a comparison must be made between the financial reports and what has actually been achieved (reasonable use of resources). In certain cases it may be necessary to engage a specialist, for example an auditor, to make a reconciliation.

2. Project funds are used for personal gain

Example 1 Administration of funds

Personnel take money from the petty cash or make withdrawals from the project's bank account and then conceal the withdrawals with false vouchers or incorrect bookkeeping.

Payments are received by the person responsible for the accounts who appropriates the money without providing a receipt or entering the payment in the accounts.

An advance is paid out, for example to enable an employee to purchase material, but it is not entered as an advance but as a purchase. If the material costs less than the advance and the difference is not paid back, the project will incur an unnecessary additional cost.

Credit notes, which are a form of repayment, are not recorded in the accounts. Instead they are used by an employee for private purchases.

Payments are made on the basis of false invoices. False invoices can come from a supplier who is in collusion with the person making the payment. Double payments can be made by firstly using the original and then a copy of an invoice as a basis for payment.

More than one donor or another source of finance is requested to pay for the same costs.

⁴ Sida/Policy (1997). "Good Administrative Practice Counters Corruption – Directives on Sidas Task to Promote Good Administrative Practice and to Counter Corruption in Development Cooperation", Appendix 2.

Example 2 Procurement

The supplier offers bribes to officers responsible for procurements and to buyers. This has the effect that Sida or the partner in cooperation does not order goods or services from the supplier who offers the most favourable terms.

Example 3 Personnel and administration

Personnel are recruited through personal contacts, kinship or after payment of bribes to personnel officers.

Non-existent personnel are included on the payroll and their wages are appropriated by those who have arranged this situation.

Personnel misuse available resources at the working place, for example offices, secretaries, equipment, communications and transport, for private purposes or to run their own businesses.

Discounts on tickets are paid out in cash and appropriated by the “fixer” in the office.

A person who has made a business trip request allowances for more days than he spent on the trip or submits forged documents in respect of trips that have not been made or that have only been made in part.

Project vehicles and fuel are used for private purposes.

Read more...

- Sida's Anti-Corruption Rule
- Sida's Manual on Procurement
- Sida's Regulations for Organisation, Delegation of work and Decision-making procedure
- Good Administrative Practice Counters Corruption. Directions on Sida's task to promote good administrative practice and to counter corruption in development cooperation.
- The fight against international corruption. Swedish positions and projects. Ministry for Foreign Affairs memorandum
- Administrative handbook. Ministry for Foreign Affairs
- OECD Convention (www.oecd.org/daf/nocorruption/index.htm)
- Anti-corruption Tool Kits, Transparency International (www.ti.org)
- USAID (www.usaid.gov/democracy/acmodule/crpthdbk.pdf)
- UN (www.undcp.org/odccp/corruption_toolkit.html)

Halving poverty by 2015 is one of the greatest challenges of our time, requiring cooperation and sustainability. The partner countries are responsible for their own development. Sida provides resources and develops knowledge and expertise, making the world a richer place.



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