

Strategy & Policy

Anti-Fraud, Bribery & Corruption

Legal & Procurement

December 2021

climate-kic.org



Co-funded by the
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December 2021	Updates throughout for clarity and to include the Anti-Fraud Strategy for 2021-2023	EIT Climate-KIC's Legal & Procurement Team	Management Team 02 Dec 2021

1. Introduction

EIT Climate-KIC's mission is to catalyse systemic change for climate action through innovation. As part of such mission, a robust approach to fraud prevention and anti-bribery and corruption matters is vital particularly given responsibility to our funders, including European taxpayer funds via the European Institute of Innovation & Technology (EIT). This Strategy & Policy document sets out the strategic priorities and other main considerations of EIT Climate-KIC in formulating the Anti-Fraud, Bribery and Corruption Policy (Policy), the details of the Policy itself and roles and responsibilities of those involved in implementing the Policy.

It is important that EIT Climate-KIC takes a proactive stance on fraud, corruption and bribery. Fraud, corruption and bribery may be punishable for individuals by imprisonment and/or a fine. As an employer, if we fail to prevent fraud, corruption and bribery we may face an unlimited fine, exclusion from tendering for contracts, substantial damage to our reputation and other consequences.

1.1 Strategy Statement and Principles

EIT Climate-KIC take a zero-tolerance approach to fraud, corruption and bribery and are committed to acting ethically, professionally and with integrity and transparency in all our relationships and business dealings wherever we operate. In line with this strategy, we will:

- Enhance, promote and maintain a culture of zero tolerance to fraud, bribery and corruption; and
- Implement and enforce effective systems to actively prevent, detect and counter fraud, corruption and bribery.

Further details are provided in Section 4.

1.2 Policy Statement

EIT Climate-KIC's zero tolerance of fraud, corruption and bribery means that EIT Climate-KIC does not accept any level of fraud, bribery or corruption within the organisation or by any other individual or organisation receiving funding from or via us or representing EIT Climate-KIC. EIT Climate-KIC and those working for or with us (including KIC Partners, award and prize recipients, suppliers, customers and others) must pursue the highest standards of honesty and integrity in the exercise of their duties. This needs to be visible to the whole EIT Climate-KIC community and our external stakeholders. EIT Climate-KIC will put in place measures to ensure such standards are adhered to.

EIT Climate-KIC will uphold all laws and regulations relevant to countering fraud, corruption and bribery in all the jurisdictions in which it operates. Further, regardless of any conflicting guidelines and procedures set out in this or any other document, EIT Climate-KIC and those persons working for and with us each always have an overriding obligation to comply with applicable laws and regulations. EIT Climate-KIC endeavour to maintain this policy in line with the most diligent requirements in the jurisdictions in which we operate.

1.3 Roles and Responsibilities – To Whom Does This Policy Apply?

This Policy applies to all individuals working at all levels and grades within the EIT Climate-KIC group (Climate-KIC Holding B.V, its subsidiaries). This includes senior managers, officers, directors, employees (whether permanent, fixed-term or temporary), consultants, contractors, trainees, seconded staff (including those employed by a KIC Partner), homeworkers, casual workers and agency staff, volunteers, interns, agents, sponsors, or any other person associated with us or for us, wherever located (collectively referred to as EIT Climate-KIC people and individually EIT Climate-KIC persons in this Policy).

EIT Climate-KIC people must ensure they have read and understood this Policy and act in compliance at all times. The prevention, detection and reporting of fraud, corruption and bribery are the responsibility of all those working for us, under our control and with us. All EIT Climate-KIC people are required to avoid any activity that might lead to, or suggest, a breach of this Policy.

Any employee who breaches this Policy will face disciplinary action, which could result in dismissal for gross misconduct.

2. Definitions

2.1 What is Fraud (or an Irregularity)?

As taken from the Convention for the Protection of European Communities' Financial Interests¹, Fraud includes:

- A. In respect of expenditure, any intentional act or omission relating to:
 - the **use or presentation of false, incorrect or incomplete statements or documents**, which has as its effect the misappropriate or wrongful retention of funds from the EU's budget;
 - **non-disclosure of information** in violation of a specific obligation, with the same effect; and/or

¹ Article 1(2) of Regulation (EC, Euratom) No 2988/95

- the misuse of such funds for purposes other than those for which they were originally granted.
- B. In respect of revenue, any intentional act or omission relating to:
- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of EU budget resources;
 - non-disclosure of information in violation of a specific obligation, with the same effect; and/or
 - misuse of a legally obtained benefit, with the same effect.

Therefore, for EIT Climate-KIC, the concept of fraud covers not only any infringement of the financial interests of EIT Climate-KIC but also misbehaviour that may not have a direct effect on our financial interests – for example reputational impact, concealment of material facts, security breaches of IT systems, cyber fraud and conflicts of interest that have not been declared intentionally. Favouritism and collusion are also included in the definition of fraud.

2.2 What is Corruption? What a Bribe?

Corruption is the abuse of entrusted power or position for private gain. For example, influencing the funding of KIC Partners or projects which involve persons or entities in which you have a personal interest such as a shareholding, management/advisory position or other relationship. The Strategy & Policy Conflicts of Interest & Gifts is important for identification of situations where there is a risk of a conflict and/or corruption. Please also refer to 2013 research study “Identifying and Reducing Corruption in Public Procurement in the EU” as commissioned by the European Commission (via OLAF) as good source material.

A **bribe** is an inducement or reward offered, promised, provided or received in order to gain any commercial, contractual, regulatory or personal advantage. Bribery is illegal in many countries.

Examples: Offering a Bribe

You offer to vote positively on a partner’s proposal in portfolio week (or otherwise foster a KAVA/budget allocation to the partner), but only if they agree to employ your niece (or you following your departure from EIT Climate-KIC).

This would be a bribery offence as you are making the offer to gain a personal advantage. It may also be an offence for the partner to accept your offer.

Example: Receiving a Bribe

An IT supplier agrees to support your spouse’s initiative but makes it clear that in return they expect you to use your influence in our organisation to ensure a consulting contract.

It is an offence for the IT Supplier to make such an offer. It would be an offence for you to accept the offer as you would be doing so to gain a personal advantage.

Example: Bribing a Foreign Official

You arrange for the organisation to pay an additional payment to a foreign official to speed up an administrative process, such as a cost reporting review.

The offence of bribing a foreign public official has been committed as soon as the offer is made. This is because it is made to gain a business advantage for us. We may also be found to have committed an offence.

2.3 Facilitation Payments and Kickbacks

Facilitation payments are typically small, unofficial payments made to secure or expedite a routine government action by a government official.

We do not make, and will not accept, facilitation payments or "kickbacks" of any kind.

If you are asked to make a payment on our behalf, you should always be mindful of what the payment is for and whether the amount requested is proportionate to the goods or services provided. If appropriate, you should also ask for a receipt which details the reason for the payment. If you have any suspicions, concerns or queries regarding a payment, you should raise these with the Legal & Procurement Team. Alternatively, you may report such suspicions or concerns via the independent third-party whistleblowing service. Contact details can be found on SharePoint and Annex 2 to this Policy.

Kickbacks are typically payments made in return for a business favour or advantage, by agreement between the parties, and may include any proposed payments to EIT Climate-KIC by third parties in order to secure additional funding.

All EIT Climate-KIC people must avoid any activity that might lead to, or suggest, that a facilitation payment or kickback will be made or accepted by us.

2.4 Donations

We do not make charitable donations or contributions to political parties.

2.5 Hospitality and Gifts

Hospitality includes the giving or receiving of food, beverages, entertainment, accommodation and/or other privileges in a professional context. A gift is something of value given or received without payment.

Subject to the further terms of the Strategy & Policy Conflicts of Interest & Gifts, this Policy does not prohibit reasonable and appropriate hospitality (given and received) to or from third parties and the giving or receipt of gifts, provided that this is done in accordance with normal business practices. However, for the avoidance of doubt, **in accordance with the terms and conditions of the Strategy & Policy Conflicts of Interest & Gifts, all EIT Climate-KIC people must declare any gifts or hospitality received where the value of each such gift or hospitality is more than €75 (or equivalent).** Please refer the Strategy & Policy Conflicts of Interest & Gifts for further information.

2.6 What is Whistleblowing?

Whistleblowing is the act of reporting certain types of wrongdoing (e.g. unlawful activities, suspicion of malpractice, fraud, corruption, etc.) where assurances are granted on the reporting channel to protect whistleblowers from retaliation. Persons who act as ‘whistleblowers’ are legally protected under European Union Law (Directive 2019/1937) and subsequent national implementing laws. These protections extend to persons with a work-related connection between the whistleblower and EIT Climate-KIC.

For further detail and access to the EIT Climate-KIC whistleblowing service, refer to Section 6.1 and Annex 2.

2.7 What is Not Acceptable

It is not acceptable for you (or someone on your behalf) to:

- Give (or promise to give) or offer a funding or other payment contract (including EIT grant allocations, procurement contracts), gift or hospitality or other advantage with the expectation or hope that a business or personal advantage will be received, or to reward a business or personal advantage already received;
- Give (or promise to give) or offer, a payment, gift or hospitality or other advantage to a government official, agent or representative to "facilitate" or expedite a routine procedure;
- Accept a payment, gift, hospitality or other advantage from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage (e.g. inclusion in the EIT grant, lucrative consulting contract) for them;
- Threaten or retaliate against another EIT Climate-KIC person who has refused to commit an act of fraud or corruption or a bribery offence or who has raised concerns under this Policy; or
- Engage in any activity that might lead to a breach of this Policy or applicable anti-bribery/fraud/corruption laws .

3. Fraud Risk Assessment

EIT Climate-KIC operate a risk management framework across the organisation. Fraud, Conflicts and Ethical Concerns is one identified meta-risk. The accompanying risk appetite for fraud has been categorised as the **lowest tier of risk appetite**, whereby EIT Climate-KIC has no tolerance for fraud, unmitigated conflicts and material ethical concerns outside normative realms and the mission. Further risk assessment will be conducted from time to time to assess potential fraud risks and inform this 2021-2023 Anti-Fraud Strategy & Policy.

Key areas that are considered (not limited to) include:

- Grant allocation;
- Conflicts of interest and impartiality of assessment;
- Use of EIT (or EIT Climate-KIC) funds by partners or other counterparties;
- Time recording;
- Financial processes;
- Goods and services procurement;
- Recruitment; and
- Data security and ICT processes.

4. Strategic Objectives 2021-2023

The priorities of the Strategy are driven by EIT Climate-KIC's priorities and values. EIT Climate-KIC needs to counter fraud at all levels to reinforce trust in our activities with funders, our community and our own staff.

The Objectives aim to encompass all stages of the anti-fraud cycle: prevention, detection, investigation, discovery and sanction. Prevention is one of the most important objectives of the Anti-Fraud Strategy and reflected in these objectives. In line with this and a zero tolerance to fraud, a focus is also placed on detection by encouraging internal reporting of any possible cases of fraud.

In order to address the identified risks in Section 3, the following strategic objectives are set by EIT Climate-KIC for 2021 to 2023. Further action plans may be agreed with specific funders in support of these Objectives.

Objective 1

Maintain and enhance an anti-fraud culture underpinned by high level of awareness, integrity impartiality and transparency within the EIT Climate-KIC community.

This objective builds on the view that fraud deterrence is facilitated by wide-spread common understanding and sharing of ethical values and relevant rules that apply to EIT Climate-KIC's activities.

Actions to reach Objective 1

- Maintain regular communication on Anti-Fraud related matters with EIT Climate-KIC people, senior management and leadership;
- Engagement with the EIT Anti-Fraud network; and
- Maintain an Anti-Fraud intranet page with relevant training, policies and access to the independent third-party whistleblowing tool.

Objective 2

Strengthen measures and focus effort on fraud-risk mitigation in identified areas of EIT Climate-KIC as an organisation.

For the period 2021-2023, EIT Climate-KIC will focus its efforts on fraud-risk mitigation in the areas of:

- Enhancing procedures and raising awareness on declaration of conflicts of interest across EIT Climate-KIC
- Grant management
- Goods and services procurement
- Data security and ICT processes

Actions to reach Objective 2

- Recurrent risk monitoring activities
- Policy and process updates
- Training and awareness raising

5. Record Keeping

We must keep financial records and have appropriate internal controls in place which will evidence the business reason for making payments to third parties including partners.

Subject to and in line with the further terms of the Strategy & Policy Conflicts of Interest & Gifts, you must declare and keep a written record of all hospitality or gifts accepted or offered, which will

be subject to review. Conflicts of interest and gifts are currently declared using an online form managed by the People Team and the Legal & Procurement Team and available on SharePoint at <https://eitclimatekic.sharepoint.com/sites/DI-Policy/SitePages/Home.aspx>. Access to completed forms is limited to the People team and Legal & Procurement team.

You must ensure all expenses claims relating to hospitality, gifts or expenses incurred to third parties are submitted in accordance with our expenses policies and specifically record the reason for the expenditure.

All accounts, invoices, memoranda and other documents and records relating to dealings with third parties, such as KIC Partners, award and prize recipients, suppliers, customers, start-ups and other business contacts, should be prepared and maintained with strict accuracy and completeness. No accounts must be kept "off-book" to facilitate or conceal improper payments or other side agreements (i.e. those outside our normal processes and procedures).

6. Raising Concerns

6.1 How to Raise a Concern

All EIT Climate-KIC people are responsible for the success of this Policy and should ensure they use it to disclose any suspected danger or wrongdoing. You are encouraged to raise concerns about any issue or suspicion of malpractice at the earliest possible stage. If EIT Climate-KIC people are unsure whether a particular act constitutes bribery or corruption, or if you have any other queries, these should be raised with a trusted colleague, the Legal & Procurement Team, the People Team or via the independent third-party whistleblowing service (see Annex 2). The Legal & Procurement team are the point of escalation for concerns raised with regard to this policy.

Whistleblowing

EIT Climate-KIC operate an independent third-party whistleblowing provider where you can raise concerns regarding fraud, corruption, bribery and related matters anonymously (in writing or orally). As per Section 2.6, whistleblowers are protected from retaliation (e.g. suspension, demotion, discrimination, etc.). This service is extended to workers, recruits, prior employees, self-employed contractors, board members, volunteers, trainees, persons working under supervision of contractors/subcontractors/suppliers and others where required under European Union or national law.

For persons contemplating reporting, EIT Climate-KIC will ensure confidentiality of identity and protection of exchanges of information under EU laws on data processing.

Reports are treated confidentially and will be acknowledged within seven (7) days of receipt. EIT Climate-KIC will ensure an impartial person or department will diligently follow up on reports and where appropriate request further information or provide feedback in writing (within three months from acknowledgement of receipt, or six months where duly justified). Assessment will be conducted impartially. The final outcome of investigations triggered by the report will be communicated to reporting persons and relevant bodies where required under European Union or national law. Where reports are assessed as clearly minor or repetitive (where they do not contain meaningful new legal/factual circumstances), EIT Climate-KIC reserve the right to close the report and notify the reporting person of the decision and reasons for it in writing.

EIT Climate-KIC staff in receipt of whistleblowing reports are prohibited from disclosing any information that may disclose the reporting person (or person concerned). If received outside the Legal & Procurement team (e.g. by a trusted colleague or the People Team), the recipient is to promptly forward the report without modification to the Legal & Procurement Team (or delegate).

6.2 What to do if you are a victim of Fraud, Corruption or Bribery

It is important that you tell the Legal & Procurement Team or People Team as soon as possible if you suspect fraud or corruption or are offered a bribe by a third party, are asked to make one, suspect that this may happen in the future, or believe that you are a victim of another form of unlawful activity. Alternatively, you may report the issue via the independent third-party whistleblowing service.

Protection

EIT Climate-KIC people who refuse to act in a fraudulent or corrupt manner or refuse accept or offer a bribe, or those who raise concerns or report another's wrongdoing, are sometimes worried about possible repercussions. We aim to encourage openness and will support anyone who raises genuine concerns in good faith under this Policy, even if they turn out to be mistaken.

We are committed to ensuring no one suffers any detrimental treatment as a result of refusing to take part in fraud, corruption or bribery, or because of reporting in good faith their suspicion that an actual or potential fraud, corruption, bribery or other offence has taken place, or may take place in the future. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Legal & Procurement Team or People Team or report via the third-party whistleblowing service immediately. If the matter is not remedied, and you are an employee, you should raise it formally using the appropriate grievance procedure.

6.3 Training and Communication

Regular training on this Policy will be made available across EIT Climate-KIC both at an all staff level and in target focus groups.

Our zero-tolerance approach to fraud, corruption and bribery must be communicated to all partners, suppliers, contractors, agents and business and other partners at the outset of our relationship with them and as appropriate thereafter.

6.4 Questions

The Legal & Procurement Team will deal with any queries on this Policy and its implementation. You are invited to comment on this Policy and suggest ways in which it might be improved.

7. Annexes

7.1 Annex 1: Further Potential Risk Scenarios / “Red Flags”

The following is a list of possible red flags that may arise during the course of you working for or with us and which may raise concerns under various Anti-fraud, corruption and bribery laws. The list is not intended to be exhaustive and is for illustrative purposes only. If you encounter any of these red flags while working for us, please report them promptly to the Legal & Procurement Team, People Team or via the independent third-party whistleblowing service (note third parties includes partners):

- You become aware that an EIT Climate-KIC person or a third party engages in, or has been accused of engaging in, improper business practices;
- You learn that an EIT Climate-KIC person or a third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a reputation for having a "special relationship" with foreign government officials;
- You are preparing to engage (or become engaged) with individuals or organisations based in a country outside the EU and deemed a risk according to the EIT Climate-KIC New Country Policy (based on Transparency International);
- A KIC partner or other person promises you an advantage if you secure or agree to approve certain grants, projects or other proposals – i.e. proposal to create side agreements outside of standard processes and procedures;
- An EIT Climate-KIC person or a third party insists on receiving a commission or fee payment before committing to sign up to a contract with us, or before carrying out a government function or process for us;
- An EIT Climate-KIC person or a third-party requests payment in cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made;
- An EIT Climate-KIC person or a third-party request that payment is made to a country or geographic location different from where the third party resides or conducts business;
- An EIT Climate-KIC person or a third party requests an unexpected additional fee or commission to smooth, facilitate or assist timely deployment of a service;
- An EIT Climate-KIC person or a third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;
- An EIT Climate-KIC person or a third-party request that a payment is made to "overlook" potential legal violations;
- You receive an invoice from an EIT Climate-KIC person or a third party that appears to be non-standard or customised;
- An EIT Climate-KIC person or a third party insists on the use of side letters or agreements or refuses to put terms agreed in writing;
- You notice that we have been invoiced for a commission or fee payment that appears large given the service stated to have been provided; or
- An EIT Climate-KIC person or a third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to us.

7.2 Annex 2: Independent Third-Party Whistleblowing Scheme



Navex Global is independent to EIT Climate-KIC and allows for EIT Climate-KIC people (or others) to make anonymous and confidential reports. You can submit a report online, via email or over the phone as below.

Web – Climatekic.ethicspoint.com

Phone:

- Austria: 0800 068737
- Belgium: 0800 76 541
- Denmark: 80 25 39 99
- France: 0 800 911699
- Germany: 08001808262
- Hungary: (80) 088 367
- Italy: 800 727 450
- Poland: 800000147
- Spain: 900 999 406
- Slovenia 080 488854
- Switzerland: 0800 894 307
- The Netherlands: 0800 0229573
- United Kingdom: 0800 088 5277