



## Roll Back Malaria Partnership

### Conflict of Interest Policy and Procedure

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## Introduction

The purpose of this Conflict of Interest Policy and Procedure is to provide guidance to the Secretariat and Partners of the Roll Back Malaria Partnership (RBM) in identifying and managing conflicts of interest.<sup>1</sup>

The RBM Partnership was launched in 1998 by the World Health Organization (WHO), the United Nation's Children's Fund (UNICEF), the United Nations Development Programme (UNDP), and the World Bank to intensify and coordinate global efforts to control malaria. Today, the Roll Back Malaria Partnership has expanded to become the leading global health initiative for mobilizing action, raising resources and coordinating actors in the worldwide fight against malaria.

RBM is composed of hundreds of public and private sector partners, united in efforts to scale up malaria interventions at country level. The Partnership is made up of seven constituencies: malaria-endemic countries; bilateral donor development partners; multilateral development institutions; private sector; nongovernmental and community-based organizations; philanthropic foundations; and research and academic institutions. In addition, the Global Fund to Fight AIDS, Tuberculosis and Malaria, the United Nations Special Envoy for Malaria, UNITAID, and the Executive Director of the RBM Partnership are ex-officio non-voting members of the RBM Board.

The RBM Partnership is not a separate legal entity. WHO provides hosting arrangements, including a legal identity for the Partnership Secretariat and administrative and fiduciary support pursuant to its mandate as the global coordinating agency for public health. It enables the Partnership to make optimal use of its resources to fulfill its mission, and provides an accountability framework which ensures safeguards and due diligence in the management of partnership resources and activities.

RBM aims to achieve its objectives through the collaborative efforts of its Partners. RBM Partners have adopted the following principles:

- share and adopt the common vision and strategy, outlined in the Global Malaria Action Plan;
- consider the comparative advantage of each partner and identify their own area of expertise or comparative advantage when supporting the Global Malaria Action Plan;
- promote a coordinated approach and support and employ the operating mechanisms of the RBM Partnership.

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<sup>1</sup> This RBM Conflict of Interest Policy and Procedure was prepared in collaboration with the WHO Office of Legal Counsel and draws on the Draft WHO Guidelines for Declaration of Interest (Office of the Legal Counsel, September 2007). It also draws on the World Bank Guidance Note for Bank Staff, Identifying and Addressing Partnership Conflict of Interest at Inception of Global Programs and Partners (GPP Group, October 2006) and on the work of the RBM Private Sector Constituency and Sidley Austin LLP.

RBM Partners contribute to the global fight against Malaria by participating in: the RBM Board, the Executive Committee and other Board Sub-Committees, Working Groups, Task Forces, and other partnership mechanisms, conferences and RBM activities.<sup>2</sup> Working Groups currently include the following: Advocacy and Communication; Harmonization; Procurement & Supply Chain Management; Resources; Scalable Malaria Vector Control; Malaria Case Management; Monitoring & Evaluation; and Malaria in Pregnancy. Working Groups involve a diverse range of partners engaged in activities such as synthesizing and building consensus on strategic issues relating to scaling up malaria prevention and treatment, providing strategic advice to the Partnership, and other activities to support the achievement of malaria coverage targets.

Representation on the Board of the RBM Partnership is organized via its Bylaws and Operating Framework, most recently adopted in 2008. In further considering best practice for constituency representation on the Board, safeguarding the independence of the Partnership, and ensuring the objectivity of its work, a number of options exist. Use of neutral convenors (including umbrella associations or organizations) to serve as secretariat to the constituency and to manage the organization of constituency representation is encouraged..

The RBM Partnership's reputation for transparency and inclusivity, as well as objectivity and unbiased work, is essential to achieve its objectives. Accordingly, it was agreed in the December 2006 Memorandum of Understanding between WHO and the RBM Partnership concerning hosting, secretariat and administrative services that the RBM Board would "establish a conflict of interest policy with reference to the activities of partners, including the participation of industry."

Given the special nature of WHO and its fiduciary responsibilities for partnerships, one of the criteria applied by WHO for engagement in a partnership is the need for pursuit of the public health goal to take precedence over the special interests of participants. Risks and responsibilities arising from public-private partnerships need to be identified and managed through development and implementation of safeguards that incorporate considerations of conflicts of interest. In addition, the partnership must have mechanisms to identify and adequately deal with conflicts of interest.

The knowledge and experience of RBM Partners is essential to enable the Partnership to assess, analyze and find solutions to malaria-related needs and to achieve the Partnership's objectives. To be effective, the work of RBM and the contributions of its Partners (acting in their capacity as Partners) must be, and must be perceived to be, in accordance with the highest standards of objectivity and integrity and in furtherance of the best interest of the Partnership. Accordingly, RBM requests that Partners serving in a decision-making or an advisory role disclose any circumstances that could give rise to a potential conflict of interest related to the subject of the activity in which they will be involved. Broadly speaking, a potential conflict of interest is any personal or outside interest, relationship or responsibility which may affect, or may reasonably be perceived to affect, the partner's objectivity and judgment with respect to the matter under consideration.

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<sup>2</sup> The RBM Conflict of Interest Policy and Procedure is intended for Partners acting in a decision-making or an advisory role within or on behalf of the Partnership. These include, for example, Partners who are members, alternate members or members of constituency delegations of the RBM Board; members of RBM Board Subcommittees; members of RBM Working Groups or Task Forces; and RBM Partners officially representing the Partnership at conferences or similar events.

Accordingly, a Declaration of Interests Form ("DoI Form"), for RBM Partners and Consultants is provided together with the guidance on policy and procedures set out below.<sup>3</sup> This guidance is intended to explain the **meaning** of a "conflict of interest"; identify **when** a partner must complete a Declaration of Interest (DoI) form; explain **how** the information disclosed should be assessed; and describe **what actions** should be taken when a potential conflict appears to exist. The DoI Form is attached in Annex I.

### Meaning of "Conflict of Interest"

A **conflict of interest** can occur when a Partner's ability to exercise judgment in one role is impaired by his or her obligations in another role or by the existence of competing interests. Such situations create a risk of a tendency towards bias in favor of one interest over another or that the individual would not fulfill his or her duties impartially and in the best interest of the RBM Partnership.

A conflict of interest may exist even if no unethical or improper act results from it. It can create an appearance of impropriety that can undermine confidence in the individual, his/her constituency or organization. Both actual and perceived conflicts of interest can undermine the reputation and work of the Partnership.

### Types of Conflicts of Interest

Several types of conflicts of interest may arise in the context of the RBM Partnership particularly in the activities of the RBM Board, Committees, Working Groups, Task Forces and other decision-making or advisory mechanisms. A conflict of interest may involve the Partner's personal, professional, financial or business interests which are related to or could be affected by the outcome of the activity involved. The conflict could arise from business interests, including: investments, intellectual property interests (e.g., a patent or copyright), access to proprietary information or other commercial competitive advantage. Equally, conflicts of interest can arise from cultivating favor and advantage towards the attainment of personal, professional or organizational advancement or gain.

In the context of RBM Partnership activities, conflicts of interest may occur in three broad settings: (1) a Partner uses his or her position within an RBM constituency<sup>4</sup> to block participation of others in the affairs and discussions of the constituency in order to advance a position that serves him/herself or his organization; or (2) when serving in a decision-making or an advisory capacity on the RBM Board, Committee or Working Group, the Partner's personal, business or organizational interests impair, or may be reasonably perceived to impair, the Partner's objectivity and judgment in a manner that benefits his or her own personal or organizational interests at the expense of the wider constituency or RBM Partnership interests or (3) a Partner may derive significant competitive advantage

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<sup>3</sup> It should be distinguished that this DoI form is not used for RBM Secretariat staff members. The RBM Partnership Secretariat and other WHO staff are covered by the conflict of interest policies and rules of the World Health Organization.

<sup>4</sup> As noted above, RBM consists of seven constituencies. Partners frequently function in a representative capacity, including representation of a constituency.

from information discussed during Partnership deliberations. Examples are when a competitive grant is being considered or discussed in a Partnership body or activity in which potential recipient organizations (e.g., NGOs, research institutes) are present, or when procurement of a product manufactured by an individual or his/her employer or a competitor is being considered or discussed in a Partnership body or activity in which such manufacturers or their employees are present. In such situations the Partnership mechanism and Partners concerned should apply the appropriate mechanisms to manage such conflicts.

A conflict of interest usually relates to the interests of a Partner or of his or her constituency. It could also be created by interests of others who may, or may be perceived to, unduly influence the Partner's views. A typical example is when a Partner's participation in RBM's work could affect or be affected by interests held by the Partner's immediate family members, employer, close professional colleagues, administrative unit or department, or business entities affiliated with the Partner<sup>5</sup>, rather than the Partner personally. Such circumstances will vary. In some cases, as a practical matter, the Partner may be unaware of or unaffected by these interests of others, especially in large organizations. In such cases, requisite disclosure is confined to situations where the Partner is aware of such interests.

### **Guiding Principles**

A number of guiding principles for the application of this Conflict of Interest Policy and Procedure have been identified, as follows:

- a) No Partner participating in the RBM Board, the Executive Committee and other Board Sub-Committees, Working Groups, Task Forces, and other partnership mechanisms, conferences or other RBM activities shall use his or her position, or the knowledge gained thereby, in such a manner that an actual or potential conflict arises between the Partner's interests and the interests of RBM, but is not disclosed.
- b) Individual members of a constituency at RBM Board meetings who are designated as the constituency representative or alternate shall only speak on behalf of the entire constituency. Each constituency must ensure that its representative or alternate has been duly designated to speak on its behalf.
- c) When acting on behalf of RBM, each Partner has a duty to place the wider interest of the Partnership foremost in any discussions or dealings.
- d) RBM Secretariat staff cannot serve as RBM Partners during their tenure. If a Partner is to be employed by the RBM Secretariat, he/she must immediately withdraw from participation as a Partner.
- e) RBM Partners shall proactively anticipate and avoid situations in which a conflict of interest might arise. However, an RBM Partner who becomes aware of a potential conflict of interest with respect to any matter coming before a Partnership body (i.e., Board, the Executive Committee, Sub-Committee, Working Group, Task Force or other

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<sup>5</sup> The term "immediate family member" includes the Partner's spouse and minor children. "Spouse" is defined to include a partner or other person with whom the Partner has a similar close personal relationship.

partnership mechanism) shall make this potential conflict known prior to the meeting or event relating to the matter. Any Partner with a conflicting interest shall recuse himself or herself from any decision on any matter that gave rise to the conflict and, if necessary, from the meeting of the Partnership body or applicable part thereof.

f) The RBM Secretariat shall endeavor to ensure timely and wide dissemination of all relevant material (pre-reads and agenda) for all meetings where decisions are to be taken, so that Partners can assess in advance whether a potential conflict of interest exists and make any necessary disclosures. Advance dissemination would also allow a Partner sufficient time to consult with his/ her constituency in order to be able to represent an agreed or consensus position.

g) When the RBM Partnership engages in activities which may have the effect, or may be perceived as having the effect of promoting the business or financial interests of a Partner, or of any particular products or services, the Partnership must apply appropriate measures to avoid favouring certain enterprises over others, (e.g., by inviting all eligible enterprises to participate, by ensuring that none is granted exclusive sponsorship or participation rights).

## **Managing Conflicts of Interest**

When a real or perceived conflict of interest situation arises, the Partner concerned should not automatically be assumed to be in the wrong. Rather, the Partner and the Partnership are facing a problem that must be addressed jointly, properly and promptly. How the individual and partnership responds to the problem is key.

### Disclosure and Updating

The first step in the process is to determine whether a conflict of interest exists. This is done primarily through completion of a Declaration of Interest form (DoI) attached at Annex I. The subject matter of the meeting, work, or activity in which the Partner is expected to participate must be described in the DoI form with sufficient specificity to enable the Partner to limit his/her disclosures to relevant information; this is essential to avoid overburdening the Partner and the Secretariat and enable them to focus on meaningful data.

Each Partner should be required to complete the DoI prior to their participation in the Partnership and update it annually. In addition, each Partner is required to submit an updated DoI to inform the Secretariat if any change in the information disclosed occurs before or during the course of an RBM meeting or event which may be relevant for the purpose of evaluating the risk of a real or perceived conflict of interest. There may also be occasions when additional disclosures are required, such as where new topics are added or changes take place in the subject of discussions or meetings.

The Declaration of Interests form will be made available by the Chair or Secretariat prior to specific RBM meetings and Partnership events at which it is anticipated that potential conflicts of interest may arise. This will allow Partners to update their forms, as appropriate (annually, or sooner if there are relevant new developments) and for new Partners who have not yet completed the form to do so. If a Partner declines to complete the DoI form, he/she may not be permitted to participate in the activity.

### DOI Form:

The DOI form consists of a series of questions requesting disclosure of any interest relevant to the subject of the work to be performed or to be discussed at a RBM meeting or event in which the Partner is participating. If the Partner answers any question affirmatively, he/she is asked to supply further details at the end of the form.

An affirmative answer in the DOI Form does not automatically disqualify the Partner from participation. Rather, affirmative answers are screened by the Secretariat and/or the Chair(s) of the Partnership mechanism to determine if a potential conflict of interest exists and, if so, whether it is significant, in accordance with the procedures explained below.

While the DOI Form is an important component of this process, Partners also have an affirmative obligation to be aware of potential or actual conflicts that may arise in their work with RBM and to bring those to the attention of the Secretariat and/or Chair so that they can be appropriately addressed through the procedures explained below.

### Assessment

An initial review is conducted by the Secretariat and/or the Chair to determine whether a conflict of interest relevant to the subject at hand has been disclosed. If the interest disclosed is not to the subject of the meeting or event, no conflict of interest problem arises.

If the interest is relevant to the subject of the event, it must be determined whether or not the interest is significant. A declared interest is insignificant or minimal when it is unlikely to affect or be reasonably perceived to affect, the objectivity of the Partner's judgment or the integrity of his/her advice or decision. Insignificant or minimal interests may be defined as those that are unrelated or are only tangentially related to the subject of the event; are nominal in amount, or are inconsequential in importance; have expired and are unlikely to affect current behaviour; or have merely a speculative connection with the outcome of the discussion or event.

If, after the initial review, the Secretariat and/or Chair determines that no relevant interest has been declared or such interest is insignificant or minimal, then no further action is required.

However, if the initial review indicates that the declared interest is significant or potentially significant, an assessment of the potential conflict is undertaken by the Secretariat or Chair as described below. The purpose of this assessment is to determine whether a conflict situation arises that must be managed and to identify the appropriate measures to be taken in response to the conflict identified.<sup>6</sup>

The ***nature and extent*** of the Partner's interest should be weighed by the Secretariat and/or Chair in light of the ***sufficiency of available measures*** to protect the integrity of the RBM decision-making process, discussion or other activity. Of great importance is the type and magnitude of the Partner's interest (and therefore the degree to which the interest may

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<sup>6</sup> Where a significant conflict of interest is thought to exist and restrictions on a Partner's participation are being considered, it is recommended that **both** the Chair or Co-Chairs and a Secretariat staff member participate in the assessment.

be reasonably expected to influence the Partner's judgment, advice or decision making). Overall, such an analysis involves a "**balancing test**", i.e., weighing the degree of potential conflict to determine whether it can be "neutralized" or suitably limited.

Once the Secretariat and/or Chair determines that a conflict of interest needs to be disclosed, it will ask the Partner concerned to make a statement at the beginning of the meeting or activity, and to agree that his/her interest will be publicly disclosed in the report or proceedings of the meeting or activity.

If it is concluded that the declared interest is potentially significant, *one of the following three options, or a combination of these options*, is considered to determine under what conditions, if any, the Partner may participate in the discussion or event:

(i) **Conditional Participation (i.e., participation with disclosure)**: Under this option, the Secretariat and/or Chair would decide to **continue** the Partner's involvement in the meeting or work and publicly **disclose the Partner's interest to other participants** at the start of the meeting **and in the report** of the meeting and related publications. (This approach is especially appropriate where the Partner's interest is **relatively minor and where disclosure would be sufficient to address** any potential effect on the process.)

(ii) **Partial Exclusion**: In this alternative, the Secretariat and/or Chair would **limit** the Partner's involvement, either (a) by **excluding** the Partner from the **portion of the meeting or work** where a conflict of interest has been identified or (b) by **excluding the Partner from participating in the decision making process**. In both cases, the reported interest must **also be publicly disclosed** to other meeting participants and must be recorded and published in some suitable way. Option (ii)(b) may be used to enable other Partners to listen to the views or information from the Partner with the potential conflict while bearing in mind the Partner's potential bias, as well as the need to ensure that decision-making will be taken only by Partners without conflicts.)<sup>7</sup> When partial exclusion is applied, Partners with a conflict of interest must excuse themselves from the meeting room or other venue to ensure the ability of other participants to freely, openly and comfortably exchange information, express their views and take decisions. Under option (ii)(a), the conflicted Partner must excuse him/herself from both the discussion and the decision making. Under (ii)(b), the conflicted Partner must excuse him/herself from the decision making portion.

(iii) **total exclusion**. Here, the Partner is excluded from the meeting or work altogether, where the nature of the conflict of interest is too significant vis-à-vis the subject matter or overall objective of the event, or where limiting the Partner's involvement to only a portion of the meeting or work is not feasible.

As a general matter, **a useful approach** is to assess the situation through the eyes of a hypothetical "**reasonable person on the street**". If an appropriately well informed person might reasonably conclude that the decision-making would be biased or that the discussion

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<sup>7</sup> The second option, partial exclusion could be used where there are several subjects of the meeting and it is feasible to exclude the Partner from discussions involving the affected interest. The alternative described at (ii)(b) would permit the participants to benefit from the Partner's knowledge and experience during discussions, as permitted by the Chair in consultation with the Secretariat, but exclude the Partner from decision-making. In either situation, the Partner's interest, together with the action taken, must be fully disclosed.

would be constrained or otherwise compromised because of the presence of the conflicted Partner or would be unduly influenced by the Partner's interest in the outcome, then the Partner's involvement should be excluded or limited (rather than merely disclosed).

If a Partner is not able or willing to disclose the details of a confidential matter that may pose a real or perceived conflict of interest, the Partner must disclose that a conflict of interest situation exists and must totally recuse him/ herself from the meeting or work concerned (see above, (iii) total exclusion).

### **Additional Considerations**

Whenever a conflicted Partner is partially or totally excluded from a meeting or event, the content of the discussion should remain confidential among the participating Partners; at the very least, the views expressed by participating partners should not be attributed to them as individuals. In accordance with normal practice, the outcome of the discussions may be shared or made publicly available.

In some circumstances, it may be useful for Partners to take a decision by the use of a secret ballot if for any reason the subject is sensitive or participating Partners so request.

Where a Partner's participation in a discussion or event accords him or her access to proprietary or other potentially sensitive information, the Secretariat or Chair may request participating Partners to sign a confidentiality agreement with regard to the subject matter, the meeting or the event.

The minutes of the meeting or event at which a conflict of interest problem arises shall contain the names of the Partners who disclosed or otherwise were found to have a conflict of interest, the general nature of the interest, and the action taken to manage the conflict. Illustrations of appropriate wording are available from the Secretariat.

In addition, although in the DoI Form, the Partner consents to public disclosure unless he/she indicates otherwise, it is nevertheless recommended that the Secretariat or Chair should personally contact the Partner concerned whenever considering partial or full exclusion. Aside from the sensitivity needed in dealing with such personal information, an opportunity for the Partner to clarify or provide additional information is often useful in trying to ascertain the significance of a possible conflict and which option to manage the conflict would be appropriate.

If the Secretariat and/or Chair is unable to determine which action should be taken in an individual case, or if the conflicted Partner wishes to oppose the determination of a conflict or option for managing the conflict, the DoI responses should be reviewed with the Office of the Executive Director RBM, which may avail itself of advice from the *WHO Office of the Legal Counsel* or the *Office of the Director-General*.