Follow-up questions and responses on second legal review

Questions and response 11/03

Thanks again for all you have done to strengthen the Reference Note, Executive Summary and Toolkit. We had a good discussion in the Steering Committee today, and we all understood your points. We did agree to raise two questions with you, both of which refer to paragraph 5 of your General comments:

1. You "highly recommend" adding "actual examples" of conflicts of interest. We did prepare some hypothetical examples for our first consultation event but did not include them in the Reference Note or Toolkit. There was reluctance to include anything that might be interpreted as an actual example applicable to the SUN Movement. Do you have any sources that we might consult regarding useful examples arising in similar multi-stakeholder platforms? We collected an extensive bibliography but found most examples in the literature to apply to individual conflicts of interest, even where the context was a multi-stakeholder setting.

2. We were very concerned that you had the impression that all the "hints" of examples generally refer only to the private sector. We have tried very deliberately to convey the message that <u>all</u> stakeholders may have possible conflicts of interest, not just the private sector. We do recognize that the references to the Code of Marketing for Breast Milk Substitutes are specific in a couple of paragraphs of the Reference Note and Toolkit and may be seen as applicable only to the private sector.   Are there other places in the documents where you have gotten the impression of hints only applying to conflict of interest in relation to the private sector? Or is it because we have not included any other specific examples besides the Code?

Response

I understand the sensitivities that you have against including actual examples, as including them may exacerbate the issues that you are facing. Indeed, it is the references to the Code of Marketing for Breast Milk Substitutes that were the "hints", to me, that the document was focused on conflicts of interest from the private sector.

As we discussed previously, most conflicts of interest policies focus on financial conflicts of interest only. Other "bad behavior" is usually dealt with in Codes of Conduct rather than actual conflicts of interest policies. The Global Fund has a specific guide for private sector engagement and conflicts of interest (attached). This is also focused on financial interests. Their Ethics and Conflict of Interest policy also has some examples which relate to Board members and Technical Review Panel members who are making decisions or recommendations on financing grants. They also have codes of conduct for grant recipients and suppliers which include conflict of interest provisions (all on their website).

When I drafted the Global Partnership for Education conflict of interest policy, the cover note that I wrote for the Board (attached--see Section 4.3 starting on page 5) included examples of conflicts of interest for all kinds of stakeholders, but then goes on to state that the policy only concentrates on financial conflicts of interest because trying to manage other kinds of conflicts would be unmanageable and could potentially undermine the multi-stakeholder nature of the partnership. I note that the private sector involvement in the education sector is controversial, given their stance on low-fee schools for example, wherein most actors in the sector have worked tirelessly on campaigns to abolish school fees

and make free quality education available to all. However, the GPE has chosen not to make any rules or guidance about this issue to date. They may have to do so in the future.

The main issue here is that, as we initially discussed, the context here is different as there is no central grant-making mechanisms in the SUN Movement. It is unclear to me, even after reviewing all the documents, what kinds of decisions that a multi-stakeholder platforms make. My sense is that is due to a lack of examples, so the documents perhaps suffers from some potential "over-reaching" by calling "bad behavior" a conflict of interest.

Perhaps you can at least add a section about the kinds of decisions that multi-stakeholder platforms make (other than "working together to improve nutrition") and the differing interests that they have in such decisions on a general basis? This may help to make it clear that NGOs, donors (and even the government itself) may have conflicting interests. I'd be happy to review that if you'd like. Please let me know. If not, I'll send you my invoice and banking information tomorrow. Do you have a form for what information you need for the banking info? Please advise.

Questions and response 04/04

1. What are my views about the initiative as a whole?

Although I don't know the details of the background that led to this initiative, I am supportive of it.

Multi-stakeholder governance is complicated. It is currently considered "best practice" in development, but the very reason for its existence—involving people affected by the decisions in the decision-making process—creates a challenging governance environment riveted with actual, potential and perceived conflicts of interest and potential mistrust between partners as a result. It is therefore very important to transparently discuss these issues and put in place policies to manage them if possible.

I believe it is particularly challenging for a loose affiliation such as the SUN Movement. In other multi-stakeholder partnerships that have a central fund, there are obvious financial conflicts of interest that need to be managed as potential recipients of grant fund are involved in approving grants. In SUN, which has no central fund, the decisions and policies made by multi-stakeholder platforms vary widely and many of them are not financial. As a result, conflict of interest is more difficult to define. I note that most other multi-stakeholder initiatives "avoid the issue" by limiting the definition to financial interests only. By developing these guidance documents, SUN has in some way gone ahead of the other multi-stakeholder initiatives, by putting the issue front and center, which should be commended. The challenge will be in implementing it and monitoring its implementation, which will be essential for the credibility and reputation of the SUN Movement in the days to come.

2.   What is my assessment of the complementarity of the different pieces in the documentation?

I think the Reference Note and the Toolkit work well together (although note below some errors in the cross-references to paragraphs from the Reference Note in the Toolkit). Many of the tables and "decision-trees" etc. are quite useful to guide countries in formulating their approaches and policies. I find the templates/forms to be slightly less so, in particular the monitoring templates, which are rather

general. These can be improved as countries start to develop their own and through the learning exercises.

Finally, we've discussed a number of times the lack of concrete examples and I understand your position on this. These will really be needed in the learning exercises to translate the rather (understandably) conceptual guidance in the document into realistic and concrete action.