

## Guidelines on Ethical Conduct for JICA's Implementing Partners

### Article 1: Purpose

After the National Public Service Ethics Act (Act No.129 of 1999) of Japan took effect, the Japan International Cooperation Agency (hereafter JICA) has developed and enforced the “JICA Regulations on Staff Ethics” (No. (HR) 28 of 2004). By the same token, the “Guidelines on Ethical Conduct for JICA's Implementing Partners” (also referred to as “the Guidelines” hereafter) is prepared for maintaining Japanese citizens' confidence in JICA's projects. Though implementing partners are not subject to the law for public servants or JICA staff regulations, JICA would like them to understand the issue of public trust and follow the rules stipulated in the Guidelines.<sup>1</sup>

### Article 2: Expected Conduct of JICA Implementing Partners

JICA requires that its implementing partners comply with the rules below and uphold professional ethical standards while working as JICA's implementing partners.

- (1) Recognizing JICA's mandate to serve public interests, implementing partners shall execute their duties in an impartial manner at all times. They must not give unfair advantage to any particular parties by, for instance, divulging confidential information obtained in the course of their work on JICA's projects.
- (2) Implementing partners must always separate personal interests from professional responsibilities, and not abuse their position as JICA's implementing partner for personal gain.
- (3) Implementing partners shall avoid behaviors that invite suspicion or distrust from the Japanese public, such as knowingly accepting gifts from parties that have particular interests in Japanese ODA projects – JICA's or others'. There is no restriction for receiving advertisements or souvenirs that are widely distributed to the public.

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<sup>1</sup> For purposes of the Guidelines, the term “implementing partners” means individuals and organizations that hold contracts with JICA to carry out its projects, as well as those organizations' personnel assigned to JICA's projects. Job titles do not necessarily correspond to the Guidelines' scope, but typical titles include Consultants and Experts, among others.

Partner governments, executing agencies within the partner governments, and their officials are not subject to the Guidelines. Therefore, when the term “implementing partners” is used in this document, it does not include officials of partner governments and executing agencies.

- (4) Implementing partners shall comport themselves responsibly not only during work hours but also outside of work hours, since their behaviors could influence reputations of JICA and its projects.
- (5) An implementing partner must contact his/her JICA liaison and obtain an advance approval from the Ethics Administrator (see Article 4 below) when he/she receives a third-party invitation, based on his/her work with JICA, to give a talk, participate in a panel, facilitate or instruct in a seminar/training, write an article, edit or compile texts, appear on a TV or radio program, or publish a piece of writing on the internet, and so forth – whether or not the activity involves remuneration.
- (6) Implementing partners shall not engage in actions that can be construed as harassments (see Annex 1) or sexual exploitation and abuse (see Annex 2), while working on JICA's projects or in situations where third parties would consider them to be JICA's associates.
- (7) Implementing partners must not take part in the trading of stocks and other financial products when those transactions constitute insider trading, as defined by the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948).

### Article 3: Expected Conduct of Temporary Accounting Officers

JICA requires that those who handle public funds as Temporary Accounting Officers comply with the following rules, along with those described in Article 2 above, and uphold ethical standards that accompany the entrusted duty of the position. In the event that an implementing partner had engaged in any of the following prohibited activities before he/she was assigned to be Temporary Accounting Officer, he/she should disclose the fact to JICA before accepting the position.

- (1) A Temporary Accounting Officer shall not play golf or travel with any contractors who provide – or potential contractors who may provide – materials, equipment, or services to projects he/she works on (such contractors are collectively referred to as “interested stakeholders” hereafter). The prohibition of golf or travel with interested stakeholders applies even if the Temporary Accounting Officer pays his/her own expenses. (Business trips are excluded as long as each party pays its own bills.)
- (2) Temporary Accounting Officers shall not have interested stakeholders entertain them with all-expenses-paid feasts and parties. It is acceptable to receive refreshments, modest working meals, and food at buffet parties where various partners attend (the same rule applies to JICA's employees).

- (3) Temporary Accounting Officers must not take any cash or items of value as gifts from interested stakeholders.
- (4) Temporary Accounting Officers must not accept gifts of services performed by interested stakeholders or paid by interested stakeholders.
- (5) Temporary Accounting Officers shall not disclose plans to procure materials, equipment, or services to certain interested stakeholders only.

#### Article 4: Chief Ethics Officer and Ethics Administrators

At JICA, the Chief Ethics Officer is responsible for enforcing the expected ethical standards, and Ethics Administrators support him/her. The Senior Vice President of General Affairs serves as the Chief Ethics Officer. The Ethics Administrators consist of Directors General of offices and departments at HQ, Deputy Director of the JICA Ogata Sadako Research Institute, Directors General of domestic offices, and Chief Representatives at overseas offices. In case of any difficulty determining whether or not any rules in the Guidelines are pertinent to certain action or situation, implementing partners should consult the Ethics Administrator of their assigned location or contracting department.

#### Article 5: Disciplinary Actions

In the event any implementing partner violated a rule or rules in the Guidelines on Ethical Conduct, JICA will consider disciplinary actions based on his/her contract or agreement with JICA. If any implementing partner experienced harm due to a violation of the Guidelines' rules, or witnessed such an incident, he/she should contact the Ethics Administrator.

#### Annexes:

Annex 1. Harassment Types and Behaviors

Annex 2. Sexual Exploitation and Abuse: Definitions and Examples

## Harassment Types and Behaviors

Harassment is the act of harming another person by words, attitudes, or actions. Listed below are main categories of harassment and examples of behaviors that can be interpreted as such harassments. The listed behaviors typically occur among workers in a workplace. However, JICA considers harassments to be its concerns regardless of the victims' employment statuses or organizational affiliations, if the harassing acts were committed by its implementing partners.

In addition to harassing behaviors described below, implementing partners working overseas are expected to pay close attention to norms and customs in the country of their assignment, and avoid behaviors that may be problematic in the country's context. Likewise, implementing partners who interact with foreigners at work in Japan should be cautious about their behaviors toward them.

It is important to note that individual perceptions vary. Irrespective of the actor's intention, if his/her action is perceived to be hurtful or uncomfortable by the targeted individual(s) or by witnesses, that action may constitute harassment.

JICA prohibits any retaliation against individuals who report harassments or cooperate with investigations.

### 1-1 What is Sexual Harassment?

Sexual harassment is any verbal or physical conduct of a sexual nature that is unwanted by the person who is target of the conduct. Depending on how the targeted person responds, he/she may become professionally disadvantaged, or his/her work environment may become hostile.

### 1-2 Examples of Sexual Harassments

#### (1) Occurring in and outside Workplace

##### 1) Utterances of Sexual Nature

##### (a) Utterances Based on Sexual Interest or Desire

- Discussion of physical characteristics such as sizes of breasts and buttocks.

- Lewd jokes.
- Asking a woman who looks unwell, “Are you having your period?” or “Already in menopause?”
- Talking boastfully about one’s sexual experiences.
- To ask persistently about another person’s sex life, sexual experiences, or relationship situations (marital or otherwise).
- To spread sexual rumors about another person. To make another person the target of sexual jokes.

(b) Utterances Based on Gender Stereotypes

- Remarks that echo stereotypical gender roles and characteristics, such as “What kind of man are you to show such weaknesses?” or “Women who work must be able to balance it with family.”
- Calling or referring to an adult worker disrespectfully as “boy,” “girl,” “old man,” or “old woman.”
- Using derogatory terms for sexual minorities when calling or referring to LGBTI workers.

2) Actions of Sexual Nature

(a) Actions Based on Sexual Interest or Desire

- Displaying nude or semi-nude images on a computer monitor or mobile phone screen when others may be able to see them.
- Showing magazines with explicit photos and vulgar articles of a sexual nature, or reading such magazines in a manner that makes others notice.
- To stare at the body of another person.
- To ask someone out obstinately (for a date, trip, etc.) despite being turned down.
- Making phone calls with sexual implications. Sending letters, e-mails, or text messages with sexual contents.
- Unnecessary touching.
- To peek into a bathroom, washroom, or changing room. To covertly video-record or take photos of people using such facilities.

(b) Actions Based on Gender Stereotypes

- To assign duties and tasks based on stereotypical notions of gender. For instance, appointing only male workers to undertake important duties, or requesting only female workers to serve tea and run errands.

## (2) Occurring Mostly Outside Workplace

### 1) Behavior Based on Sexual Interest or Desire

- To demand having sexual relationships.

### 2) Behavior Based on Gender Stereotypes

- To demand singing duets at karaoke.
- To insist that a specific person should seat next to the boss at a party, pour drinks, or dance with him/her cheek to cheek.

## 2-1 What is Power Harassment?

Power harassment is a behavior that (a) derives from some superior positioning in workplace, (b) exceeds what is necessary and appropriate for work, (c) harms the targeted individual physically or psychologically, or spoils the work environment, and (d) has all of the elements (a) through (c).

The term “superior positioning” (in the element (a) above) refers not only to higher positions in a hierarchical organizational structure but also to other kinds of differential power based on contracting status (such as contractor vis-à-vis subcontractor), the length of tenure or experience, or amount of specialized knowledge.

To “exceed what is necessary and appropriate” (in the element (b) above) means that the behavior is unsuitable as a means of business communication or that the behavior goes beyond what is socially acceptable in terms of style, degree, or frequency.

To “harm physically or psychologically” and to “spoil the work environment” (in the element (c) above) indicate that the resultant pain or hostile work environment may have serious adverse effects on the worker’s or workers’ morale, performance, health, and/or social life.

## 2-2 Examples of Power Harassments

### (1) Hurting Physically

- Violent acts such as kicking, hitting, or throwing an object at another person.

### (2) Hurting Psychologically

- Repeatedly insulting a worker who did not meet his/her performance goals by making humiliating remarks such as “You are no good” or “Don’t even

bother come to work.”

- Unjustifiably low evaluation of another person’s abilities, especially when spoken in front of other workers.
- Unreasonably harsh accusation for a failure, especially when spoken in front of other workers.
- To demean another person by callously criticizing his/her appearance, style of dress, beliefs, personality, or identity – for instance, comments such as “He is a psycho” or “Fatsos don’t get a chance to speak.”

(3) Ostracizing

- To contrive to isolate a worker from other staff, for example by not telling a meeting schedule to him/her only.

(4) Excessive Demands

- Assigning impossible amount of work. This includes allocating – without any valid reason – workload which is disproportionate to the set timeframe and thus would require workhours beyond the legal limit for the week, month, etc.
- To demand labor under a stressful condition or in a harsh environment, when there is no task-related necessity to do so.

(5) Insufficient Demands

- Exclusively assigning simple tasks that do not correspond to the worker’s actual abilities.

(6) Infringement on the Personal

- Invading another person’s privacy by searching his/her desk drawers or viewing information on his/her personal mobile phone without any legitimate reason.
- Intruding into someone’s private time by compelling him/her to join for dinner after work or to play golf together on a holiday.

### 3-1 Other Types of Harassment

Besides sexual harassment and power harassment, other types of behavior can also cause emotional distress to others at work, damage interpersonal relations, lower workers’ morale, or upset the work environment. Such behaviors may constitute harassment, and JICA’s implementing partners are expected to avoid acting in such manners. Some examples are described below.

### 3-2 Examples of Other Types of Harassment

- (1) Repeatedly subjecting a specific colleague to silent treatment, ridicule, or bad-

mouthings.

- (2) Continually drawing attention to a particular colleague's shortcomings and calling him/her a fool in front of other workers, thereby denigrating that individual's personality, identity, or beliefs in the others' eyes.
- (3) To reproach a colleague for a minor error, emphasizing that he/she made an irreversible mistake instead of discussing how to correct the error.
- (4) Require a pregnant staff member to carry out a physically strenuous task, despite her express wishes to prioritize her and the baby's health.
- (5) Not allowing a project staff member to take leave days which he has the right to take, when his wife is about to give birth or has just had a baby.

## Sexual Exploitation and Abuse: Definitions and Examples

JICA takes a zero-tolerance approach toward sexual exploitation and abuse, and all confirmed violations will be handled accordingly. Depending on circumstances, sexual exploitation and abuse may overlap with sexual harassment.

### 1-1 What Is Sexual Exploitation?

Sexual exploitation occurs when a person abuses his/her position of authority or trust, or differential power stemming from situations, for purposes of engaging in sexual activities<sup>2</sup> or brokering sexual favors to others (includes transactional sex).

### 1-2 Examples of Sexual Exploitation

#### (1) Solicitation of Sexual Activity in Exchange for Money, Aid Items, Employment Opportunities, or Other Benefits

- In the context of emergency disaster relief, asking a beneficiary for sexual favor in exchange for the provision of relief supplies.
- Offering employment in a project in return for sexual relationship.
- To (promise to) financially assist the family of a project stakeholder while pursuing sexual relationship with him/her.
- Soliciting commercial sex. (In most countries, prostitution is linked to poverty and other kinds of vulnerabilities, and human trafficking victims are often forced to work in the industry. Since JICA advocates human security as its mission – aspiring for a world free from fear, want, and indignity – JICA’s implementing partners shall not be involved in commercial sex services under any circumstances.)

#### (2) Brokering or Facilitating Sexual Services to a Third Party, Potentially Profiting Monetarily, Socially, or Politically

- Taking business associates to establishments that offer commercial sex services when they are on business trips, in order to establish rapport or gain business introductions.

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<sup>2</sup> In the Guidelines on Ethical Conduct for JICA’s Implementing Partners, “sexual activity” means all behaviors that are motivated by sexual desire or interest. The category includes not only activities involving physical contacts such as fondling and intercourse but also non-contact activities such as watching and videotaping.

## 2-1 What Is Sexual Abuse?

Sexual abuse means physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. The category includes threatened intrusions as well as actual ones. (Sexual and gender-based violence, sexual crimes, and sexual activities with minors are also part of this category.)

## 2-2 Examples of Sexual Abuse

- (1) To touch another person's body in a sexual manner without explicit consent from him/her.
- (2) To threaten rape and other sexual violence against other workers during quarrels.
- (3) To engage in sexual activities with children under the age of 18 (conforming to the UN standard<sup>3</sup>). Any sexual activity with a child is considered sexual abuse, regardless of consent or mistaken belief about age.

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<sup>3</sup> "Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defense" (United Nations Secretariat, "Secretary-General's Bulletin" ST/SGB/2003/13, Section 3, 3.2 (b)).