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4 **Guideline**

5  
6 **for the audit of**

7  
8 **Corruption Prevention**  
9 **in Government Agencies**

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12 **Draft Version for the 2<sup>nd</sup> Meeting of Sub-Group 2**  
13 **of the INTOSAI Working Group on**  
14 **Fight against Corruption and Money Laundering**  
15 **(WGFACML)**  
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1	<b>Inhaltsverzeichnis</b>	<b>Seite</b>
2		
3	<b>1. Introduction</b>	<b>3</b>
4	1.1 Objective, purpose and applicability of the guideline	3
5	1.2 The Role of the SAI and its limitation in the fight against corruption	4
6	1.3 Concept of Corruption	7
7	1.4 Causes of Corruption	16
8	1.4.1 Types of Corruption	21
9	1.5 Cost of Corruption	25
10	1.6 Laws and Regulations	31
11	<b>2. Components of Corruption Prevention and Fighting</b>	<b>35</b>
12	2.1 Organization	35
13	2.1.1. An organizational unit for corruption prevention	35
14	2.1.2. Contact person for corruption prevention (anti corruption officer)	35
15	2.2 Risk assessment and risk analysis	37
16	2.3.9 Precautions, major points and risk areas in Public Procurement	71
17	2.4 Monitoring and reporting	83
18	2.4.1 Internal reporting-procedures within the auditee	84
19	2.4.2 Reporting to institutions outside the auditee's body (SAI, parliament, IG, prosecutors)	84
20		
21		
22		

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## 2 **1. Introduction**

### 3 **1.1 Objective, purpose and applicability of the guideline**

4 This guideline is prepared to help SAI auditors for preparation, conduct and evaluation  
5 of audits on anti-corruption policies and procedures in government agencies. It gives  
6 an overview of what is expected to be installed as anti-corruptive policies, structures  
7 and processes in these agencies and can be used as an audit-tool by the auditors.  
8 However, it may also be used by the audited bodies (auditees such as ministries,  
9 government institutions etc.) as guideline for the implementation and control of their  
10 own anti-corruption-activities.

11 The guideline assumes the reader is aware of general and specific audit methodology  
12 and procedures applicable to this area of audit as set out in ISSAIs, ISAs, audit  
13 manuals, and other relevant auditing standards and guidance. Given the enormous  
14 amount of information widely available on the subject, this guidance is not intended to  
15 be definitive or comprehensive, but rather to explain and illustrate the issues and to  
16 present practical solutions in a way that is useful for SAI auditors.

17 This guideline does not cover fraud investigations. These are often carried out at the  
18 request of the judiciary once suspected cases of fraud and corruption have already  
19 been found. Although some SAIs have investigative units, in most cases the SAI does  
20 not lead an investigation since it does not have adequate knowledge or resources to  
21 do so. Indeed, the investigative authorities may ask the SAI to carry out no further  
22 audit work in the area concerned so as not to jeopardise the findings of the  
23 investigation team. However, the SAI may also be asked to cooperate and even work  
24 alongside the investigative team. The fraud and corruption investigation actively seeks  
25 out deception and hidden figures and is not complete until it has gathered sufficient  
26 evidence on the extent and financial impact of the problem.

27 The guideline covers all areas of anti-corruption structures and procedures that are  
28 expected to be implemented in government agencies. It describes the organization of  
29 anti-corruption-structures, the approaches for risk assessment and risk analysis and  
30 monitoring processes. Main emphasis is given to the modules of an effective anti-  
31 corruption-organization such as segregation of duties, Personnel rotation and job

rotation, role of internal review, Human capital including raising awareness and training of employees and precautions in public procurement.

### **1.2 The Role of the SAI and its limitation in the fight against corruption**

Without a doubt, corruption increases the costs of doing business, has an impact on public expenditures, and can deter foreign investments. This results in a negative impact on the effectiveness and efficiency of government operations. If the fight against corruption is to be successful, it is essential to establish an environment that does not favor or enable these practices. Governments have a major responsibility for creating such an environment. All levels of government must insure political, financial, and legal transparency and accountability. The supreme audit institution (SAI) contribute in the fight against corruption through its audits<sup>1</sup>.

Usually SAIs are a nonpartisan organizations which employees subscribe to the fundamental values of service to the countries and citizens, and they are subordinate only to Parliament, and are independent of the executive branch and the judiciary. Audits performed by SAIs mainly focus on the execution of the state budget as well as on public finance spending and management of public property by state and, in some countries, also by local governmental bodies and economic entities. The audit tasks vary according to the complexity of the public program or the entity being audited. SAIs operate under different mandates and models. Common to all audits and evaluations, however, is report, which each SAI is required to deliver, that contains the audit findings including comments and recommendations to address any irregularities that are identified<sup>2</sup>.

In many countries, the SAI's fight against corruption is incorporated in its overall mission, which is realized by establishing audit priorities and conducting its work based on periodic work plans. Every SAI should create a strategy of combating corruption and other types of irregularities (e. g. money laundering, fraud, etc.)<sup>3</sup>.

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<sup>1</sup> Quote from the article: Z. Dobrowolski, *The Role of the Supreme Audit Office In Combating Corruption*, Ljubljana Slovenia 2011 ((reproduced typescript)

<sup>2</sup> Ibidem; See also Z. Dobrowolski, *Naczelne organy kontroli państwowej w krajach członkowskich Unii Europejskiej. Ciągłość i zmiana. Studium porównawcze*, Oficyna Wydawnicza Uniwersytetu Zielonogórskiego, Zielona Góra 2008

<sup>3</sup> Ibidem; The SAO devoted year 2002 to drawing up such a strategy. This strategy was officially accepted and presented to the SAO Board in April 2003

1 One of the most important elements of the SAI program of combating corruption is the  
2 work it does in strengthening public institutions, which are the elements of the national  
3 integrity system. Each public institution, within its statutory powers, supports this  
4 national integrity system like pillars that support the roof of the building. Sound  
5 governance in such a system is based on integrity, transparency and accountability.  
6 Taking into consideration that it is much better to prevent than detect corruption, the  
7 SAI's fight against corruption should be multifaceted.

8 It includes, but is not limited to:

- 9 ➤ incorporating corruption and irregularity issues in SAI's routine audit  
10 work;
- 11 ➤ heightening public awareness of corruption and other irregularities  
12 through timely and public disclosure of SAI's audit findings;
- 13 ➤ improving methods and tools of combating corruption and other types of  
14 irregularity;
- 15 ➤ providing a means for whistleblowers to report instances of irregularities;  
16 and
- 17 ➤ cooperating with other institutions in the fight against corruption<sup>4</sup>.

18 The SAI should analyze the corruption phenomena (its occurrence, causes, areas and  
19 mechanisms) during each audit, and through the audits the SAI should attempt to  
20 identify ways to reduce arbitrariness in the application of rules and regulations,  
21 simplify administrative procedures, and to eliminate unequal access to information.  
22 Through SAI's daily analysis of irregularities identified during audits and analysis of  
23 legislation SAI should attempt to identify the mechanisms that can contribute to  
24 corruption. Through its work, the SAI should try to influence the laws and regulations  
25 so that they themselves would not encourage corruption. If the SAI makes a  
26 determination that a law or a regulation creates a situation that permit or encourage  
27 corruption, it makes proposals for change. It is worth noting that when irregularities  
28 are identified in an audit, the SAI should recommend corrective measures, although  
29 most of SAIs have no executive powers and do not issue legal verdicts. By carrying  
30 out this comprehensive strategy aimed at combating corruption and other types of  
31 irregularities, the SAI helps to strengthen the financial management systems of public

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<sup>4</sup> Quote from the article: Z. Dobrowolski, *The Role of the Supreme Audit Office In Combating Corruption*, Ljubljana Slovenia 2011 ((reproduced typescript))

1 institutions, knowing that ongoing accountability within the government will create a  
2 preventive environment that does not favor corruption and other types of wrongdoing<sup>5</sup>.  
3 Simultaneously the SAI should evaluate internal controls (the important line of defense  
4 in preventing irregularities) and makes recommendations to strengthen any  
5 weaknesses identified<sup>6</sup>.

6 The SAI should attach great importance to its informational role and heighten public  
7 awareness of corruption and other irregularities through timely and public disclosure of  
8 its audit findings. Increased public awareness of corruption helps to foster  
9 transparency and accountability. IT is worth noting however, that while in many  
10 countries the SAIs have certain information gathering tools for combating irregularities  
11 and can report on corruption in the public sector, they have no law enforcement  
12 authorities (such as police or prosecutor offices). In the case of a well-founded  
13 suspicion of a crime or any offense, the SAI should notify the body called upon to  
14 investigate crimes and offenses (in instances required by Criminal Law). In some  
15 cases auditors may play an important role during criminal prosecutions by being  
16 witnesses for the prosecution<sup>7</sup>.

17 The SAI's efficiency in the area of irregularities detection is the result of its strategy.  
18 Therefore the SAI should constantly work in a systematic manner to improve its  
19 methodology to identify and combat irregularities . The SAI should also increasingly  
20 turn its focus on the training of its staff, knowing that the success of the fight against  
21 irregularities depends not only on its audit procedures and tools, but also on its having  
22 staff with appropriate skills, knowledge, and abilities to identify and assess the  
23 potential irregularities<sup>8</sup>.

24 The SAI should create a commitment to individual integrity not only through its own  
25 staff, but also should be an institution to whom whistleblowers from other institutions  
26 can provide information about suspected or actual irregularities in the workplace. All  
27 information gathered by the SAI's Complaint System<sup>9</sup> should be transmitted over a

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<sup>5</sup> A strong financial management system incorporates the following: accurate, complete, and timely financial reporting, to include financial statements audited by the SAO and reports on internal controls and compliance with laws and regulations; a reliable system of internal controls; and cost accounting capabilities. A strong financial management system also contributes to and provides a basis for effective performance measurement.

<sup>6</sup> Ibidem

<sup>7</sup> Ibidem

<sup>8</sup> Ibidem

<sup>9</sup> Such complaint systems could either be based on IT-Systems or through personal contact.

1 secure connection, and the SAI should safeguard all information provided by  
2 whistleblowers against unauthorized disclosure<sup>10</sup>.

3 Being aware that the effectiveness of SAI's fight against corruption and other types of  
4 irregularities depends on the activity of other elements of the national integrity system,  
5 the SAI should closely cooperate with other state institutions, among others in the field  
6 of training<sup>11</sup>.

### 7 **1.3 Concept of Corruption**

8 At the beginning before discussing how to reduce corruption it is worth mentioning  
9 why the issue of corruption is essential to public management. The term governance,  
10 as generally used, encompasses all aspects of the way a country, corporation, or  
11 other entity is governed. Good governance is a precondition for sustainable  
12 development of societies and regions. It means competent public management of a  
13 country's resources and public tasks in a manner that is right, transparent,  
14 accountable, equitable and responsive to people's needs. Corruption is a narrower  
15 concept than governance. It is often defined as the abuse of public authority or trust  
16 for private benefit. The two concepts are closely linked. Where there is poor  
17 governance, there are greater incentives and more scope for corruption. Thus, the  
18 promotion of good governance helps combat corruption. It complements efforts that  
19 target corruption more directly, such as raising public awareness and strengthening  
20 the enforcement of anti-corruption legislation. There is also a reverse link: corruption  
21 undermines governance to the extent that it distorts policy decisions and their  
22 implementation<sup>12</sup>.

23 The International Monetary Fund's operations and its relations with member states  
24 have always been concerned with good governance. But in 1996, the policy-making  
25 committee of its Board of Governors added an explicit mandate. In its Declaration on  
26 Partnership for Sustainable Global Growth, the Interim Committee stressed, among  
27 other things, the importance of "promoting good governance in all its aspects,  
28 including by ensuring the rule of law, improving the efficiency and accountability of the

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<sup>10</sup> Ibidem

<sup>11</sup> Ibidem

<sup>12</sup> Quote from: *The IMF's Approach to Promoting Good Governance and Combating Corruption — A Guide*, International Monetary Fund, Washington D.C. 2005 Retrieved November 2, 2009

1 public sector, and tackling corruption, as essential elements of a framework within  
2 which economies can prosper.<sup>13</sup> "

3 Also the World Bank based on a long-standing research program prepared the  
4 Worldwide Governance Indicators, and listed six key dimensions of governance such  
5 as: Accountability, Political Stability and Lack of Violence, Government Effectiveness,  
6 Regulatory Quality, Rule of Law, and Control of Corruption<sup>14</sup>.

7 Such an approach is fully understood. There is no doubt that corruption can have a  
8 major negative impact on economic performance. Corruption can reduce investment  
9 and economic growth. It diverts public resources to private gains, and away from  
10 needed public spending on education and health. It tends to compress operation and  
11 maintenance expenditures, while boosting beyond levels that are socially desirable  
12 public investment and defense spending, both highly amenable to corruption. Finally,  
13 by reducing tax revenue, corruption can complicate macroeconomic management,  
14 and since it tends to do so in a regressive way, it can accentuate income inequality<sup>15</sup>.

15 In conclusion, we can not conduct deliberations on public management, the modern  
16 concept of public cooperation with NGOs and the private sector without taking into  
17 account issues of corruption and fraud. Effective fight against these illegal phenomena  
18 is essential for sustainable development of societies and regions.

19 Before discussing how to tackle corruption, some terminology issues have to be  
20 clarified. Attempts to develop a more precise definition invariably encounter legal,  
21 criminological and, in many countries, political problems. When the negotiations of the  
22 United Nations Convention against Corruption began in 2002, one option under  
23 consideration was to avoid the problem of defining corruption by simply listing a whole  
24 series of specific types or acts of corruption<sup>16</sup>. According to the United Nations, there  
25 is no single, universally accepted definition of corruption. For example, the United  
26 Nations Convention Against Corruption does not contain a single definition of  
27 corruption, but lists several specific types or acts of corruption<sup>17</sup>. There are however

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13 Communiqué of the Interim Committee of the Board of Governors of the International Monetary Fund, Press Release Number 96/49, September 29, 1996, International Monetary Fund, Washington, D.C

<sup>14</sup> See: <http://info.worldbank.org/governance/wgi/index.asp>

<sup>15</sup> Quote from: *The IMF's Approach to Promoting Good Governance and Combating Corruption — A Guide*, International Monetary Fund, Washington D.C. 2005 Retrieved November 2, 2009

<sup>16</sup> *United Nations Handbook on Practical Anti- Corruption Measures for Prosecutors and Investigators*, United Nations Vienna 2004, p. 23

<sup>17</sup> UNODC, 2004. The United Nations Anti-Corruption Toolkit, 3rd Edition. Available at [www.undoc.org/documents/corruption/publications\\_toolkit\\_sep04.pdf](http://www.undoc.org/documents/corruption/publications_toolkit_sep04.pdf), p. 10



1 several co-called “working definitions” of corruption. For example the definition used  
2 by Transparency of International, which is “the abuse of entrusted power for private  
3 gain”<sup>18</sup>. The working definition of corruption adopted by the World Bank Group is more  
4 oriented to the public sector. The definition is the following: “The abuse of public funds  
5 and/or office for private or political gain”<sup>19</sup>. In terms of etymology, the meaning of  
6 corruption is significantly different from its Latin origin. The Latin word *corruptio* means  
7 marring, seducing, perverting.<sup>20</sup>

8 The Civil Law Convention on Corruption, done at Strasbourg on 4 November 1999,  
9 defines corruption (see Article 2) as requesting, offering, giving or accepting, directly  
10 or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts  
11 the proper performance of any duty or behaviour required of the recipient of the bribe,  
12 the undue advantage or the prospect thereof.<sup>21</sup>

13 The idea of corruption or corrupting means not simply the acts of giving, and the  
14 notion “corrupted” – of taking advantages. It also includes an element of subordination  
15 of those bribed to acquire the power to use them on a more lasting basis, to “buy”  
16 them to meet some current or future needs which are sometimes uncrystallized at the  
17 point when the advantages are given. Corruption understood in this way is studied by  
18 criminology and sociology. In the latter field, corruption means, in addition to bribery,  
19 nepotism and the grabbing of public resources.<sup>22</sup>

20 Corruption is associated with nepotism or favouritism, clientelism, cronyism,  
21 patronage, graft, bribery, extortion, embezzlement, theft and fraud. Nepotism means  
22 giving favours based on consanguinity. Other definition refers nepotism to favoritism  
23 granted to relatives regardless of merit. Favouritism means giving favours based on  
24 informal relations or the practice of giving special treatment to a person or group<sup>23</sup> The

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<sup>18</sup> Transparency International, *Frequently asked questions about corruption*. Available at [www.transparency.org/news\\_room/faq/corruption\\_faq](http://www.transparency.org/news_room/faq/corruption_faq)

<sup>19</sup> Available at [www.u4.no/pdf?file=/document/literature/publications\\_adb\\_manyfacesofcorruption.pdf](http://www.u4.no/pdf?file=/document/literature/publications_adb_manyfacesofcorruption.pdf)

<sup>20</sup> *Zagrożenie korupcją w świetle badań kontrolnych Najwyższej Izby Kontroli*, Najwyższa Izba Kontroli Warszawa 2000 (reproduced typescript), pp. 5-14; Z. Dobrowolski, *Korupcja w państwie. Przyczyny, skutki, kierunki przeciwdziałania*, Wydawnictwo PWSZ Sulechów 2005, pp. 11-35

<sup>21</sup> see Article 2, Civil Law Convention on Corruption, done at Strasbourg on 4 November 1999 (Dz.U. [Journal of Laws] of 2004, No. 244, item 2443)

<sup>22</sup> See *Zagrożenie korupcją w świetle badań kontrolnych Najwyższej Izby Kontroli*, op.cit., pp. 3-4; F. Anechiarico, J.B. Jacobs, *The Pursuit of Absolute Integrity. How Corruption Control Makes Government Ineffective*, The University of Chicago, Chicago, London 1996, p. 3

<sup>23</sup> Z. Dobrowolski, *Detecting Fraud and Irregularities. A Two-day Training Workshop. Participant Notes*, INTOSAI DI Oslo 2002 (reproduced typescript) p. 16; See also The American Heritage New Dictionary of Cultural Literacy, Third Edition. Houghton Mifflin Company, 2005. 10 Aug. 2009; <http://www.thefreedictionary.com/favouritism>

1 term clientelism refers to a complex chain of personal bonds between political patrons  
2 or bosses and their individual clients or followers. These bonds are founded on mutual  
3 material advantage: the patron furnishes excludable resources (money, jobs) to  
4 dependents and accomplices in return for their support and cooperation (votes,  
5 attendance at rallies). The patron has disproportionate power and thus enjoys wide  
6 latitude about how to distribute the assets under his control. In modern political  
7 systems, most patrons are not independent actors, but are linked within a larger grid  
8 of contacts, usually serving as middlemen who arrange exchanges between the local  
9 level and the national center<sup>24</sup>.

10 By definition, favouritism, nepotism and clientelism all involve abuses of discretion,  
11 although a number of countries do not criminalize the conduct (Article 7 of the UN  
12 Convention Against Corruption covers merit selection without even mentioning  
13 nepotism). Such abuses usually involve not a direct personal benefit to an official but  
14 promote the interests of those linked to the official, be it through family, political party,  
15 tribe, or religious group. A corrupt official who hires a relative (nepotism) acts in  
16 exchange, not of a bribe but of the less tangible benefit of advancing the interests of  
17 others connected to the official. The unlawful favouring of - or discrimination against -  
18 individuals can be based on a wide range of group characteristics: race, religion,  
19 geographical factors, political or other affiliation, as well as personal or organizational  
20 relationships, such as friendship or shared membership of clubs or associations<sup>25</sup>.

21 Cronyism is partiality to long-standing friends, especially by appointing them to  
22 positions of authority, regardless of their qualifications. Hence, cronyism is contrary in  
23 practice and principle to meritocracy. Cronyism exists when the appointer and the  
24 beneficiary are in social contact; often, the appointer is inadequate to hold his or her  
25 own job or position of authority, and for this reason the appointer appoints individuals  
26 who will not try to weaken him or her, or express views contrary to those of the  
27 appointer. Politically, "cronyism" is derogatorily used<sup>26</sup>.

28 Patronage is the support, encouragement, privilege, or financial aid that an  
29 organization or individual bestows to another. In some countries the term is used to

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<sup>24</sup> D.W. Brinkerhoff, A.A. Goldsmith, *Clientelism, Patrimonialism and Democratic Governance: An Overview and Framework for Assessment and Programming*. Prepared for U.S. Agency for International Development Office of Democracy and Governance, under Strategic Policy and Institutional Reform, Abt Associates Inc., Bethesda 2002, p. 2

<sup>25</sup> *United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators*, op.cit., p. 28

<sup>26</sup> See: <http://en.wikipedia.org/wiki/Cronyism>

1 describe political patronage, which is the use of state resources to reward individuals  
2 for their electoral support. Although in some countries patronage systems are legal,  
3 the term may refer to a type of corruption or favoritism in which a party in power  
4 rewards groups, families, ethnicities for their electoral support using illegal gifts or  
5 fraudulently-awarded appointments or government contracts. Graft is form of political  
6 corruption that can be defined as an unscrupulous use of a politician's authority for  
7 personal gain. Most governmental systems have laws in place to prevent graft  
8 although this does not always halt political corruption<sup>27</sup>.

9 Bribery is the act of conferring a benefit in order improperly to influence an action or  
10 decision. It can be initiated by an official who asks for a bribe, or by a person who  
11 offers to pay one. Bribery is probably the most common form of corruption. Definitions  
12 or descriptions appear in several international instruments, in the domestic laws of  
13 most countries as well as in academic publications. Typically, it is used to describe a  
14 payment extracted by a public official from an unwilling member of the public before  
15 the citizen can receive the service to which he or she is entitled. Strictly speaking,  
16 such a transaction is not one of a "bribe" being given by an accomplice in corruption,  
17 but a "payment being extorted" from an unwilling victim<sup>28</sup>.

18 The "benefit" conferred by a "bribe" can take a variety of forms: cash, company  
19 shares, inside information, sexual or other favours, entertainment, employment or,  
20 indeed, the mere promise of a benefit in the future (such as a retirement job). The  
21 benefit can pass directly to the person bribed, or indirectly, to a third party such as a  
22 friend, relative, associate, favourite charity, private business, political party or election  
23 campaign. The conduct for which the bribe is paid can involve a positive act on the  
24 part of the official (the making of a particular decision), or it can be passive (with the  
25 official declining to do something that he or she is obliged to do). It can be a bribe paid  
26 "according to the rule" (to obtain something the official is withholding but is under a  
27 public duty to provide); or it can be "against the rule" (a payment to encourage an  
28 official to ignore the rules in favour of the person offering the bribe). Bribes can be  
29 paid individually, on a case-by-case basis, or as part of a continuing relationship in  
30 which officials receive regular benefits in exchange for regular favours. Once bribery  
31 has occurred, it can lead to other forms of corruption. By accepting a bribe, an official

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<sup>27</sup> See: <http://en.wikipedia.org/wiki/>

<sup>28</sup> Quoted from *United Nations Handbook on Practical Anti- Corruption Measures for Prosecutors and Investigators*, op.cit., p. 24

1 becomes susceptible to being blackmailed and coerced into further, and more serious,  
2 derelictions of public duties<sup>29</sup>.

3 The European Criminal Law Convention on Corruption, done in Strasbourg on 27  
4 January 1999,<sup>30</sup> defines bribery associated with the phenomenon of corruption,  
5 namely:

- 6
- 7 ➤ Active bribery of domestic public officials is an intentionally committed  
8 offence of promising, offering or giving by any person, directly or indirectly,  
9 of any undue advantage to any of its public officials, for himself or herself or  
10 for anyone else, for him or her to act or refrain from acting in the exercise of  
11 his or her functions (Article 2 of the Convention).
  - 12 ➤ Passive bribery of domestic public officials is an intentionally committed  
13 offence, consisting in the request or receipt by any of the public officials,  
14 directly or indirectly, of any undue advantage, for himself or herself or for  
15 anyone else, or the acceptance of an offer or a promise of such an  
16 advantage, to act or refrain from acting in the exercise of his or her  
17 functions.(Article 3 of the Convention).
  - 18 ➤ Active bribery in the private sector is an act, committed intentionally in the  
19 course of business activity, consisting in the promising, offering or giving,  
20 directly or indirectly, of any undue advantage to any persons who direct or  
21 work for, in any capacity, private sector entities, for themselves or for  
22 anyone else, for them to act, or refrain from acting, in breach of their duties  
23 (Article 7 of the Convention).
  - 24 ➤ Passive bribery in the private sector is an act, committed intentionally, in the  
25 course of business activity, consisting in the request or receipt, directly or  
26 indirectly, by any persons who direct or work for, in any capacity, private  
27 sector entities, of any undue advantage or the promise thereof for  
28 themselves or for anyone else, or the acceptance of an offer or a promise of  
29 such an advantage, to act or refrain from acting in breach of their duties  
30 (Article 8 of the Convention).

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<sup>29</sup> Quoted from *United Nations Handbook on Practical Anti- Corruption Measures for Prosecutors and Investigators*, op.cit., p. 25

<sup>30</sup> Dz.U. [Journal of Laws] of 2005 No. 29, item 249

Specific examples of bribery include<sup>31</sup>:

- Corruption against the rule. A payment or benefit is provided to ensure that the giver or someone connected to him or her receives a benefit to which they are not entitled.
- Corruption with the rule. A payment is made to ensure that the giver or someone connected to him or her actually receives a service to which they are lawfully entitled.
- Offering or receiving improper gifts, gratuities, favours or commissions. In some countries, public officials commonly accept tips or gratuities in exchange for their services, frequently in violation of relevant codes of conduct. As links always develop between payments and results, such payments become difficult to distinguish from bribery or extortion.
- Bribery to avoid liability for taxes. Officials in revenue collecting agencies, such as tax and customs, may be asked to reduce the amounts demanded or to overlook evidence of irregularity, including evasion or similar crimes. They may also be invited to ignore illegal imports or exports, or to turn a blind eye to illicit transactions, such as money-laundering.
- Bribery in support of fraud. Payroll officials may be bribed to participate in abuses such as listing and paying non-existent employees ("ghost workers").
- Bribery to avoid criminal liability. Law enforcement officers, prosecutors, judges or other officials may be bribed to ensure that criminal activities are not properly investigated or prosecuted or, if they are prosecuted, to ensure a favourable outcome.
- Bribery in support of unfair competition for benefits or resources. Public or private sector employees responsible for making contracts for goods or services (public procurement) may be bribed to ensure that contracts are made with the party that is paying the bribe, and on unjustifiably favourable

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<sup>31</sup> Quoted from *United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators*, op.cit., pp. 25-26

1 terms. Where the bribe is paid out of the contract proceeds themselves, it is  
2 described as a "kickback" or secret commission.

- 3 ➤ Private sector bribery. Corrupt banking and finance officials are bribed to  
4 approve loans that do not meet basic security criteria and are certain to  
5 default, causing widespread economic damage to individuals, institutions  
6 and economies. Just as bribes can be offered to public officials conducting  
7 public procurements, so, too, can bribes pollute procurement transactions  
8 wholly within the private sector.
- 9 ➤ Bribery to obtain confidential or "inside" information. Employees in the public  
10 and private sectors are often bribed to disclose confidential information and  
11 protected personal details for a host of commercial reasons.
- 12 ➤ Influence peddling: Public officials or political or government insiders sell  
13 illicitly the access they have to decision-makers. Influence peddling is  
14 distinct from legitimate political advocacy or lobbying. In some countries,  
15 legislators demand bribes in exchange for their votes in favour of particular  
16 pieces of legislation.

17 The European Criminal Law Convention on Corruption, done in Strasbourg on 27  
18 January 1999,<sup>32</sup> defines account offences associated with the phenomenon of  
19 corruption, namely:

- 20 ➤ Trading in influence is an intentionally committed act consisting in the  
21 promising, giving or offering, directly or indirectly, of any undue advantage  
22 to anyone who asserts or confirms that he or she is able to exert an  
23 improper influence over the decision-making of any person referred to in  
24 Articles 2, 4 to 6 and 9 to 11 in consideration thereof, whether the undue  
25 advantage is for himself or herself or for anyone else, as well as the  
26 request, receipt or the acceptance of the offer or the promise of such an  
27 advantage, in consideration of that influence, whether or not the influence is  
28 exerted or whether or not the supposed influence leads to the intended  
29 result (Article 12 of the Convention).
- 30 ➤ Account offence (Article 14 of the Convention) is an act or omission, when  
31 committed intentionally, in order to commit, conceal or disguise the offences

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<sup>32</sup> Dz.U. [Journal of Laws] of 2005 No. 29, item 249

1 referred to in Articles 2 to 12, of the Convention. The offence is committed  
2 by creating or using an invoice or any other accounting document or record  
3 containing false or incomplete information; or unlawfully omitting to make a  
4 record of a payment.

5 Whereas bribery involves the use of payments and positive incentives, extortion relies  
6 on coercion to induce cooperation, such as threats of violence or the exposure of  
7 sensitive information. As with other forms of corruption, the loser can be the general  
8 public interest, individuals adversely affected by a corrupt act or decision, or both. In  
9 extortion cases, however, there is a very real "victim": the person who is coerced into  
10 submitting to the will of the official. Extortion may be committed by government  
11 officials but they can also be the victims of it. For example, a person seeking a favour  
12 can extort payment from an official by making threats. In some cases, extortion may  
13 differ from bribery only in the degree of coercion involved<sup>33</sup>.

14 In the context of corruption, embezzlement, theft and fraud all involve stealing by an  
15 individual exploiting his or her position of employment. In the case of embezzlement,  
16 property is taken by someone to whom it has been entrusted (e.g. a cashier). Fraud  
17 involves the use of false or misleading information to induce the owner of property to  
18 part with it voluntarily. "Theft", per se, goes well beyond the scope of any definition of  
19 corruption. However, "embezzlement" - essentially the theft of property by someone to  
20 whom it was entrusted - is universally regarded as falling within corruption definitions  
21 wherever it occurs, carrying with it, as it does, a breach of a fiduciary duty<sup>34</sup>.

22 In many cases, corruption involves the abuse of function or discretion. A customs  
23 official may have to assess the value of a consignment of goods or decide which of  
24 several similar categories should be used to assess duty. An official responsible for  
25 government contracting may exercise discretion to purchase goods or services from a  
26 company in which he or she holds a personal interest. Another may propose real  
27 estate developments that will increase the value of his or her own property. Such  
28 abuses are often associated with bureaucracies in which there are broad individual  
29 discretions and inadequate oversight and accountability structures. They also flourish

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<sup>33</sup> Quoted from *United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators*, op.cit., p. 27

<sup>34</sup> Quoted from *United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators*, op.cit., p. 26

1 where decision-making rules are so complex that they neutralize the effectiveness of  
2 any accountability mechanisms that do exist<sup>35</sup>.

### 3 **1.4 Causes of Corruption**

4 Flaws of human nature are mentioned among the causes of corruption. The  
5 urge to enrich oneself quickly by dishonest means (in contravention of the established  
6 ethical standards or the law) makes this phenomenon persistent in any society,  
7 regardless of political system. The tolerance for corrupt behaviour may have not only  
8 cultural, but also historical background. For instance, the absence of one's own  
9 national state may generate disregard for legal norms, perceived as rules imposed by  
10 the occupying power. This, in turn, can translate into generalized disregard for legal  
11 norms, and – more broadly – for ethical standards. In addition, some mistakes of state  
12 economic policies may catalyze corruption. For instance, in the circumstances of a  
13 shortage economy, with mismatched supply and demand, a desire to get some  
14 consumer goods may generate corrupt behaviour (a bribe in exchange for the  
15 possibility to buy a fridge without waiting)<sup>36</sup>.

16 In market economy, corruption is facilitated by the existing legal and  
17 organizational regime which restricts the freedom of business, by imposing restrictions  
18 on business transactions. These restrictions give rise to secret agreements, various  
19 informal groups, defined in literature as “dirty communities” which can affect the  
20 existing societal system<sup>37</sup>. Such agreements can occur in various societies with  
21 different cultures. It is worth noting at this point that an act considered to be a corrupt  
22 practice in some community may not necessarily fit into such classification adopted in  
23 another community. A gratuity offered to an official after he or she has completed a  
24 task may – for some – be a sign of corruption (establishing a “climate” for successful  
25 completion of other affairs in future), and for others – only an expression of gratitude  
26 acceptable in the culture<sup>38</sup>.

27 In considering the reasons why the corrupting party pays bribes, the following factors

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<sup>35</sup> Quoted from *United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators*, op.cit., p. 28

<sup>36</sup> Z. Dobrowolski, *Korupcja w państwie*., op.cit., p. 13; Z. Dobrowolski, G. Drozdowski (ed.), *The Art of Human Resource Management. How to Achieve Better Business Management*, PWSZ Gorzów Wlkp. 2009, pp. 104-105

<sup>37</sup> Z. Dobrowolski, *Korupcja w państwie*., op.cit., p. 16, citing A. Podgórecki, *Kontrola społeczna trzeciego stopnia* [in:] *Problemy profilaktyki społecznej i resocjalizacji*, Instytut Profilaktyki Społecznej i Resocjalizacji Uniwersytet Warszawski, Warszawa 1976, vol. 1, p. 25

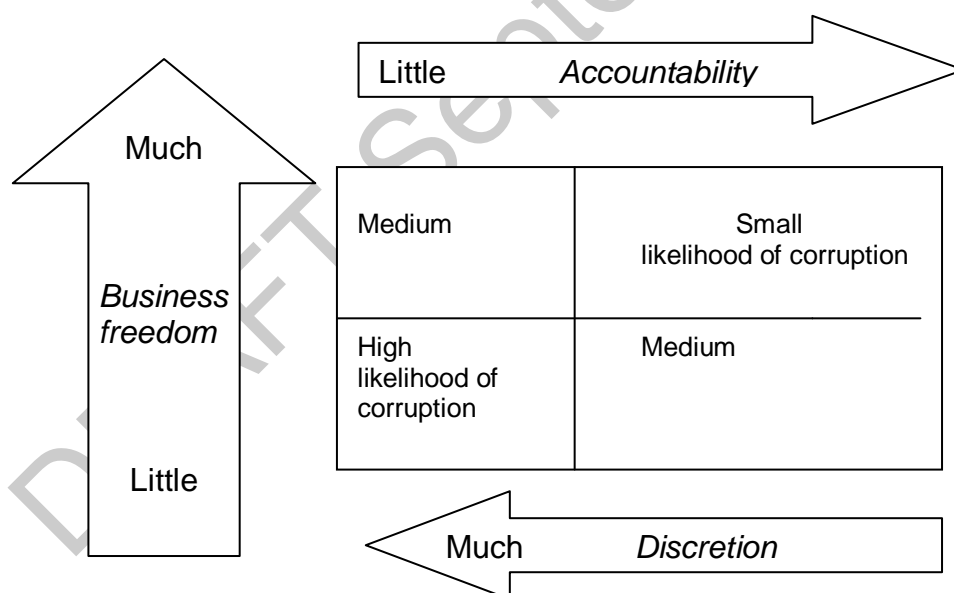
<sup>38</sup> Z. Dobrowolski, *Korupcja w państwie*., op.cit., pp.16-17



can be distinguished:

- access to restricted goods, for instance contracts, licences, permits, real property in attractive city districts,
- access to information, for instance on the contractual terms and conditions, on a bill of quantities with prices, on the activities planned by decision-makers,
- favourable treatment of some matter, which allows avoiding or cutting some costs, for instance dispensing with an order to pay due taxes during tax inspection, dispensing with the collection of customs duties,
- depriving other entities of some benefits. For instance, in exchange for a bribe, an officer deals sluggishly with the affairs of a competitor or conducts onerous inspections of the competitor's business<sup>39</sup>.

In light of what has been discussed so far, and also given by many SAs audit experience,<sup>40</sup> corruption develops when the freedom to do business is restricted, there is excessive discretion in decision-making, little or no accountability of decision-makers, inefficient control system, lack of transparency in the activities of institutions using public funds or property. This relationship can be presented in the following way:



<sup>39</sup> A. Kamiński, *Korupcja w administracji publicznej: znaczenie, przyczyny i konsekwencje*, Biuletyn Informacyjny nr 1, NIK Warszawa 2003, pp. 66-71

<sup>40</sup> *Anticorruption in Transition: A Contribution to the Policy Debate*, World Bank, Washington D.C. 2000 (reproduced typescript), pp. XV-XVII

Fig. 1 *The effect of accountability, discretion in decision-making, and business freedom on the level of corruption in social life*

Source: Developed by Z. Dobrowolski [in:] Z. Dobrowolski, J. Kościelniak, *The Role of SAI in Detection Corruption, Fraud and Money Laundering* 2012 (prepared for printing)

In discussing the issue of corruption and fraud, it is impossible to ignore the problems related to the functioning of the administration. The administration complements the constitutional authorities by performing subsidiary functions, providing services for them, and taking over some of their executive and regulatory functions. It tends to the collective and individual needs of citizens arising from living in communities, and transforms general legal regulations into specific decisions on individual matters.<sup>41</sup>

Public administration, which is characterized by hierarchical structure and specific decision-making procedures, forms an integral part of the political system, is subject to that system's influence, but it also plays an active part in creating state policies. Even a right decision taken by the Parliament or the upper level of bureaucratic hierarchy, but poorly implemented by lower-ranking officials, is going to translate into bad opinions of the Legislature and government held by citizens.<sup>42</sup>

Public administration is funded from the State budget, and is sustained by government procurement of goods and services, which – in addition to government transfers and repayment of public debt – constitute State expenditures. Government procurement of goods and services applies not only to the expenditures on administration, but also national defence, protection of public order, health care, culture and science/research. The State invests in infrastructure development. Some investments may be related to manufacturing activity of the State – for instance, the arms industry. Public administration is therefore a very important collective purchaser of goods and services and may determine the conditions of development of its private partners, for which the sale of goods and services to the government is a significant or the sole source of income.<sup>43</sup>

<sup>41</sup> J. Boć (ed.) *Prawo administracyjne*, Wydawnictwo Kolonia Limited 2001, p. 16

<sup>42</sup> Z. Dobrowolski, *Naczelne organy kontroli państwowej w krajach członkowskich Unii Europejskiej. Ciągłość i zmiana. Studium porównawcze*, Oficyna Wydawnicza Uniwersytetu Zielonogórskiego, Zielona Góra 2008, pp. 7-8; B.G. Peters, *Administracja publiczna w systemie politycznym*, Wydawnictwo Naukowe Scholar, Warszawa 1999, pp. 15-63

<sup>43</sup> B.G. Peters, *Administracja publiczna w systemie politycznym*, Wydawnictwo Naukowe Scholar, Warszawa 1999, pp. 15-63

1 Considering the foregoing, and also:

- 2 ➤ that, contrary to M. Weber's assertions<sup>44</sup>, public servants, in performing  
3 their public functions, may actually fail to tend exclusively to the  
4 government interest and public good, but, on the contrary, may aim to  
5 maximize their private interest which is inconsistent of the employer's  
6 interest, or aim to pursue the interest of their employer, which results in  
7 the maximized budget of the institution, in which they are employed;
- 8 ➤ that the information on actions taken by the administration may be  
9 incomplete, and the real cost of the services provided may be different  
10 from that declared, which may lead to situations where the budget  
11 exceeds the cost of production of a public service;
- 12 ➤ the concept of methodological individualism, which stipulates that the  
13 decisions taken by specific individuals aim at maximizing expected  
14 benefits, which means, for instance, that intermediates (entities other  
15 than the decision-maker) may derive benefits by processing in certain  
16 way the information necessary for taking final decisions;
- 17 ➤ the sheer number of public institutions and the array of functions they  
18 perform, it should be concluded that the actual capacity of the decision-  
19 makers to verify the information prepared by the intermediates – i.e.  
20 administration, is not only costly, but most of all strongly limited by the  
21 dispersion and the number of the institutions comprising public  
22 administration.<sup>45</sup>

23 In addition, it should be taken into account that information exchange between the  
24 political executive and the administrative executive takes the form of a mutual  
25 monopoly. An entity located in the administration provides information to the decision-  
26 maker who receives a specific range of information only from the entity which deals  
27 with specific matters. The parties to the transactions in such-defined "market" are the  
28 supervising authorities and the administrative bodies subject to such supervision. The  
29 supervisory authority lays down the budget of the administrative body based on the

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<sup>44</sup> M. Weber noted major principles of bureaucracy: a formal hierarchical structure, management by rules, organization by functional specialty, an "up-focused" or "in-focused" mission, purposely impersonal, employment based on technical qualifications.

<sup>45</sup> Ibidem, see also J. Wilkin (ed.) *Teoria wyboru publicznego*, Wydawnictwo Naukowe Scholar, Warszawa 2005, pp. 145-147

information provided by that body. This results in asymmetric information, whereby the real cost of the public service provided is only known to the administrative body. On the other hand, the allocator of budget funds may lack such information. The information asymmetry may therefore lead to inflated costs of performance of public functions.<sup>46</sup> The information asymmetry, which has been identified by A. Niskanen, may also support corruption and fraud.

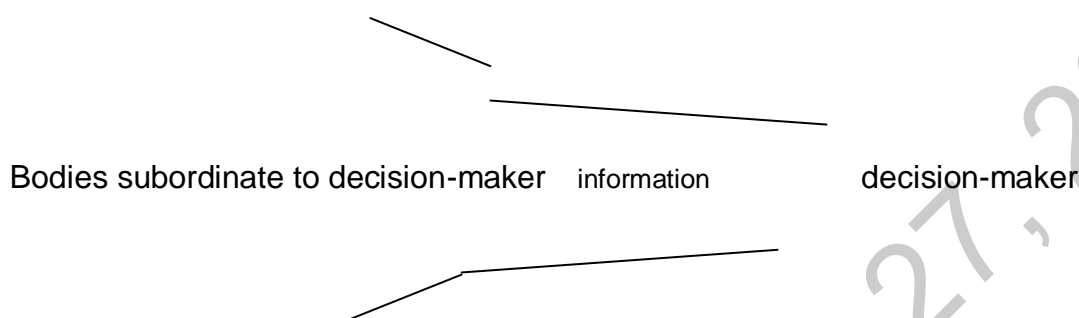


Fig. 2 *Information asymmetry in the public sector. The narrowing scope of information.*

Source: Developed by Z. Dobrowolski [in:] Z. Dobrowolski, J. Kościelniak, *The Role of SAI in Detection Corruption, Fraud and Money Laundering* 2012 (prepared for printing)

As already mentioned, public administration bodies and the offices which are their support machinery, influence public choices. Their activities may be associated with rent-seeking,<sup>47</sup> which involves imposition of interests of specific groups on the activities of central and local governments in order to obtain specific advantages. The notion of “rent” has various meanings. Profit from business involving the production of goods and services may be designated as rent.

Rent may be obtained by conducting:

- business in such a way as to ensure the excess of revenues over the costs;
- political activity, aimed at obtaining advantages in the form of the transfer of revenues from budget sources or from consumer as a result

<sup>46</sup> Ibidem

<sup>47</sup> The precursor of rent-seeking studies was Gordon Tullock, a prominent exponent of public-choice theory.

1 of political arrangements (for instance, consumers have to buy gelatine  
2 manufactured by the domestic operator because the government has  
3 imposed a ban on gelatine imports). Another example is to obtain tax  
4 exemptions or preferential interest rates by certain manufacturer groups.  
5 The economic effects of rent-seeking are manifested by, among other  
6 things, inefficient use of resources, burdening the public with the cost of  
7 rent obtained in an artificial way.<sup>48</sup> This socially undesirable process is to  
8 be checked by improving the mechanisms of democracy.

#### 9 1.4.1 Types of Corruption

10 In terms of how widespread it is, corruption can be divided into individualized  
11 corruption – involving a definite number of people, and collective corruption –  
12 extending to entire interest groups, leading to dependencies in which the donor  
13 becomes recipient and *vice versa*.<sup>49</sup>

14 In terms of where corruption resides, a distinction might be drawn between  
15 bureaucratic, political and business corruption. However, it should be borne in mind  
16 that such distinction is artificial, because business corruption may include some  
17 elements of bureaucratic corruption, and political corruption involves business  
18 corruption to a certain extent.

19 Bureaucratic corruption “is frequently accompanied by the propensity of administrative  
20 procedures to generate and sustain artificial barriers to exercise of the rights of the  
21 parties, hiding essential fragments of the case management process, and unclear  
22 presentation of how some tasks are to be performed”.<sup>50</sup>

23 Political corruption is usually associated with MPs or senior government executives  
24 receiving undue advantages in connection with official functions. However, this notion  
25 can be also extended to encompass the practices of funding electoral campaigns of  
26 political parties or extending “patronage” to some of its members to ensure an  
27 influence on economic policy decisions after potential electoral victory.<sup>51</sup> The

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<sup>48</sup> J. Wilkin (ed.) *Teoria wyboru publicznego*, *op.cit.*, pp. 204-218

<sup>49</sup> Z. Dobrowolski, *Korupcja w państwie...*, *op.cit.*, pp. 18-20 citing A. Kojder, *Anatomia korupcji i jej cechy w okresie zmiany ustrojowej: dwanaście tez i jeden przykład*, press conference Transparency International 2001, p. 2 (reproduced typescript)

<sup>50</sup> Z. Dobrowolski, *Korupcja w państwie...*, *op.cit.*, s. 18-20 quoting after Egli H., *Grundformen der Wirtschaftskriminalität, Fallanalyse aus der Schweiz und der Bundesrepublik Deutschland*, Heidelberg 1985, p. 72 ff.

<sup>51</sup> Z. Dobrowolski, *Korupcja w państwie...*, *op.cit.*, pp. 18-20 quoting after *Wirtschaftskriminalität und Korruption in Österreich*, in: *Forschungsergebnisse auf dem Gebiet Wirtschaftskriminalität*, Freiburg 1987, p. 91 ff.

1 interrelationship between political and business corruption is manifest in making  
2 decisions favouring some private-sector entities in contravention of the existing rules,  
3 to ensure a lucrative post or position upon the expiration of the term of office.  
4 Business corruption includes any instances of bribery and venality leading to the  
5 exertion of influence on business events.<sup>52</sup> Corruption defined in such terms  
6 undoubtedly distorts fair competition rules, and because it involves a public officer – it  
7 spoils the image of public institutions as well. Corruption can also occur in the private  
8 sector, hence outside the public sector, and involves managers catering to the  
9 business of others.<sup>53</sup>

10 The World Bank has placed emphasis on a distinction between state capture and  
11 administrative corruption, which will be discussed now. “State capture refers to the  
12 actions of individuals, groups, or firms both in the public and private sectors to  
13 influence the formation of laws, regulations, decrees, and other government policies to  
14 their own advantage as a result of the illicit and non-transparent provision of private  
15 benefits to public officials Distinctions can be drawn between the types of institutions  
16 subject to capture. Yet all forms of state capture are directed toward extracting rents  
17 from the state for a narrow range of individuals, firms, or sectors through distorting the  
18 basic legal and regulatory framework with potentially enormous losses for the society  
19 at large. They thrive where economic power is highly concentrated.”<sup>54</sup> This notion of  
20 rent includes any undue advantages derived by actors from the way the state  
21 performs its functions. The phenomena related to state capture include the sale of  
22 Parliamentary votes, judicial decisions, corrupt mishandling of central bank funds, and  
23 illegal contributions to political parties.<sup>55</sup> According to the World Bank, administrative  
24 corruption refers to the intentional bypass or distortion by a public official of the  
25 prescribed application of rules to provide advantages to others in exchange for the  
26 illicit and non-transparent provision of private gains to the public official.<sup>56</sup> This  
27 distinction is consistent, to a significant extent, with other divisions: large- and small-  
28 scale corruption, political or administrative (bureaucratic) corruption. The advantages

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<sup>52</sup> Z. Dobrowolski, *Korupcja w państwie...*, op.cit., pp. 18-20 quoting after Fr. Geerds: *Über den Unrechtsgehalt der Bestechungsdelikte und seine Konsequenzen für Rechtssprechung. Kriminologische Studien*, Tübingen 1961, p. 25

<sup>53</sup> Z. Dobrowolski, *Korupcja w państwie...*, op.cit., pp. 18-20

<sup>54</sup> Z. Dobrowolski, *Korupcja w państwie...*, op.cit., pp. 18-20 quoting after *Anticorruption in Transition: A Contribution to the Policy Debate*, World Bank, Washington D.C. 2000, pp. XV-XVII

<sup>55</sup> Ibidem

<sup>56</sup> Ibidem

1 related to state capture are usually high and require at least an inspiration from the  
2 political sphere.<sup>57</sup>

3 Small –scale corruption is also defined as petty corruption. This term refers to  
4 corruption which usually involves smaller sums of money and which is committed by  
5 public servants at lower levels<sup>58</sup>. It is worth noting that although the amounts of money  
6 that are exchanged in connection with petty corruption may be small, the aggregate  
7 costs for society may cause a huge effect. In addition, the poor part of society suffer  
8 the most from petty corruption, as they usually are most directly affected by it<sup>59</sup>. Large-  
9 scale corruption called grand corruption refers to illegal activity which usually takes  
10 place at the highest levels of government by members of the political or administrative  
11 elite or people associated with them, and which generally involved substantial  
12 amounts of money<sup>60</sup>.

13 Another classification varies corruption according to social approval of corrupt  
14 activities, discriminating between “white” corruption, where there is a broad tolerance  
15 of certain corrupt practices; “grey” corruption, characterized by mixed social attitudes  
16 towards it; and “black” corruption, which is unequivocally condemned.<sup>61</sup>

17 A distinction can also be drawn according to the spheres of state and society in which  
18 corruption occurs: in the private sector, at the interface of the private and public  
19 sectors, and in the public sector. By adopting the actor-centric approach towards  
20 giving and accepting corruptive advantages, passive and active corruption can be  
21 distinguished. Passive corruption involves the deliberate action by an official, who,  
22 directly or through an intermediary, requests or receives advantages of any kind  
23 whatsoever, for himself or for a third party, or accepts a promise of such an  
24 advantage, to act or refrain from acting in accordance with his duty or in the exercise  
25 of his functions in breach of his official duties. Active corruption involves the deliberate  
26 action of whosoever promises or gives, directly or through an intermediary, an

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<sup>57</sup> A. Kamiński, *Korupcja w administracji publicznej: znaczenie, przyczyny i konsekwencje*, Biuletyn informacyjny nr 1, NIK Warszawa 2003, pp. 68-70

<sup>58</sup> See: UNDP, *Tackling Corruption, transforming lives. Accelerating Human Development in Asia and the Pacific. Asia and Pacific Human Development Report*, 2008. Available at [http://hdr.undp.org/reports/regionalreports/asiathepacific/RHDR\\_Full%20Report\\_Tackling\\_Corruption\\_Transforming\\_Lives.pdf](http://hdr.undp.org/reports/regionalreports/asiathepacific/RHDR_Full%20Report_Tackling_Corruption_Transforming_Lives.pdf)

<sup>59</sup> Helping Countries Combat Corruption. The Role of World Bank, Word Bank Washington D.C. 1997, pp. 10, 19

<sup>60</sup> Helping Countries Combat Corruption..., Word Bank, *op.cit.*, pp. 9-10

<sup>61</sup> P. Pałka, M. Reut, *Korupcja w nowym kodeksie karnym*, Zakamycze Kraków 1999, p. 8; *Zagrożenie korupcją w świetle badań kontrolnych Najwyższej Izby Kontroli.*, NIK Warszawa 2000 (reproduced typescript), p. 13

1 advantage of any kind whatsoever to an official for himself or for a third party for him  
2 to act or refrain from acting in accordance with his duty or in the exercise of his  
3 functions in breach of his official duties.<sup>62</sup>

4 In summing up, the following classification of corruption can be proposed:

5 Table 1. *Corruption types*

Classification criterion	Type
Extent of occurrence	Collective and individualized
Scale	Small, large (or petty, grand, state capture)
Location	Political, business, bureaucratic
Approval for corrupt activities	White, grey, black
Who is the actor	Passive and active
Spheres of the State and society	Corruption in the private sector, at the interface between the private and public sectors, and in the public sector

6 Source: Z. Dobrowolski, *Korupcja w państwie...*, op.cit., p. 20

7 The typology of corruption should be supplemented with the set of features that  
8 accompany this phenomenon:

- 9 ➤ universality,
- 10 ➤ market orientation,
- 11 ➤ expansion,
- 12 ➤ concurrence of interests of parties to the transaction.

13 According to the United Nations Convention against Corruption, adopted by the United  
14 Nations General Assembly on 31 October 2003,<sup>63</sup> corruption is not a local matter, but  
15 a transnational phenomenon that affects all societies and economies, making  
16 international cooperation to prevent and control it essential.

17 The phenomenon of corruption can be seen as a transaction in which the transaction

<sup>62</sup> Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, done in Brussels on 26 May 1997, ratified by the Polish Parliament (the Sejm) on 23 July 2004 (Dz.U. [Journal of Laws] No 194, item 1981)

<sup>63</sup> Dz.U. [Journal of Laws] 2007 No. 84, item 563



price is the point of balance between the supply of and demand for public goods. In simplified terms, bribes would not have existed, had there been no demand and social approval of them. Corruption as a phenomenon can evolve, spread into the social spheres hitherto free from risk of corruption. The corruption process always involves two parties: the provider of specific advantages and receiver, who jointly aim at reducing to the minimum the risk of this illegal practice being detected. This shared interest of the provider and the receiver generate a conspiracy of silence, which consists in keeping the corrupt practice secret.<sup>64</sup>

### 1.5 Cost of Corruption

Corruption generates costs. However, the problem with corruption is that unlike other crimes, those that are hurt by corruption are often not directly linked, neither in space nor in time, with the corrupt activities. However there are some estimates of overall bribes paid worldwide. For example according to the World Bank Institute, more than \$1 trillion dollars (US\$1,000 billion) is paid in bribes each year. But corruption has more far-reaching and damaging consequences for society and the economy as a whole as one can tell based on such estimations. For instance, the money looted usually leaves the country and is thus not available there anymore for other productive or redistributive purposes. Also, the possibility to extort bribes biases the incentives for government officials and has detrimental effects on overall governance, and thus on quality and availability of public services, for example. And bribes and embezzlement are just two aspects of corruption. Non-monetary and monetary effects of favouritism and nepotism as well as fraud (e.g. manipulation or falsification of information) have to be added to the picture<sup>65</sup>.

Corruption negatively affects productivity. An indicator for productivity is the ratio of a country's GDP to its capital stock. We can observe a significant impact of corruption on this indicator. It is estimated that an increase in corruption in the CPI by one point lowers productivity by 4% of GDP. Corruption deters investments. One of the reasons for this is because the effects of corruption are comparable to a tax on investments. A firm wishing to make an investment has to take into account the costs of bribery for setting up a business and keeping it running. It is estimated that an increase in the

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<sup>64</sup> Z. Dobrowolski, *Korupcja w państwie...*, op.cit., p. 21

<sup>65</sup> Quote from the publication: F. Boehm, J. Joerges, *Cost of Corruption: Everyone Pays – And the Poor More than Others*, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH, Division State and Democracy Supporting the Implementation of the UN Convention against Corruption, Federal Ministry for Economic Cooperation and Development, Eschborn 2008, p. 2

1 CPI by about one point has the same effect as a 7.5 percentage point's increase of  
2 the tax rate. There are also tremendous costs for development when firms are  
3 condemned to remain at the level of the informal economy just because they cannot  
4 cope with the costs of setting up a legal business – sometimes a considerable part of  
5 these costs are related to extorted bribes. Foreign Direct Investments (FDI) are also  
6 negatively affected. In particular FDI involving sophisticated technology suffer from  
7 corruption because investors fear for the leakage of technological know-how to  
8 opportunistic and corrupt local partners<sup>66</sup>.

9 Corrupt governments and corrupt political systems are likely to allocate more to  
10 military purposes and arms procurement and less to education and health. It is simply  
11 easier to extract corrupt gains from such type of deals as from labour-intensive  
12 projects in schooling or hospitals. Obviously, such an allocation of resources is at  
13 odds with societies' desires and human rights and is particularly harmful for long-run  
14 sustainable development of an economy. Also, corruption of course diminishes the  
15 efficiency of what is spent by governments in health. Researchers have found other  
16 interesting connections between corruption and education. For instance, corrupt  
17 societies significantly distract students from studies and jobs aimed at increasing  
18 production, such as engineering, towards those jobs where legal opportunities and  
19 loopholes are sought-after, such as law. Although such type of results have to be  
20 handled with caution, they are nevertheless interesting. Also, student drop-out rates  
21 can be considered as a proxy for the quality of public education, and they are five  
22 times as high in corrupt countries. It is worth noting that there is a positive relationship  
23 between corruption and the number of years in school. An increase in the index of  
24 corruption by one point reduces school enrolment by almost 5 % and life expectancy  
25 by about 2 ½ years<sup>67</sup>.

26 Life expectancy is of course closely related to public health policies, and as mentioned  
27 before, corruption is likely to diminish government spending on health. Also, within the  
28 health sector, investments may tend to favour construction of hospitals and purchase  
29 of expensive, high tech equipment over primary health care programs such as  
30 immunization, HIV prevention programmes, and family planning. These, however,  
31 have much higher marginal effects on the health situation of the population, in  
32 particular the poor. And corruption has also measurable effects on other health

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<sup>66</sup> Quote from the publication: F. Boehm, J. Joerges, *Cost of Corruption...*, *op.cit.*, pp. 5-6

<sup>67</sup> Quote from the publication: F. Boehm, J. Joerges, *Cost of Corruption...*, *op.cit.*, pp. 6-7

1 indicators as life expectancy, even when adjusting estimations for income. Child  
2 mortality rates in countries with high levels of corruption are about one-third higher  
3 than in countries with low corruption. Infant mortality rates and the share of low-birth-  
4 weight babies are almost twice as high. And again, the poor are disproportionably hurt  
5 by corruption. Anecdotic evidences from around the world report from bribes that have  
6 to be paid to get medicine, to get access to hospitals, or to be treated by the doctor.  
7 The Global Corruption Report 2006 cites a study carried out in Azerbaijan. About 35%  
8 of births in rural areas take place at home because of high charges for care in facilities  
9 where care was supposed to be free. And even from this biased too low budget, much  
10 is lost because of corruption. In the Global Corruption Report 2006, Transparency  
11 International reports that in the US, Medicare and Medicaid estimate that 5 to 10 % of  
12 their budget is lost due to corruption. In the United Kingdom, the National Health  
13 Service's (NHS) anti-fraud unit reports it has stopped corruption totalling more than  
14 £170 million (US \$300 million) since 1999, and the total financial benefits to the NHS  
15 (which also includes recovery of losses due to fraud and reduction in measured losses  
16 due to intervention by the counter-fraud service) have been four times that<sup>68</sup>.

17 Environmental quality also suffers from corruption, and corruption undermines  
18 effectiveness of environmental policies. Indeed, pollution increases due to a less  
19 effective environmental regulation which can be circumvented through bribes. Some  
20 authors find that corruption significantly impacts on the strictness of the environmental  
21 policies. For example H. Welsch analyses the impact of corruption on a variety of  
22 pollution indicators<sup>69</sup>. For instance, ambient pollution of air (the urban sulphur dioxide  
23 and suspended particulate concentration) and water (dissolved oxygen demand and  
24 suspended solids) increases. The author underscores that the relationship between  
25 corruption and environment is particularly strong at low income levels; developing  
26 countries could thus considerably improve both their economic and environmental  
27 performance by reducing corruption<sup>70</sup>.

28 Corruption can undermine the system of democracy. First of all, in most countries a  
29 social and political consensus has been established that private wealth is subject to a  
30 redistributive system to guarantee the provision of public goods and to prevent  
31 excessive social inequality. Therefore, income is taxed. Through bribing tax officials or

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<sup>68</sup> Ibidem

<sup>69</sup> H. Welsch, *Corruption, Growth, and the Environment: A Cross-Country Analysis*. Environment and Development Economics, 2004, Vol.9: 663-93 cited by F. Boehm, J. Joerges, *Cost of Corruption...*, *op.cit.*, p. 7

<sup>70</sup> Ibidem

1 through tax evasion, corrupt practices undermine the ability of the state to tax private  
2 wealth and revenues. Second, public expenditure is agreed on in the budget usually  
3 approved and controlled by parliament, by central audit authorities and by civil society  
4 and media. But, as already mentioned, corruption distorts the budget towards  
5 expenditures offering the highest corrupt opportunities, undermining thereby the  
6 democratically wished use of resources favouring narrow interests over public interest.  
7 Finally, corruption may also directly seek to influence the policy making and the rules  
8 and regulations of a society, thereby undermining democratic processes as well as the  
9 legitimacy of the state<sup>71</sup>.

- 10 ➤ To sum up the previous considerations, there are four categories of corruption  
11 costs: costs caused by the loss of revenues from taxes, customs duties,  
12 privatization, costs generated by corruption in public procurement;
- 13 ➤ reduced productivity of investment and economic growth, including through  
14 abuse of regulatory powers;
- 15 ➤ burden for the society, including through excessive taxation, low quality of  
16 services;
- 17 ➤ loss of trust for public institutions, which may undermine the respect for public  
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## 1.6 Laws and Regulations

Laws and regulations concerning the prevention and the fight against corruption, fraud and money laundering should be a part of a legal system of each country. We want to mention the basic regulations, useful guidelines and recommendations of involved authorities which set necessary principles and measures regarding this area at international level.

### a) The United Nations

The United Nations Convention against Corruption<sup>73</sup> with entry into force in 2005 (hereafter "Convention") presents a set of standards, measures and rules that countries should apply in order to strengthen their legal and regulatory regimes to fight against corruption. It describes corruption as transnational phenomenon which links between corruption and other forms of crime such as organized crime and economic crime including money laundering. Convention emphasizes preventive measures and a comprehensive and multidisciplinary approach. It also requires the member States to return the assets obtained through corruption to the country from which it was stolen.

Preventive anti-corruption measures according to Convention are:

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<sup>73</sup> [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

- To develop anti-corruption policies and endeavour practices that aimed at the proper management of public property, integrity, transparency and accountability. In addition to that Convention mentions the public procurement as an important area where necessary is to establish an appropriate system based on transparency, competition and objective criteria in decision-making;
- To evaluate legal instruments and administrative measures with a view to preventing and fighting corruption;
- International cooperation on preventing and fighting corruption;
- Existence of an independent body for overseeing and coordinating the implementation of policies mentioned above including increasing knowledge about prevention of corruption;
- Whistle-blower protection.

#### Other useful documents issued by United Nations:

The United Nations Guide on Anti-Corruption Policies<sup>74</sup>, which contains a general outline of the nature and scope of the problem of corruption and a description of the major elements of anti-corruption policies, suitable for use by political officials and senior policy-makers.

The United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators<sup>75</sup> as a part of a larger package of materials intended to provide information and resource materials for countries developing and implementing anti-corruption strategies at all levels, as well as for other elements of civil society with an interest in combating corruption.

The United Nations Anti-Corruption Toolkit<sup>76</sup>, which contains a detailed set of specific tools intended for use by officials called upon to elaborate elements of a national anti-corruption strategy and to assemble these into an overall strategic framework, as well as by officials called upon to develop and implement each specific element.

The Compendium of International Legal Instruments on Corruption<sup>77</sup>, in which all the major relevant global and regional international treaties, agreements, resolutions and

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<sup>74</sup> [http://www.unodc.org/pdf/crime/corruption/UN\\_Guide.pdf](http://www.unodc.org/pdf/crime/corruption/UN_Guide.pdf)

<sup>75</sup> <http://www.unodc.org/pdf/crime/corruption/Handbook.pdf>

<sup>76</sup> <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan020658.pdf>

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other instruments are compiled for reference. These include both legally binding obligations and some "soft-law" or normative instruments intended to serve as non-binding standards.

b) The Group of States against Corruption (GRECO)

GRECO was established in 1999 by the Council of Europe to monitor states compliance with the organisation's anti-corruption standards. GRECO's objective is to improve the capacity of its members to fight corruption by monitoring their compliance with Council of Europe anti-corruption standards using mutual evaluation. It helps to identify deficiencies in national anti-corruption policies and to prompt the necessary legislative, institutional and practical reforms. GRECO also provides a platform for sharing the best practice in the prevention and detection of corruption.

Legal instruments adopted by the Council of Europe are:

European Criminal Law Convention on Corruption (ETS 173)

European Civil Law Convention on Corruption (ETS 174)

Additional Protocol to the Criminal Law Convention on Corruption (ETS 191)

Twenty Guiding Principles against Corruption (Resolution (97) 24)

Recommendation on Codes of Conduct for Public Officials (Recommendation No. R (2000)10)

Recommendation on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns (Recommendation Rec (2003)4)

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c) The Organisation for Economic Co-operation and Development (OECD)

OECD<sup>78</sup> helps governments to foster prosperity and fight poverty through economic growth and financial stability. OECD work is based on continued monitoring of events in member countries as well as outside OECD area. It collects and analyses data, discusses a policy regarding this information, makes decisions and recommendations for governments.

Regarding the fight against corruption OECD resolved "Convention on combating bribery of foreign public officials in international business transactions"<sup>79</sup> in 2011 which determines recommendations concerning bribes.

d) The Council of The European Union<sup>80</sup> - Council Act of 26 July 1995 drawing up the Convention on the protection of the European Communities' financial interest (95/C 316/03)<sup>81</sup> determines what is meant by fraud.

#### Conclusion:

The main areas which should be adopted in the legal system of each country are:

- The preventive measures according to UN Convention including risk assessment;
- Criminalization of various acts of fraud, corruption and money-laundering; system of sanctioning instruments
- The freeze or confiscation of profits from fraud, corruption and money laundering;
- The use of amnesty, immunity or reduction of punishment;
- The protection of whist-blowers;
- The strict rules for public officials (proving their property, lobbying, avoiding a conflict of interests, favouritism, ethic code of conduct etc.) exact rules for political parties, election campaigns;
- Media freedom regarding corruption, fraud and money-laundering.

<sup>78</sup> [http://www.oecd.org/home/0,2987,en\\_2649\\_201185\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/home/0,2987,en_2649_201185_1_1_1_1_1,00.html)

<sup>79</sup> [http://www.oecd.org/document/21/0,3746,en\\_2649\\_34859\\_2017813\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/21/0,3746,en_2649_34859_2017813_1_1_1_1,00.html)

<sup>80</sup> [http://europa.eu/about-eu/institutions-bodies/council-eu/index\\_en.htm](http://europa.eu/about-eu/institutions-bodies/council-eu/index_en.htm)

<sup>81</sup> [http://europa.eu/legislation\\_summaries/fight\\_against\\_fraud/protecting\\_european\\_communitys\\_financial\\_interests/133019\\_en.htm](http://europa.eu/legislation_summaries/fight_against_fraud/protecting_european_communitys_financial_interests/133019_en.htm)

Source:

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The United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators, 2004

The United Nations Anti-Corruption Toolkit, 2004

The Compendium of International Legal Instruments on Corruption, 2005

## **2. Components of Corruption Prevention and Fighting**

### **2.1 Organization**

The following organization is expected to be installed/appointed for each government agency and also for SAI's

#### **2.1.1. An organizational unit for corruption prevention**

If the results of risk analyses or other circumstances warrant, a special temporary or permanent independent organizational unit shall be set up to oversee all corruption prevention measures taken in a particular agency; such units shall be independent and have the right to report directly to the head of the agency. Such organizational unit could either be internal or external agency, This task may also be performed by the internal auditing department/internal audit unit. In some countries this tasks is performed by the office of the inspector general.

This organizational unit shall directly inform the head of the agency and the contact person for corruption prevention in case of shortcomings in corruption prevention and shall recommend appropriate changes. In cases the head of an agency is involved in corruptive and fraud activities the anti corruption unit shall inform the law enforcement institution.

#### **2.1.2. Contact person for corruption prevention (anti corruption officer)**

The contact person for corruption prevention shall be appointed based on the tasks and size of the institution. One contact person may be responsible for more than one agency. Depending on the size of the institution a contact person for corruption prevention should be designated for divisions/branches etc.

1 | Contact person(s) may be charged with the following tasks:

- 2
- 3       ➤ serving as a contact person for agency staff and management, if necessary
- 4       without having to go through official channels, along with private persons; it
- 5       shall have direct access and may report to the top management level (e.g.
- 6       President)
- 7       ➤ advising agency management;
- 8       ➤ keeping staff members informed (e.g. by means of regularly scheduled
- 9       seminars and presentations);
- 10      ➤ assisting with training and may participate in all anti-corruption related
- 11      training sessions;
- 12      ➤ monitoring and assessing any indications of corruption;
- 13      ➤ helping keep the public informed about penalties under public service law
- 14      and criminal law (preventive effect) while respecting the privacy rights of
- 15      those concerned.

16 If the contact person becomes aware of facts leading to reasonable suspicion that a  
17 corruption offence has been committed, he or she shall inform the agency  
18 management immediately and make recommendations on conducting an internal  
19 investigation, on taking measures to prevent concealment and on informing the law  
20 enforcement authorities. The agency management shall take the necessary steps to  
21 deal with the matter.

22 Contact persons shall not be delegated any authority to carry out disciplinary  
23 measures; they shall not lead investigations in disciplinary proceedings for corruption  
24 cases.

25 Agencies shall provide contact persons promptly and comprehensively with the  
26 information needed to perform their duties, particularly with regard to incidents of  
27 suspected corruption.

28 In carrying out their duties of corruption prevention, contact persons shall be  
29 independent of instructions. They shall have the right to report directly to the head of  
30 the agency and may not be subject to discrimination as a result of performing their  
31 duties.

1 Even after completing their term of office, contact persons shall not disclose any  
2 information they have gained about staff members' personal circumstances; they may  
3 however provide such information to agency management or personnel management  
4 if they have a reasonable suspicion that a corruption offence has been committed.  
5 Personal data shall be treated in accordance with the principles of personnel records  
6 management.

7 The contact person for corruption prevention is to be formally appointed. This  
8 appointment is to be announced in the person's area of responsibility. If the contact  
9 person for corruption prevention is to be responsible also for implementing the Anti  
10 Corruption Directive of the agency, in particular for heading the independent  
11 organizational unit, the relevant agency may formally appoint the contact person to be  
12 its official.

13 Staff members belonging to the organizational unit responsible for carrying out  
14 security vetting of personnel may not serve as contact persons.

15 While continuing to perform his or her own duties, the contact person should work with  
16 staff in the internal audit unit and with those responsible for implementing corruption  
17 prevention.

18 The agency is to support the contact person in carrying out his or her duties (e.g. by  
19 setting up special e-mail addresses or providing appropriate office space).

## 20 **2.2 Risk assessment and risk analysis**

21 In all government agencies, measures to identify areas of activity which are especially  
22 vulnerable to corruption shall be carried out at regular intervals and as warranted by  
23 circumstances. This task may either be performed by external or internal agency. The  
24 use of risk analyses shall be considered for this purpose.

25 Risk analyses are to be performed by government agencies on a regular basis (or on  
26 the occasion of actual threats) to identify organizational elements or processes that  
27 are vulnerable to corruption. These analyses comprise

- 28 ➤ the evaluation of individual Organizational elements, processes and  
29 procedures with regard to the risk of corruption,
- 30 ➤ evaluation of audit records,
- 31 ➤ the identification of potential risks (especially for financial fraud),

- the valuation of potential financial losses and damage to reputation,
  - the question of probability and
  - the evaluation of existing security systems (e.g. internal control systems)
- The results of the risk analysis shall be used to determine any changes in structures, procedures or personnel assignments in order to eliminate identified deficiencies.
- The identification and analysis of areas of activity which are especially vulnerable to corruption is the major task to be performed by the government agencies.
- An area of activity vulnerable to corruption is one where, by staff, custom or decision, the following occurs:
- Third parties (individuals, businesses, associations, companies, other institutions) receive material or non-material advantages or are preserved from disadvantages and
  - third parties are able to provide staff members with advantages to which they are not entitled by law or collective bargaining agreements.
- Furthermore, an area of activity associated with any of the following must be considered especially vulnerable to corruption:
- frequent outside contacts – also in the course of checking and supervisory activities,
  - management of large budgets, awarding of public contracts or subsidies, including the awarding of grants or other fundings,
  - imposing of conditions, granting of concessions, approvals, permits, and the like, setting and levying of fees,
  - processing of transactions and operations using internal information not intended for third parties.
- This applies only insofar as
- the potential advantage has a significant material or non-material value for third parties
  - or the potential disadvantage to third parties would result in punishment, a threat to their business or livelihood or a threat to the existence of the affected institution.

1 The need for risk analysis in areas of activity considered especially vulnerable to  
2 corruption should in principle be evaluated on a frequent bases or required by  
3 significant circumstances or at least every five years or following organizational or  
4 procedural changes or changes in the nature of assigned tasks. In order to identify  
5 individual areas vulnerable to corruption, the following two-step procedure is expected  
6 to be performed by the government agency:

- 7 ➤ a brief examination of vulnerability to corruption and of the effectiveness of  
8 existing safeguards (e.g. by examining organizational charts).
- 9 ➤ If a risk analysis is needed: Identify operations which are especially  
10 vulnerable to corruption as well as existing safeguards (e.g. by means of  
11 questionnaires and supplementary interviews).

12 If a need for action is determined, the risk analysis should conclude by recommending  
13 and/or ordering additional preventive measures.

14 In addition to the items noted above, the following questions are expected to be asked  
15 by the government agencies for their risk analysis:

- 16 ➤ Are there or have there been instances of corruption in the area of  
17 activity?
- 18 ➤ Have third parties tried to influence the decisions of a staff member in this  
19 area?
- 20 ➤ Does the area manage budgets or resources?
- 21 ➤ Is the area responsible for contracts, subsidies, fundings ?
- 22 ➤ Does the area impose conditions, grant concessions or authorisations?
- 23 ➤ Does the area charge fees?
- 24 ➤ Have there been known cases of corruption in comparable areas of  
25 activity at other agencies?
- 26 ➤ Does the area of activity follow specifically defined work processes?
- 27 ➤ Is the post associated with special scope for action and discretionary  
28 powers?
- 29 ➤ Does the extent of decision-making authority vary depending on the size  
30 of contracts or other criteria?

- Does the area of activity have final authority over processing and decision-making?
- Is there adequate administrative and task-related supervision?
- Is personal integrity the only barrier to corruption in the area of activity?
- What in-house control mechanisms are in place?
- Does the decision-making process provide for the “principle of greater scrutiny” by involving more than one responsible person?
- Do other organizational units also have to sign off on decisions?
- Does the decision-making process ensure transparency, e.g. by means of checking operations, reporting, explicitly designating responsibility, or supplying precise and complete documentation (minutes, notes, reports, orderly record-keeping)?
- Is the decision-making process required to be transparent even if no consent is needed from a supervisor or another organizational unit entitled to participate?
- Is there a requirement that a transparent, written record be kept of the decision-making process, which can be followed by an auditing authority?
- Are there any known violations of regulations (e.g. budget law, law on public procurement)?
- Are there any complaints by the SAI or another supervisory authority, e.g. the independent organizational unit for overseeing corruption prevention?

### **2.3 MODULES OF CORRUPTION PREVENTION**

In preventing against corruption, specific control objectives are to be identified or developed for each government organization and are to be appropriate, comprehensive, reasonable, and integrated into the overall organizational objectives. A primary objective for the government is to prevent errors or irregularities from occurring in management or financial information or, if any have occurred, to detect them. Government ministry and department activity should identify and develop specific control objectives. The control objectives should be appropriate, comprehensive, reasonable, and integrated into the overall organization structure. Conversely, when internal controls and their objectives are not clearly established and understood, internal control breakdowns can result.



1 In addition, managers are to continually monitor their operations and take prompt,  
2 responsive action on all findings of irregular, uneconomical, inefficient, and ineffective  
3 operations. Monitoring operations is very important to ensure that controls are achieving the  
4 desired results. Often it was found that without the necessary understanding and  
5 monitoring, it is more convenient for people to not follow established control practices. In  
6 some cases, instances of weak internal controls are identified and reported, management  
7 responds to the points raised and early corrective action will normally have been taken.

8  
9 To help achieve control objectives and an orderly and effective internal control structure,  
10 internal control guidelines should provide detailed standards covering **(1) segregation of**  
11 **duty including the principles of 4 eyes, (2) personnel rotation and job rotation and (3)**  
12 **supervision** to establish an environment that prevents and deters fraud and corruption.

### 15 **2.3.1 SEGREGATION OF DUTIES INCLUDING THE PRINCIPLES OF 4 EYES**

#### 17 **a. Introduction**

18  
19 Segregation of Duties has become an important prerequisite in the implementation of every  
20 compliance related project all over the world. As the name suggests that no single user can  
21 have access to all authorizations of a process end to end. It is required that job duties in  
22 each business process are completely segregated and adequate controls need to be  
23 placed.

24  
25 Segregation of Duties is a concept of having more than one person required to complete a  
26 task. This concept also known as **dual Control or Four Eyes Principles** in Financial  
27 Industries. This principles act as a control mechanism designed to achieve a high level of  
28 security for especially critical material or operations. Under this rule all access and actions  
29 requires the presence of two authorized people at all times.

#### 31 **b. Segregation of Duties**

32  
33 Clear segregation of duties enhances checks and balances and minimizes the potential for  
34 corrupt collusion. The basic idea underlying segregation of duties is that no employee or  
35 group should be in a position both to perpetrate and to conceal errors, fraud or corruption in  
36 the normal course of their duties. To maintain proper Segregation of Duties, no employees  
37 should be responsible for two or more of the following four functions for a single transaction  
38 class:

<p><b><i>Record Keeping</i></b></p> <p>Creating and maintaining departmental records</p>	<p><b><i>Asset Custody</i></b></p> <p>Access to and/or control of physical assets</p>
<p><b><i>Authorization</i></b></p> <p>Reviewing and approving transactions</p>	<p><b><i>Reconciliation</i></b></p> <p>Assurance that transactions are proper</p>

Segregation of Duties risks are opportunities for one individual to control a process from beginning to end without the involvement of others. When an individual exploits the condition, integrity, productivity loss, and physical losses can result without being detected. For examples, those who performed the ordering (purchasing) activity, including those who maintain contact with outside suppliers and issue purchase orders, should not perform any receiving, accounting or cash disbursement activities.

Segregation of duties is a deterrent to fraud because it requires collusion with another person to penetrate a fraudulent activity. There will be a risk of error, waste, or wrongful acts associated with having one person control all key stages of a transaction or event. In some instances, it was found that segregation of duties is a major weakness in some departments and government ministries. Therefore, every control system to prevent accounting errors, fraud and corruption should incorporate separation of duties.

### c. Case Studies on Segregation of Duties

The following case studies illustrate some of the signs of weaknesses in controls and culture that would have been present should someone have been looking for them at the time the acts were committed:

- i) In 2010, a contractor was bidding for a highway construction tender by a Ministry of the Federal Government. On the day before the tender result was to be announced, the contractor received an email sent from an unknown webmail account soliciting a bribe amounting to a percentage of the project value to guarantee the contractor would win the project. The contractor did not respond and the tender was awarded to another party.

The initial complaint of the contractor was investigated for what evidence could be obtained and the results forwarded to the Ministry. The resulting investigation revealed a number of contributing factors, in what proved to be tender rigging by an

1 employee of the Ministry who was ultimately convicted of the offence by the courts,  
2 which would have thrown up red flags of potential corruption. The perpetrator was in  
3 charge of a number of functions in the ministry and this was due to **lack of**  
4 **segregation of duties.**

5  
6  
7 ii. Information was provided to the Chief Executive Officer by an informant that two  
8 employees in charge of its workshop were receiving kickbacks from a transport  
9 contractor. Investigation uncovered information that indicated payments were made  
10 by the contractor to workshop employees. In addition it was determined the  
11 Contractor was overcharging the organization and numerous other suspected frauds  
12 perpetrated on the organization by the two employees were discovered. In was  
13 revealed that one of the two individuals implicated was responsible for  
14 commissioning work from the contractor, preparing Material Requisitions to be  
15 signed by the project managers in charge of budget and often signed bills of lading  
16 as well. This shows that there was **no segregation of duties** in this organization.

17  
18  
19 iii. An organization often received complaints on overcharging of prices by supplier. An  
20 investigation was carried out on suspected overcharging by a supplier providing  
21 services under contract. The investigation began as a data review for duplicate  
22 payments and when a number of events were detected the investigation was  
23 widened. Further anomalies were detected including progress payments processed  
24 without adequate justification or a milestone associated with the payment not having  
25 been reached. Payments or invoices that could not be linked to any particular work  
26 were also found. A review of the relationship with the vendor indicated a sudden  
27 increase in volume of work three years previously. It was found that tender  
28 documents written as to favour the contractor by the individuals that recommended  
29 the successful supplier. This occurred in this organization due to **no segregation of**  
30 **duties.**

31  
32 Knowing where to look for them and what signs to look for is an important starting point for  
33 managing the risks of corruption. What can then follow are policies aimed at preventing  
34 corruption that accommodate an accurate risk profile for an organisation, training and  
35 awareness programmes that target the risk points, effective segregation of duties, and well-  
36 directed surprise audits to detect acts of corruption.

#### 37 38 **d. Segregation of Duties For Small Organization**

39  
40 In smaller government agency, segregation of duties is not practical and therefore generally  
41 is not appropriate to recruit additional staff to achieve a strict segregation of duties. it is

often difficult for small organizations to maintain proper segregation of duties. It has found cases where (1) people were able to both authorize and check payments, (2) staff could requisition, authorize, and receive goods, and (3) there was little or no evidence that supervisory checks were done. In cases where small organizations make adequate separation of duties difficult, management must be aware of the risks and compensate with other controls. For instance, rotation of employees may help ensure that no one person deals with key aspects of transactions or events for an undue length of time.

Auditors must look at alternatives and recommend controls relate to checks and balances. Establishing a “tone at the top” so that policies are in place and all employees including management follow them. Other important considerations include clearly defined responsibilities, involving at least two staff in all important transactions such as signing checks, count cash, and preparing and reviewing bank reconciliations.

### 2.3.2 PERSONNEL ROTATION AND JOB ROTATION

#### a. Introduction

Job rotation is a job design technique that assigns employees to various jobs and departments over a period of a few years systematically. The objective is to expose employees to different experiences and wider variety of skills to enhance job satisfaction and to cross-train them. Apart from being as a learning mechanism, job rotation can also be used as a tool to prevent corruption. However, there are both positive and negative effects involved with job rotation that need to be taken into consideration when the decision to utilize this technique is made.

#### b. Positive Effect in Job Rotation

Job rotation is an often overlooked aspect of successful work environment by employers. Job rotation is able to provide tremendous benefits to both employees and employer alike, such as:

- i) ***Increase Employee Knowledge***: Rotating jobs allows employees to learn different aspects of the job, and hence possess a wider spectrum about their jobs and what they can do to perform their jobs at their best. Hence, they have the opportunity to learn necessary skills which can help them to advance within the organization apart from of boosting their morale and self efficacy. Not only that, by having several employees who are knowledgeable about different tasks can come out real handy when one employee decides to leave, the other can take his/her place without too much effort needed.

- 1
- 2 ii) **Key Staff** : Employers often find difficulty trying to hire for key positions or hard-to-
- 3 find skills. Job rotation solves this by offering internal set of employee skills who can
- 4 often be helpful in other positions than their current ones. Hence, the organization
- 5 can run more efficiently, and as a result, become more productive and profitable.
- 6
- 7 iii) **Save Cost**: Job rotation seem to be costly, yet in reality hiring someone who is
- 8 completely new to a position will require more further costs for training from . Also
- 9 existing employees usually require less incentive to move from one post to another,
- 10 unlike newly experienced hires who are harder to please and often involve higher.
- 11
- 12 iv) **Develop Career**: Job rotation can be seen as a means to develop an employee's
- 13 career and move him laterally. Whatever the move is, it can be advised as a or an
- 14 advancement along the career path to a new position which requires further
- 15 knowledge in different departments or organization .
- 16
- 17 v) **Minimizing Corruption**. Instead of having a few employees undertaking activities
- 18 that have a high risk of corruption, more employees can be trained to also undertake
- 19 those activities. With more people undertaking those activities the risk of corruption
- 20 may be reduced, especially when combined with job rotation allocation of tasks.

### 21

### 22

### 23 c. Negative Effect in Job Rotation

### 24

25 There are some negative attributes associated with job rotation. Some positions within an

26 organization may not be eligible for rotation such as specialized job due to technology or

27 may require highly skilled staff and competency. These positions may not fit the profile for

28 rotation opportunities because of rules and regulation on competency and also costs

29 involved to train the workers. Other problem faced by organizations is the possibility of

30 having to compensate staff for cooperation with the job rotation implementation which can

31 lead to wage inequality. Finally, the utilization of Job Rotation may have the effect of

32 reducing a workforce because of the cross-training involved; an organization may not need

33 to hire additional staff to cover positions and may possibly layoff current employees no

34 longer considered necessary.

35

### 36 d. Job Rotation As A Tool To Fight Against Corruption

### 37

1 When an organization decides to utilize job rotation, it is a decision which needs to be  
2 thoroughly evaluated based not only the positive but also negative aspects an organization  
3 may face during the utilization process. More importantly, the organization should also  
4 evaluate the element of risk associated within the task that may lead to corruption practice.  
5 Although top management may have an image in mind of what corruption is, the image may  
6 differ from executive to executive and may, indeed, differ widely in respect of the true  
7 nature of corruption. In order to adopt a job rotation policy towards combating corruption  
8 within the organization, a full corruption risk assessment is required to identify those  
9 opportunities specific to a given set of operations. Only then a system of internal controls in  
10 respect of job rotation can be designed to address those specific risks. Even then,  
11 corruption can never be truly eliminated but they can provide reasonable assurance that not  
12 only can instances of corruption be reduced but also waste and general misuse of  
13 resources.

14  
15 Red flags are early warning indicators that the risk of corruption in a particular area is either  
16 higher than is normally tolerable or has increased over a period. Identify activities and jobs  
17 that are especially at risk in relation to corruption. The need for job rotation should be  
18 considered and need to be implemented in these situations when employee:

- 19 i. Maintain a very close relationships with vendors or customers
- 20 ii. Dominating and controlling a particular processes
- 21 iii. Refuse for a promotion
- 22 iv. Refuse to take vacation time
- 23 v. Working unnecessary overtime
- 24 vi. Decreases in productivity and increases in signs of dissatisfaction at work
- 25 vii. Mood changes and irritability increase
- 26 viii. Borrowing money from co-workers
- 27 ix. Rewriting records for neatness reason
- 28 x. Sudden increase in the visibility of material possessions
- 29 xi. Apparent increase in absenteeism
- 30 xii. Dislike their work being reviewed
- 31 xiii. Destroying Reports

#### 32 33 **e. Implementation of Job Rotation**

34

1 The policy of job rotation varies between entities. For example, in one INTOSAI member  
2 country, the heads of the regional departments of federal bodies and their deputies  
3 responsible for control and supervisory functions will be subject to job rotation. In April  
4 2010, the government adopt measures aimed at implementing a job rotation mechanism for  
5 the public civil servants. The need for job rotation as an anti-corruption measure is also  
6 required by law in regards to the federal civil service. The term of service for the heads of  
7 regional departments and their deputies will last three to five years. All the decisions on  
8 their job rotation will be taken by the president or the government. The job rotation for civil  
9 servants is also mentioned in the United Nations Convention against Corruption (UNCAC)  
10 adopted in 2003. This member country had previously ratified this legally binding  
11 international anti-corruption instrument that obliges the signatories to implement a range of  
12 anti-corruption measures affecting their state's legislation, institutions and practices.

13 In recent times, federal agencies have actively replaced officials in their regional  
14 departments to fight corruption. Two thirds of top managers, the supervisory body on  
15 ecological, technological and nuclear issues – 42 regional heads and their deputies – were  
16 dismissed in 2009. The number of the agency's territorial bodies was reduced from 84 to  
17 38. The Interior Ministry has recently determined a list of positions that will be subject to  
18 rotation as a part of the wide-ranging police reform in Russia. The term for such officials will  
19 be five years. They will be able *"to assess the situation with fresh eyes, identify the*  
20 *problems, and find ways to solve them,"* Interior Minister said. Nevertheless there is no  
21 specific period of how long should an officer withholding his/her post. It depends on the  
22 policy of the organization based on risk analysis.

#### 24 **f. Auditor's Role**

25  
26 In ensuring that the internal control in respect to job rotation is sufficient and effective, an  
27 auditor should take necessary steps in ascertaining the existence of evidence. There are  
28 few questions in relating to job rotation planning and implementation that should be asked  
29 by the auditor as follows:

- 31 i. Does the entity have any policy regarding job rotation?
- 32 ii. Does it design based on risk structured?
- 33 iii. Does the policy being implemented?
- 34 iv. If it doesn't, why?
- 35 v. Who decide the job rotation?

- vi. Does he have the authority?
- vii. Who is eligible for job rotation? Why?
- viii. What action has been taken to ensure that the policy is adhered to in the future?
- ix. Does the policy being reviewed?
- x. When to perform the rotation? Justification.
- xi. How much time allowance to choose the right candidate?
- xii. Does notification to the right people being issued?

### **2.3.3 SUPERVISION**

#### **a. Introduction**

INTOSAI'S internal control guidelines prescribe that competent supervision is to be provided to ensure that internal control objectives are achieved. The importance of proper supervision of assignments and employees form the fundamental of internal control mechanism.

Today many public sector employees work with less direct supervision and more autonomy, which means supervisors have critical roles to play in minimising the risks of corruption in their workplaces. Employees are strongly influenced in their own behaviour by the way their immediate supervisors behave. Consequently, supervisors are in a position to either encourage or minimise corrupt conduct.

Their role also means supervisors are well-placed to detect and report instances of misconduct or corruption of which they become aware. The improper supervision of employees can constitute corrupt conduct as defined by the *Independent Commission Against Corruption Act 1988 (ICAC : Sydney 2001)*.

A risk assessment of the supervision of staff in a public sector organisation is likely to identify some or all of the following corruption risks, such as failing to check work records; improperly promoting, engaging or advantaging employees for personal reasons; taking detrimental action against employees who report corruption or misconduct; and concealing the corrupt conduct of subordinate employees.

Auditors should ensure that in government agency where minimal supervision is being practice, considerable discretion is required to be exercised. If direct supervision is not possible, other accountability mechanisms can be used. The most fundamental is the need



1 for accurate recordkeeping. Systems that automatically generate a record of decisions or  
2 approval can be used in these situations. Regular reviews of the decisions made by  
3 individuals can also indicate whether they have been made properly.

#### 4 **b. Supervision to Reduce Corruption Risks**

5 A government agency should manage corruption risks so as to ensure its organisational  
6 structure and reporting lines make it clear who employees report to, and are supervised by,  
7 and do not leave any employee unsupervised; introduce policy and procedures for the  
8 supervision of employees; ensure that supervisors have clear direction on reporting  
9 corruption and dealing with corruption risks; give employees access to processes for  
10 reporting misconduct that provide alternatives to reporting through their supervisor, who  
11 may be involved in corrupt activity and assess the performance of supervisory  
12 responsibilities in performance reviews.

13  
14 Every government agency should have risk management strategies following the risk  
15 assessment of employee supervision. Among the strategies are, ensuring the workload of  
16 supervisors is not so great that they cannot properly monitor the work being done; locating  
17 supervisors so that they are physically able to have sufficient contact with employees to  
18 know how work is being done; giving supervisors enough access to the work of employees  
19 to enable adequate monitoring of work being done; ensuring enough supervisors have skills  
20 and knowledge of the work required to be done to avoid the agency becoming dependent  
21 on any individual employee; and conducting additional supervision for employees in roles  
22 that are exposed to greater corruption risks.

#### 23 24 **c. Case Studies on Managing Supervision**

25  
26 The following case studies illustrate some of the signs of weaknesses in supervisory  
27 controls:

- 28
- i. In a government agency it was reported that an executive officer of a regional development board had engaged in corrupt conduct. He had illegally obtained public funds and used them for the benefit of himself and his family.

The man was a long-term middle-ranking public official on a modest salary, working in a location away from the head office of his organization. Reporting lines were ambiguous, or not properly understood or applied by the relevant managers. He reported to a regional office but on an ad hoc, mostly verbal basis, which was not adequately recorded on files. This **lack of supervision** meant that he was able to

exercise a high level of discretion.

Another risk factor identified in the investigation was the apparent lack of direction by senior management and the lack of performance management. Remote officials were expected to define, create and manage their own work program with minimal reference to head office and little or **no supervision**.

It was recommended that:

- appropriate management, performance management, accountability and reporting controls be placed on small, remote offices and that internal audit programs pay particular attention to their program management and expenditure.
- adequate access be provided to employees in regional and remote offices to corporate training, including training in ethical standards and codes of conduct.

1    ii    In a training institute under the Ministry of Youth and Sports, a procurement contract  
2    was signed with a contractor to supply certain tools for the specific programs  
3    conducted at the training institute. However, the auditor found that there was a  
4    significant differences in price quoted in the supplier's contracts and also when  
5    compared with the prices of the same tools that were being supplied by different  
6    suppliers to the same institution. In this case, exorbitant prices were charged for 5  
7    tools, viz the Philip Screwdriver, Digital Cameras, plastic cases, 6 seated settees and  
8    2 Tone Jack.

9  
10    The underlying cause was attributed to the **absence of supervision** by the head of  
11    training institute. Adequate supervision is essential in operations such as those  
12    related to contracts. It was found that monitoring the operation of contract is key to  
13    ensuring that suppliers meet the terms and conditions of the contract for price,  
14    standards, and delivery will ensure that the contract remains competitive.

15  
16    iii.    The Anti Corruption Agency has arrested an engineer with a Municipal Council and a  
17    contractor for alleged graft involving \$47,100. The contractor was arrested for  
18    allegedly providing false information when making his claim for the construction of a  
19    retaining wall. The engineer was arrested as he was alleged to have abetted the  
20    contractor. It was found that the contractor has submitted a claim for \$88,100 as the  
21    cost of construction the retaining wall when in fact the cost was only \$41,000. Both  
22    were being investigated and charged in the court.

23

Auditors found that the process of reviewing and confirming work done by contractor allowed for **unsupervised** modification without any documentary support and verification by superior. Auditors has also identified supervision, as well lack of training as an internal control weakness common to most government agencies.

- iv. Construction is another area prone to fraud and corruption. Corruption in construction raises cost and lowers quality of infrastructure. Risks for construction may exist throughout design, planning, preparation, contracting and sub-contracting as well as implementation. Risks include bribery, collusion, deception and abuse of unexposed conflicts of interest.

Auditors found in many instances where completion certificates on buildings and projects were certified by engineers and architects as completed and handed over to the government agencies and full payment were made to the relevant contractors. However, on physical inspection by the auditors revealed that these buildings and projects were still under construction and some of it was abundant by the contractors. This revealed that **no supervision** was done by the relevant engineers and architect as well their supervisors or there is collusion between them and the contractor or sub-contactors..

Auditor has assisted in addressing these weaknesses by starting training programs, identifying supervisors for every level of staff, and stressing the importance of these aspect of internal control systems. To help ensure proper supervision, supervisors are to review and approve, as appropriate, the assigned work of their employees. They must also provide their employees with the necessary guidance and training to help ensure that errors, waste, and wrongful acts are minimized and that specific management directives are understood and achieved.

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## 20 21 22 **2.3.4 Decision Making**

### 23 24 **2.3.4.1 Every public institution and/or Supreme Audit Institution should be equipped** 25 **with a decision making procedure.**

26  
27 A decision making procedure is important to ensure the accountability and transparency of  
28 a decision made by every level of management.

### 29 30 **2.3.4.2 Decision making should be supported by the availability of relevant,** 31 **complete, valid, timely, and reliable information.**

32  
33 Relevancy, completeness, validity, timeliness, and reliability of information are the factors  
34 which determine the quality of a decision.

### 35 36 **2.3.4.3 Every decision making process should be carried out transparently in** 37 **accordance with the organization's decision making procedure.**

38  
39 Decision should be made in accordance with the decision making procedure.

40  
41 Transparent means the decision making process is acknowledged by any related parties  
42 within the organization, who would understand the considerations of a decision accordingly.

1  
2 **2.3.4.4 Every decision making should be recorded and documented appropriately.**

3  
4 The documentation of decision making consists of documentation of decisions making  
5 process and the decisions themselves.

6  
7 The documentation of decision making is important in the event that there is an audit or a  
8 legal issue to clarify the considerations and responsible parties related to a decision.

9  
10 **2.3.4.5 Should there be any discretion in decision making, an adequate**  
11 **documentation and accountability of the discretion should be obtained.**

12  
13 There are certain circumstances where decision could not be made following the written  
14 procedure and discretion or executive decision should be made consequently, a suitable  
15 evidence of decision making process is required to recognize the responsible party.

16  
17 **2.3.4.6 Decision making should be free from any conflict of interests.**

18  
19 One of the core values of an institution is independence. It requires that anyone should be  
20 free from any conflict of interests, thus requiring that decision making should also be free  
21 from any conflict of interests.

22  
23 There are few questions in relation to decision making that should be asked by the auditor  
24 as follows:

- 25 1. Does the entity have a decision making procedure?  
26 2. Who makes the decision making procedure?  
27 3. If there is no decision making procedure, what is the basis for decision making?  
28 4. Is the decision made based on available information?  
29 5. What are the characteristics of information required to support decision making?  
30 6. Is decision making supported by relevant, complete, valid, timely, and reliable  
31 information?  
32 7. Is decision making carried out transparently according to the decision making  
33 procedure?  
34 8. Have the decision making procedures been recorded and documented?  
35 9. Have the decisions been recorded and documented?

- 1 10. Is there any discretion in decision making?
- 2 11. In what circumstances are the discretion may be used?
- 3 12. How is the decision making mechanism if there is any discretion?
- 4 13. Are all parties involved in decision making free from any conflict of interests?
- 5 14. Does the decision-making process ensure transparency, e.g. by means of checking
- 6 operations, reporting, explicitly designating responsibility, or supplying precise and
- 7 complete documentation (minutes, notes, reports, orderly record-keeping)?
- 8 15. Is the decision-making process required to be transparent even if no consent is needed
- 9 from a supervisor or another organizational unit entitled to participate?
- 10 16. Is there a requirement that a transparent, written record be kept of the decision-making
- 11 process, which can be followed by auditors?
- 12

### 13 Example of Decision Making

14 Decision making mechanism in a central bank requires that minutes of meeting and

15 transcript should be made in every meeting. In the minutes of meeting and transcript, we

16 can find information of the decision making process, the parties involved, and the

17 discretion, if any. This is an example of good decision making procedure, since it

18 demonstrates the documentation of decision making and transparency.

19

## 20 2.3.5 Role of Internal Control Regarding Corruption Prevention:

### 21 2.3.5.1 Introduction:

22 There are several keys to effective corruption prevention, but some of the most important

23 tools in the institution or organization toolbox are strong internal controls<sup>82</sup>. The focus of

24 this part is on strengthening internal control role in corruption prevention.

25

26 Due to the fact that corruption have political, economic and social effects which threaten the

27 security of community, so it is necessary to fight corruption by many ways, one of them is

28 strengthening internal controls because strong and effective internal control system may not

29 only reduce corruption, but also limits its effects.

30 Good management practices require the establishment of adequate internal controls and

31 checks, the responsibility to detect fraud and corruption is a natural corollary of the

32 responsibility to establish an environment that prevents and deters fraud and corruption.

---

<sup>82</sup> Fraud prevention: Improving internal controls, By Daniel Draz, M.S., CFE, March 2011.  
[www.csoononline.com](http://www.csoononline.com)

1 While no institution, even with the strongest internal controls, is immune from fraud and  
2 corruption, strengthening internal control policies, processes and procedures definitely  
3 makes institutions a less attractive target to both internal and external criminals seeking to  
4 exploit internal control weaknesses.

#### 5 6 **2.3.5.2 The Concept of internal control:**

7 Internal control is broadly defined as a process, effected by an organization's board of  
8 directors, management and other personnel, designed to provide reasonable assurance  
9 regarding the achievement of objectives in the following categories: effectiveness and  
10 efficiency of operations, reliability of financial reporting and compliance with applicable laws  
11 and regulations.

12 Internal control also is the process designed to ensure reliable financial reporting, effective  
13 and efficient operations, and compliance with applicable laws in order to safeguard  
14 organization assets against theft and unauthorized use, acquisition, or disposal is also part  
15 of internal control.

16 In addition, internal control includes training program of analyzing and preparing reports for  
17 different administrations levels which enable the executives to conduct internal control in  
18 various activities particularly in large organizations.

#### 20 **2.3.5.3 General tasks of internal control:**

21 Internal controls should not be thought of as "static." They are a dynamic and fluid set of  
22 tools which evolve over time as the business, technology and fraud environment changes in  
23 response to competition, industry practices, legislation, regulation and current economic  
24 conditions. However, the General tasks of internal control concerning corruption prevention  
25 are<sup>83</sup>:

- 26 ➤ Segregation of duties requires that different individuals be assigned responsibility for  
27 different elements of related activities, particularly those involving authorization,  
28 custody, or recordkeeping.

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<sup>83</sup> Internal Control Guidance for Directors on the Combined Code, Published by The Institute of Chartered Accountants in England & Wales, September 1999.

- Proper authorization of transactions and activities helps ensure that all organization activities adhere to established guide lines unless responsible managers authorize another course of action.
- Adequate documents and records provide evidence that financial statements are accurate. Controls designed to ensure adequate recordkeeping include the creation of invoices and other documents that are easy to use and sufficiently informative; and the timely preparation of documents.
- Physical control over assets and records helps protect the organization's assets. These control activities may include electronic or mechanical controls (such as a safe, employee ID cards, fences, cash registers, and locks) or computer-related controls dealing with access privileges or established backup and recovery procedures.
- Independent checks on performance, which is carried out by employees who did not do the work being checked, help ensure the reliability of accounting information and the efficiency of operations.
- Protecting funds of economic unit against embezzlement and fraud and safeguarding the rights of others in the organization (such as, the beneficiaries).
- Checks whether the various processes of management, including internal administration and other activities helping the audit process are being properly followed and are in accordance with the applicable policy instructions and rules.
- Provides information, analysis, assessments and recommendations to assist management in the implementation of its responsibilities.

#### **2.3.5.4 Elements of a sound system of internal control:**

An internal control system encompasses the policies, processes, tasks, behaviours and other aspects of an organization that, taken together<sup>84</sup>:

- Facilitate its effective and efficient operation by enabling it to respond appropriately to significant business, operational, financial, compliance and other risks to achieving the institution's objectives. This includes the safeguarding of assets from inappropriate use or from loss and fraud, and ensuring that liabilities are identified and managed;

---

<sup>84</sup> Internal Control: A Practical Guide, KPMG, London, October 1999, P 19.



- Help ensure the quality of internal and external reporting. This requires the maintenance of proper records and processes that generate a flow of timely, relevant and reliable information from within and outside the institution;
- Help ensure compliance with applicable laws and regulations, and also with internal policies with respect to the conduct of business.

#### **2.3.5.5 Internal Control Divisions:**

Internal control unit is always divided into:

- Administrative (operational) audit that includes:
  - Assessing and testing administrative activities and management results.
  - Evaluating and examining processes of the entity.
  - Evaluating the efficiency of utilizing human and material resources, and coming up with recommendations required for improvement.
- Financial audit: that is orderly review of financial statements to determine to what extent generally accepted accounting principals are observed, regarding:
  - Tracking accounting entries by performing documentary and arithmetic tests.
  - Ascertaining the integrity and compatibility of systems, regulations, and generally accepted accounting principles.
  - Ensuring the presence of safeguards for the assets against embezzlement, fraud, and abuse.
  - Testing and assessing the strength, reliability, and efficiency of internal controls.

#### **2.3.5.6 The importance of internal control in fighting corruption :**

The first part of strengthening internal controls involves changing the attitude some employees have towards auditors. Auditors responsibility is not only to ferret out irregularity and identifying employees who are breaking the rules, but also auditor's role ensures that he or she is always at the forefront of organization policies, practices, procedures, technology, new products and services, making auditors a valuable source of organization information.

Effective internal control system reduces the corruption risks, so the Internal control system is important to fight corruption in the following:

- Evaluating internal control system in different ways to ensure the availability of effective and sound internal control system to avoid fraud, mistakes and irregularities.
- Facilitate the work of external auditing bodies when performing their duties.
- Evaluating rules and legislations which organize the operations within the unit or institution.
- Involving the staff of each unit or institution in internal control systems in training courses contribute effectively in raising the efficiency of staff and increase their skills and experience to deal with all issues and develop their audit skills.

#### **2.3.5.7 Internal Control checklist:**

The following questions are expected to be asked about internal auditors duties:

- Do internal auditors perform their duties honestly, diligently, and responsibly?
- Do internal auditors observe the implementation of financial laws, and expect to detect wrongdoings by doing so?
- Do internal auditors respect and promote the legal and ethical objectives of their institution?
- Do internal auditors take part in any activities that may undermine their impartial judgements?
- Do internal auditors accept any material benefits that may undermine their professional judgement?
- Do internal auditors disclose all material findings detected in the course of their work?
- Do internal auditors safeguard information obtained in the course of their work according to the principle of confidentiality?
- Do internal auditors perform their duties with due care and diligence according to the standards of the profession?
- Do internal auditors consistently enhance and develop their efficiency and effectiveness in performing their duties?

#### **2.3.6 Cooperation with Other Institutions Involved in Fighting Against Corruption:**

##### **2.3.6.1 Legislative and institutional framework of anti-corruption agencies:**

- - Legislative framework:

1 In laying foundations for good governance, most countries all over the world have  
2 enacted laws, such as penal code, which specifies crimes and their respective  
3 stages of preparation and attempt.

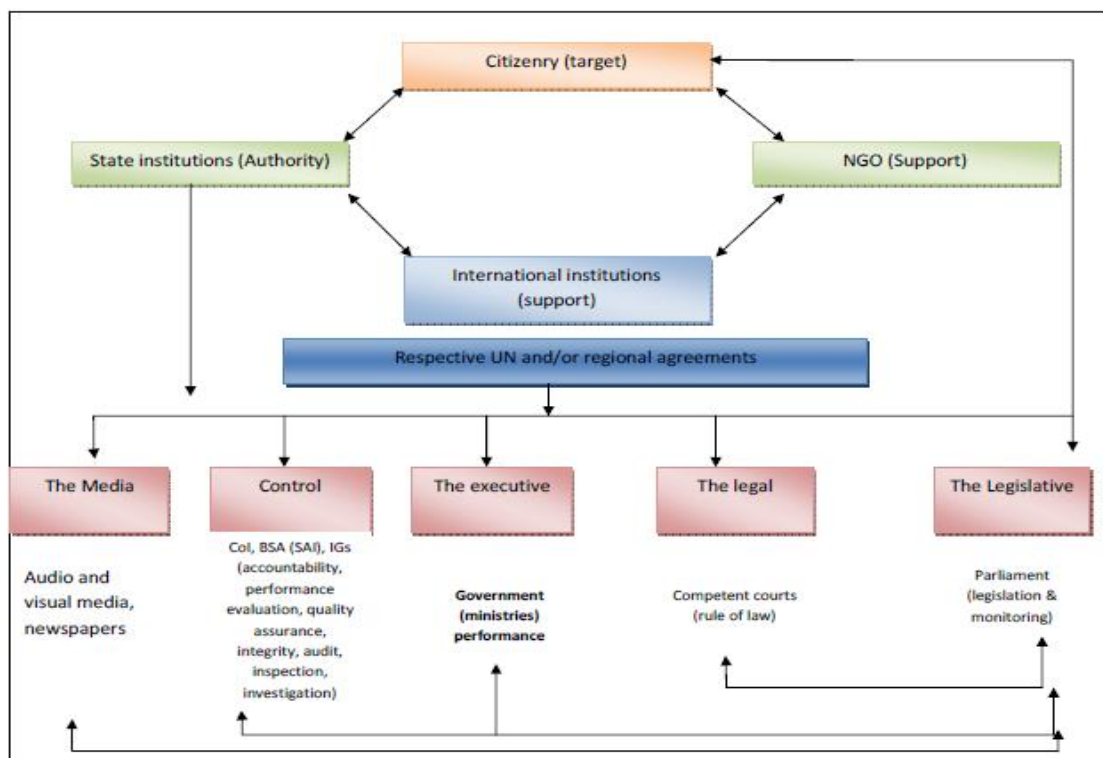
4  
5 ➤ - Institutional framework:

6 One of the most important organizational actions taken by governments that seek to  
7 lay a firm foundation for the rule of law and to implement programs for fighting  
8 corruption is the establishment of institutions tasked with fighting corruption,  
9 promoting their activities, and enhancing the cooperation and integration among  
10 them, these institutions include SAI, Anti Corruption Agency (ACA) and Offices of  
11 Inspector General (OIGs).

12  
13 ➤ - Judicial institutions

14 Judiciary is independent and impartial; yet, its accounts are subject to audit activities.  
15 Therefore, sound judicial environment contributes to honest social environment.  
16 Continuous enhancement of the performance of the judiciary will provide skilled and  
17 knowledgeable judges who are instrumental to penalizing corruption crimes and  
18 perpetrators.

19  
20 The following diagram shows cooperation relationships between SAI and other anti-  
21 corruption institutions:



#### 2.3.6.2 Cooperation between Supreme Audit Institutions (SAIs) and Anti Corruption Agencies (ACA):

All countries have some institutions and procedures that engage in the prevention, detection, or punishment of corruption – from prosecutors to auditors to civil service commissions<sup>85</sup>.

Article 6 of Chapter II of the UNCAC on “Preventive anti-corruption body or bodies” establishes clearly and directly the obligation of each State Party to guarantee the existence of a body or bodies tasked with the prevention of corruption. The specific characteristics of the body or bodies remain subject to the fundamental principles of the legal system of each state.

Anti-corruption agencies are part of a number of strategies that together can reduce corruption<sup>86</sup>

An Anti Corruption Agency (ACA) is defined here as a separate, permanent government agency whose primary function is to provide centralized leadership in core areas of

<sup>85</sup> Anticorruption Agencies (ACAs), ANTICORRUPTION PROGRAM BRIEF, the United States Agency for International Development, JUNE 2006, p 5.

<sup>86</sup> John R. Heilbrunn, Anti-Corruption Commissions: Panacea or Real Medicine to Fight Corruption?, World Bank Institute, 2004, p 19.

1 anticorruption activity<sup>87</sup>. These areas may include: policy analysis and technical assistance  
2 in prevention, public outreach and information, monitoring, investigation, and prosecution.

### 3 4 **2.3.6.3 The Powers of Anti Corruption Agencies (ACA):**

5 The powers given to an ACA play a critical role in performance. A successful ACA should  
6 have strong research and prevention capabilities, along with comprehensive investigatory  
7 authority. ACAs around the world most commonly perform the following functions:

- 8 ➤ Receiving and responding to complaints;
- 9 ➤ Intelligence gathering, monitoring, and investigation;
- 10 ➤ Prosecutions and administrative orders;
- 11 ➤ Research, analysis, and technical assistance;
- 12 ➤ Ethics policy guidance, compliance review,
- 13 ➤ Public information, education and outreach, and
- 14 ➤ Review of appropriateness of annual disclosure of personal assets of public officials.

15  
16 How well ACAs actually carry out these tasks depends on many factors. ACAs can only  
17 take on a limited set of these tasks – and other agencies often handle the same tasks  
18 anyway. This suggests that the main expected outcome of an ACA should be an overall  
19 improvement in the performance of the range of existing anticorruption functions within  
20 already established government institutions, not the addition of new activities or use of the  
21 ACA to substitute for functions that should be performed by other parts of government.

22 An ACA's success depends on cooperative relationships with other elements of  
23 government. Without cooperation with other government agencies, ACA's efforts may prove  
24 to be fruitless.

25 Anticorruption agencies depend to a large degree on cooperation from sister agencies,  
26 especially other capable agencies of restraint such as supreme audit institutions (SAIs),  
27 criminal courts and central banks.

28 In many countries, the ACA and SAI established a Joint Committee to Combat Corruption,  
29 which helps expedite investigations, disciplinary actions, and the sourcing of information.

30 The SAI always in cases where it deems that an official in charge of fiscal transactions of  
31 the state has committed a crime while discharging his duties have a duty to notify the ACA  
32 to take appropriate measures about it. That's means the SAI and ACA play an important  
33 role in the fight against corruption and each of them have a specific tasks in the corruption  
34 prevention process, the role and tasks of each Institution always specified by the law.

---

<sup>87</sup> Anticorruption Agencies (ACAs), op-cit, p 5.

#### **2.3.6.4.1 SAI Cooperation with Offices of Inspector General (OIGs):**

Some countries have established independent Offices of Inspector General in every ministry to conduct an internal investigation<sup>88</sup>, audit, evaluation, inspections<sup>89</sup> and other review in accordance with generally accepted professional standards.

The main mission of the Office of Inspector General (OIG) is to conduct independent inspections, audits and investigations that identify and prevent waste, fraud, abuse and mismanagement in the agency or ministry.

Office of Inspector General commonly perform the following functions:

- Prevent and detect waste, fraud and abuse of authority.
- Promote economy, effectiveness and efficiency.
- Audit all records and activities of the ministry and provide information for decision-makers and recommend improvements to ministry programs and policies.
- Conduct independent and objective audits, administrative investigations and inspections.
- Receive, assess and process complains of fraud, waste, abuse of authority and mismanagement affecting ministry interests.
- Engage in activities designed to prevent fraud and corruption.
- Inspectors General also offer expert advice in improving operations—and provide timely, useful information that helps decision-makers.
- An essential tool used in investigations is the OIG Hotline<sup>90</sup>, which provides a confidential means of reporting suspected violations involving Department assets, employees, or contractors.

#### **2.3.6.4.2 Coordination between Supreme Audit Institutions (SAIs) and Offices of Inspector General (OIGs):**

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<sup>88</sup> An Internal Investigation is a technique for responding to allegations of management or employee misconduct and it is a mechanism for avoiding or resolving threatened government action for discovering misconduct that, if unchecked, might ultimately result in organization criminal or civil liability.

<sup>89</sup> **Inspection** means the measures that are conducted for the purpose of determining compliance with applicable laws and regulations, it always involves the examination of real or personal property, equipment, buildings, records, products, by-products, personnel or other property or activities. It is done when there is reasonable evidence of an imminent or serious threat to public property.

<sup>90</sup> United States Department of State and the Broadcasting Board of Governors Office of Inspector General, Office of Inspections, Compliance Followup Review of Broadcasting Board of Governors' Operations, Thailand, Report Number ISP-IB/C-12-34, June 2012.

1 Independence is the cornerstone of an effective SAI & OIG, when they cooperate, both of  
2 them benefit with improved economy, efficiency, effectiveness and integrity of programs  
3 and initiatives.

4 If SAI found a financial infringement or irregular financial issues in the ministry, the SAI can  
5 report the inspector general of the related ministry to conduct an investigation and reform  
6 the infringement or the irregularities.

7 Each Inspector General shall immediately respond to the SAI reports and takes appropriate  
8 measures to prevent fraud and corruption.

9 Each Inspector General shall cooperate fully in assisting the work of SAI and law  
10 enforcement agencies.

11 OIG's paramount goal is to resolve allegations in a timely manner through independent,  
12 objective, and professional investigations that lead to successful prosecutions,  
13 administrative sanctions or exonerations.

### 15 **2.3.7 Human Capital including Sensibilization and training of employees**

16 **2.3.7.1 Every public institution and/or Supreme Audit Institution should be equipped**  
17 **with a strategic plan to enhance the management's and staffs concern to prevent**  
18 **corruption in the organization.**

19  
20 In some countries, corruption has been an epidemic. It requires a long term and continuous  
21 effort to prevent and eradicate corruption. Consequently, every public institution and/or  
22 Supreme Audit Institution should establish a strategic plan to ensure that the efforts taken  
23 systematically and well-planned, thus could be easily monitored and evaluated.

24  
25 **2.3.7.2 The strategic plan should be disseminated to all management and staff.**

26  
27 Dissemination of the strategic plan aims at making comprehensive understanding and  
28 participation to all management and staff in relation to corruption prevention.

29  
30 **2.3.7.3 Every public institution and/or Supreme Audit Institution should establish an**  
31 **organizational unit with responsibility to implement the strategic plan.**

32  
33 The organizational unit is established to ensure that the strategic plan could be  
34 implemented, and in line with the current condition and adaptable.

1  
2 **2.3.7.4 Every public institution and/or Supreme Audit Institution should organize a**  
3 **training program to enhance employee's awareness on the danger of corruption.**  
4

5 The training program is required to accelerate the understanding of the danger of  
6 corruption, thus enhancing the corruption prevention efforts.  
7

8 **2.3.7.5 Every public institution and/or Supreme Audit Institution could enhance**  
9 **employee's sensibility by performing INTOSAI self assessment on integrity**  
10 **(IntoSAINT) periodically.**  
11

12 IntoSAINT is a tool used by Supreme Audit Institution and/or public institution to self assess  
13 its vulnerability concerning to integrity breach.  
14

15 IntoSAINT is targeted at corruption prevention and leads to management recommendations  
16 to support the integrity of the organization. It is a 'qualitative tool' that enables the user to  
17 design a tailor made integrity policy and at the same time increases the integrity awareness  
18 of employees.  
19

20 The basic principles of IntoSAINT are self-assessment, targeted at prevention, raising  
21 general integrity awareness, learning to think in terms of vulnerability and risk, and concrete  
22 management report/action plan.  
23

24 **2.3.7.6 Supreme Audit Institution and/or internal auditor should evaluate and review**  
25 **the strategic plan and its implementation.**  
26

27 It requires independent parties such as Supreme Audit Institution and internal auditor to  
28 review the strategic plan and its implementation to trigger the improvement of the strategic  
29 plan quality.

30 There are few questions in relation to human capital including sensibilization and training of  
31 employees that should be asked by the auditor as follows:

- 32 1. Does the organization have a strategic plan?
- 33 2. Does the strategic plan include efforts to prevent corruption within the organization?
3. Has the strategic plan been disseminated to all management and staff?



4. Does the organization have a specific unit responsible for monitoring the implementation of the strategic plan?
5. Does the organization have training programs to enhance the awareness of the danger of corruption?
6. Has the organization evaluated and reviewed the strategic plan and its implementation periodically?
7. Who is responsible for the evaluation and review of the strategic plan?

The following example illustrates that the presence of sensibilization and training of employees can help the corruption prevention effort in an organization:

In 2012, the head of a small tax office was caught accepting a bribe from a private company. The Corruption Eradication Commission has named the head of tax office a suspect in a bribery case after catching him accepting Rp300 million from a private company. The bribe was allegedly paid to help the private company pay lower taxes than its required amount. It became known to public based on an insider tip-off (whistle blower).

This bribery case arrest is a proof that the whistle blowing system is working. The whistle blowing system, developed by the General Directorate of Taxation, is intended to prevent and detect every possible violation in the organization through active participation of the employee of General Directorate of Taxation and society as whistle blowers.

The case has been handed over by the Corruption Eradication Commission to the Prosecutor's Office to decide the legal status of the perpetrators.

Source: <http://news.detik.com/read/2012/07/13/190255/1965056/10/kepala-kpp-bogor-ditangkap-dirjen-pajak-ini-berkat-whistle-blower-system>

### **2.3.8 Code of Conduct**

#### **2.3.8.1 Every public institution and/or Supreme Audit Institution should be equipped with a code of conduct.**

A code of conduct is a set of conventional principles binding any person, from managerial to official level, to properly behave in accordance with stakeholders' expectation.

Code of conduct is a moral guidance to be obeyed by all management and staff in an organization to maintain individual and organization credibility. Supreme Audit Institution is a trust business, where the stakeholders put a high confidence that the Supreme Audit Institution is able to perform its responsibility with honesty and high morality. Once this trust is broken, the organization's integrity and credibility will be easily damaged.

At the minimum, a code of conduct should set out:

- Core values of an institution, covering integrity, independence, objectivity, impartiality, confidentiality, and competence.
- Obligation and prohibition of the institution's management and employees to meet the core values.

**2.3.8.2 Every public institution and/or Supreme Audit Institution should disseminate the code of conduct as an integrated part of corruption prevention.**

Effective corruption prevention could be achieved if all management and staff understand the institution's code of conduct properly. A good understanding of institution's code of conduct would be achieved through a regular and effective dissemination to every level of organization.

Usually, a new employee is equipped with a complete set of company guidelines including the code of conduct. However, without any proper explanation on the substance of the code of conduct, the new employee would not get a comprehensive understanding and he/she may not practice it properly in daily business.

**2.3.8.3 Every public institution and/or Supreme Audit Institution shall establish an appropriate way to monitor the implementation of code of conduct in its organization.**

A specific unit or committee is established to ensure that the code of conduct be utilized properly and to impose punishment to the violation of the code of conduct.

1 If public institution and/or Supreme Audit Institution establish a committee, its' members  
2 should consist of representatives of top management, legal division, internal auditor  
3 division, and independent party.

4  
5 **2.3.8.4 Every public institution and/or Supreme Audit Institution should review its**  
6 **code of conduct periodically.**

7  
8 Code of conduct is strict in nature but should be dynamic, which follows the changes in  
9 business practice and related regulations. Code of conduct is suggested to be reviewed on  
10 a frequent basis or required by significant circumstances or at least every five years,  
11 depending on the serving term of top management.

12  
13 There are few questions in relation to code of conduct that should be asked by the auditor  
14 as follows:

- 15 1. Does the organization have a code of conduct?  
16 2. What is stipulated in the code of conduct?  
17 3. Does the code of conduct set out core values of an organization, such as integrity,  
18 independence, objectivity, impartiality, confidentiality, and competence?  
19 4. Does the code of conduct set out obligations and prohibitions of the organization's  
20 management and staff to meet the core values?

21 Examples of the obligations and prohibitions of management and auditors to meet the  
22 core values are as follows:

23 - Independency

24 Management

25 To ensure independency in performing their duties and exercising their authorities,  
26 management shall:

- 27 a. observe their professional oath and pledge  
28 b. act neutrally and impartially  
29 c. avoid any conflict of interests  
30 d. avoid possibilities that may affect the objectivity of audits

31  
32 To ensure the independency in performing their duties and exercising their  
33 authorities, management shall not:

- a. hold concurrent positions in other state institutions, other agencies managing the state finance, and domestic or foreign private companies
- b. participate as members of any political parties
- c. demonstrate attitudes and behaviours that may cause their independency be questioned

#### Auditors

To ensure the independency in performing their duties and exercising their authorities, auditors shall:

- a. act neutrally and impartially
- b. avoid any potential conflict interests in performing their professional obligations
- c. avoid any possibility that may affect the objectivity of audits
- d. consider information, opinion, and response from the audited parties in drafting their opinions or audit reports
- e. remain composed and demonstrate self control

To ensure the independency in performing their duties and exercising their authorities, auditors shall not:

- a. hold concurrent positions in other state institutions, other agencies managing the state finance, and domestic or foreign private companies
- b. demonstrate attitudes and behaviours that may cause their independency be questioned
- c. submit to other parties' will on intimidation or pressures
- d. leak out information obtained from the audited parties
- e. be affected by any particular prejudice, interpretation, or interest, including the personal interest of the auditors or of other parties interested in the audit findings

#### - Integrity

##### Management

To ensure the integrity in performing their duties and exercising their authorities, management shall:

- a. act firmly in implementing their principles, norms, and decisions
- b. act firmly in expressing and/or conducting anything required based on their consideration and conviction
- c. act in good faith by keeping the confidentiality of the audited parties

To ensure the integrity in performing their duties and exercising their authorities, management shall not receive gifts of any kind, directly or indirectly which are suspected or should be suspected to affect the implementation of their duties and the exercising of their authorities.

#### Auditors

To ensure the integrity in performing their duties and exercising their authorities, auditors shall:

- a. act firmly in implementing their principles, norms, and decisions
- b. act firmly in expressing and/or conducting anything required based on their consideration and conviction
- c. act in good faith by keeping the confidentiality of the audited parties

To ensure the integrity in performing their duties and exercising their authorities, auditors shall not:

- a. receive gifts of any kind, directly or indirectly which are suspected or should be suspected to affect the implementation of their duties and the exercising of their authorities
- b. abuse their competencies as auditors in order to enrich themselves or for their own advantages or for others

#### - Professionalism

##### Management

To keep the professionalism in performing their duties and exercising their authorities, management shall:

- a. implement prudent, accurate, and careful principles
- b. keep the state and/or professional confidentiality
- c. avoid the use of state confidential information which becomes disclosed due to their positions or function for personal, group, or other party interests
- d. avoid performing actions beyond their scope of duties and authorities

#### Auditors

1 To honor the professionalism in performing their duties and exercising their  
2 authorities, auditors shall:

- 3 a. implement prudent, accurate, and careful principles
- 4 b. keep the state or professional confidentiality, the audited parties confidentially  
5 and shall only disclose it to the authorized official
- 6 c. avoid the use of state confidential information which becomes disclosed due to  
7 their position or function for personal, group, or other party interests
- 8 d. avoid performing actions beyond their scope of duties and authorities
- 9 e. demonstrate high commitment to their work in accordance with the State  
10 Financial Auditing Standard
- 11 f. update, develop, and improve their professional abilities in performing their  
12 auditing duties
- 13 g. respect, trust as well as mutually assist each other to enable good cooperation in  
14 performing their duties
- 15 h. maintain good communication and discussion on issues incurring in the  
16 performance of their auditing task
- 17 i. use public resources efficiently, effectively and economically

18  
19 To honor the professionalism in performing their duties and exercising their  
20 authorities, auditors shall not:

- 21 a. receive assignments beyond their competence
- 22 b. disclose any information contained in the auditing process to other parties,  
23 verbally or in writing, except for the compliance with prevailing statutory  
24 regulations
- 25 c. disclose audit finding reports or substantial audit findings to mass media except  
26 on the permission or order of the management
- 27 d. discuss their works with the audited parties outside office or the audited parties'  
28 offices

- 29
- 30 5. Has the code of conduct been disseminated to all management and staff?
  - 31 6. Has the organization established an appropriate way to monitor the implementation of  
32 code of conduct in its organization?
  - 33 7. Has the organization reviewed the code of conduct periodically?
- 34

## References

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2. [http://www.courttofaudit.nl/english/Publications/Topics/IntoSAINT/Basic\\_principles\\_of\\_IntoSAINT](http://www.courttofaudit.nl/english/Publications/Topics/IntoSAINT/Basic_principles_of_IntoSAINT)
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### 2.3.9 Precautions, major points and risk areas in Public Procurement

Public Procurement is a large part of any country's economy and it is one of the fundamental links in the supply chain of goods and services to any organization.

"Public procurement" refers to all contracts between a government (government department, state owned corporation and other types of agencies) and companies (public or private) or individuals.

"Procurement" for the purposes of this guideline is defined broadly as the preparation, administration, award and implementation of contracts for goods, works and other services and thus covers the entire process of Public Procurement.

Public procurement is a risk area for fraud and corruption which can result in non-transparent allocation of public funds and unequal competition. State authorities should respect the requirements of a competitive process and make their decisions without any discrimination in a transparent way which respects all participants equally. They should also prevent or reduce risks which can result in corruption or fraud.

The role of auditors, as to corruption and fraud, is to find and verify risky areas and to assess whether audited bodies follow or implement anti-corruption measures which can protect public procurement procedure from corruption or fraud.

Each individual stage of the procurement process contains risky areas, which can signal a suspicion of fraud and corruption. Anti-corruption measures are, or are not, in different countries differently included in legislation, in other directives or they can be only as recommendations by specific bodies. On the other hand not all problems are related to

corruption and what can look like corruption may also be a simple error. In case of the following findings - risky areas (see risky areas below) a further analysis is needed. However, the auditor should keep in mind that not all points will be applicable to each audit and some items can be modified or added. As well the further analysis must follow the legislation and the mandate of each SAI.

## **a) THE MANAGEMENT OF THE PROCUREMENT**

The procurement process must be managed in effective and efficient way with direct and clear determination of responsibilities. Conflict of interest should be avoided. As a preventive measure, an ethic code concerning rules of contact between public officers and suppliers (representatives of private companies) can be useful. Public authorities should take into consideration and value the 3E principle - economy, efficiency, effectiveness (regarding all stages of procurement). All the procurement procedure should be accurately monitored, documented and verified as a part of internal control system including taking appropriate corrective actions.

### **Corruption and fraud risky areas:**

#### **Procurement process is not well organised and documented**

- The functions and responsibilities of those involved in the procurement function are not clearly established and documented.
- A person(s) who prepares procurement is involved in the next steps of procurement (assessment and evaluating of bids, conclusion of contract, monitoring of realization, etc.)
- Procurement processes does not include sufficient documentation with regard to needs to be addressed, contract performance description, notifications, award procedure and decision, draft and concluded contract, physical execution and payments made.
- Procedures conducted by electronic means are not sufficiently recorded and documented.
- There are cases of documents missing, altered, back-dated or modified or after-the-fact justifications.



1 Proper financing arrangements were not taken

- 2 ➤ Procurement and financing were not approved at the appropriate level (e.g.
- 3 government, ministry).
- 4 ➤ The approved amount is overrated – does not correspond to the estimated value of
- 5 the contract calculated for the purpose of the procurement process.

7 Insufficient internal control systems

- 8 ➤ There is no system which would control requirements, their assessment, records
- 9 contract performance and payments made.
- 10 ➤ There is not appropriate division of duties between procuring services, requisitioning
- 11 goods/services, verifying the performance of the contract and approving payments.
- 12 ➤ The mechanisms allow conflicts of interests in the procurement processes.
- 13 ➤ There are indications or evidence of conflicts of interest by officers authorizing
- 14 transactions or by members of committees involved in the procurement processes.
- 15 ➤ There are indications or evidences of repeated, unusual or unnecessary contacts by
- 16 officers authorizing transactions or by members of committees involved in the
- 17 procurement processes with contractors.
- 18 ➤ The procurement process is not in compliance with applicable rules.
- 19 ➤ There are no controls for e-procedures and records.
- 20 ➤ There are things provided to contractors who, according to the contracts, are
- 21 supposed to use them (such as office space, furniture, IT equipment) and there are
- 22 cases of employees from the contracting authority performing parts of contracted
- 23 work.
- 24 ➤ There are cases of double payment which are not prevented and corrected.

26 Procurement is not properly monitored, documented and evaluated

- 27 ➤ Responsibilities for monitoring the realization of contracts are not clearly assigned.
- 28 ➤ Order quantities, deliveries and payment levels under the contract are not monitored
- 29 by an appropriate official.
- 30 ➤ An appropriately qualified official does not check the quality of performance in
- 31 relation to the contract terms.

- There are not established procedures for dealing with and documenting non-performance and return of goods.
- There is not an adequate and appropriate record for monitoring performance and any resulting or follow-up actions.
- There are no indicators for evaluation of procurement effects or indicators are not transparent, are not measurable, indicators have no relation or have an indirect relation to goals of the procurement strategy.
- The public authority does not evaluate the results, impacts and effects of the procurement.
- The public authority does not evaluate the performance of the procurement unit.

The public authority inadequately managed experts employed to assist in the procurement process

- The specifications of the contract are not free from influence of particular interests of consultants, experts or other economic operators.
- The expert influenced the decisions taken by the public authority.
- The expert can gain privileged knowledge from his activity which could be advantageous for him.
- The consultants participating in the project released information to other parties.

**b) THE PREPARATION OF THE PROCUREMENT**

The calculation of the estimated value of a public contract shall be based on the total amount payable. This calculation shall take account of the estimated total amount, including any form of option and any renewals of the contract. This estimate must be valid at the moment at which the contract notice is sent or, in cases where such notice is not required, at the moment at which the contracting authority commences the contract awarding procedure.

No works or purchase of goods and services must be subdivided to avoid the scope of legislation (certain threshold).

The necessity of purchase should be conclusively justified. There should be a clear understanding of what is needed and required. In this case an independent expert can be used for evaluating needs and possibilities of public authority.

The tender documents must be comprehensive, transparent and free from restrictions or conditions which would discriminate certain suppliers. As a preventive measure some countries use templates of tender documents.

## **Corruption and fraud risky areas:**

### The public authority did not calculate the contract value accurately

- The works or supply required are subdivided.
- The estimated contract value is not based on realistic and updated prices.
- The estimated contract value does not correspond to the final costs of the contract awarded.

### The performance description was not adequate to needs

- There is no reasonable justification for the need of the purchase, justification is against environmental demands
- The performance conditions under the contract are not comprehensive and are ambiguous. The public authority is not specific about the nature and scope of the performance before launching the procurement process. The public authority does not consider and evaluate alternatives.
- Technical specifications do not afford equal access for tenderers. (Technical specifications included a reference to a specific make or source, to a particular process, to trade marks, patents, types or to a specific origin or production.)
- The public authority changed the performance description and the change was not admissible, the participants have not been informed.

### The tender documents were not comprehensive, transparent and free from restrictions or conditions which would discriminate certain suppliers

- The bidders do not have a clear understanding of which documents and declarations had to be presented with the tender.
- The bidders cannot learn all relevant information straight from the tender documents; sources of information beyond the tender documents are not equally available for all the candidates.
- Standards, certifications and evidence required are not admissible under legislation.

- There are unnecessary restrictions and verifications in relation to the subject matter of the contract.
- Supply period is too short.
- The public authority did not define clearly the award criteria or sub-criteria; they do not link to the subject matter of the contract. The public authority did not weight selection criteria.
- There are contradictions between the tender documents.
- The tender documents are unnecessarily complicated which can leads to confusion to hide corrupt behaviour.

#### c) THE CHOSEN PROCEDURE

The chosen procedure should follow legislation (according to certain threshold) and guarantee fair competition, non-discrimination and transparency of the procurement. Legislation should establish different levels for safeguarding these principles according to the relevant size of the contracts and the need to balance the function and weight of formalities with the associated costs. As to prevention of corruption and fraud the less risky way is an open procedure, in which all interested subjects are given the opportunity to submit a tender.

#### **Corruption and fraud risky areas:**

##### The public authority did not decide for an adequate and admissible procurement procedure

- The public authority decided for the procedure which was not in accordance with legislation.
- In case of exceptional procedures public authority did not give sufficient reasons for its option.

##### The chosen procedure did not ensure fair competition and transparency

- Grounds for direct contracting are abused, the public authority did not invite the minimum candidates (usually 3).
- All interested operators were not allowed the opportunity to participate.
- In case of one bidder the competition was not cancelled and reopened.

## d) THE PUBLICITY AND NOTIFICATION

The main anti-corruption and fraud measure is the equal access to information by public which should be protected by legislation. On the other hand there are reasons why the public interest must be protected and information must be confidential. Another significant measure is also to assure accessibility and security of information and communication technologies used.

### **Corruption and fraud risky areas:**

#### There were not an equal access to contract documents and information

- Request for proposal was not properly advertised.
- Some requirements, specifications, documents and additional information are not available to all subjects.
- Additional significant information is not supplied to all interested parties.
- There are barriers in the means of communication and information, unwanted access was allowed.

#### Confidentiality was not enough ensured

- Communication, exchange and storage of information do not ensure confidentiality.
- The content of tender offers was known before opening them.

## e) THE AWARD PROCEDURES

The award procedure includes opening of envelopes, assessment and evaluation of tenders, selection of the most suitable tender and conclusion of contract. These steps are performed according to the chosen procedure (restricted procedure, negotiated procedure, open procedure, competitive dialog etc.). There should be set strict rules for proceeding, monitoring and verifying these steps. However, in all procedures the main anti-corruption principles are equal treatment and transparency of the procedure including especially the principle of 4 eyes, precise documentation and equal distribution of information. An important element is also an option of appeal to a supervisory body.

A special form of fraud is bid rigging in which a commercial contract is promised to one party even though for the sake of appearance several other parties also present a bid. This form of collusion is illegal in most countries. It is a form of price fixing and market allocation, often practiced where contracts are determined by a call for bids, for example in the case of government construction contracts. Measures which can prevent bid rigging are:

- Make order plans available, tender contents and contract results;
- Promoted open tendering systems;
- Use a competitive system in which contractors are selected according to the other elements than price;
- Inform and train staff on bid rigging
- Report warning signs of bid rigging to supervisory body;
- Strict sanctions.

### **Corruption and fraud risky areas:**

The formal verification of requests to participate or evaluation of bids were not undertaken correctly

- Tenders were not rejected despite the fact that the basic requirements were not fulfilled.
- There is no evidence about opening the tender documentation; there is no prevention against manoeuvre with bids, records of opening are not precise, signatures of persons involved are missing, opening was performed by one person.
- Some of tenders were accepted after the time limit.

Suitability of candidates was not accurately assessed

- The processes of assessment are not sufficiently documented, the reasons for selection and rejection are not convincing.
- Bidders were not assessed on the basis of the requirements previously announced.
- Candidates did not prove their suitability, did not give evidence of their technical and professional ability, of their economic and financial standing; there were false certifications.

- 1 ➤ The public authority does not verify candidates non-participation in a criminal  
2 organisation, does not take into consideration a candidates relation to corruption,  
3 fraud or money laundering affairs, to bankruptcy, offences, debt of social security  
4 contributions and taxes. •

5  
6 Bids were not properly evaluated

- 7 ➤ The price of a bid was too low, the public authority accepted the bid and did not ask  
8 for explanation, did not verify the explanation.
- 9 ➤ The evaluation process is not properly documented.
- 10 ➤ Additional information was not distributed to some candidates or some of the  
11 candidates were not asked for additional information.
- 12 ➤ The public authority did not use only criteria and weighting, which were published in  
13 the procurement documents, there were signals of favouritism towards a particular  
14 contractor or signals of an external or superior pressure to reach a specific result.
- 15 ➤ Release of information, there are contacts with bidders' personnel during the  
16 evaluation processes.
- 17 ➤ The decision was not based on the result of the evaluation of tenders.
- 18 ➤ Bid rigging.

19  
20 Reporting and notification about the result was not appropriate

- 21 ➤ The public authority did not write a comprehensive report about progress and  
22 outcome of the procurement process.
- 23 ➤ Tenderers were not notified in writing and on a timely basis of decisions concerning  
24 the rejection of tenders or applications, the conclusion of the procurement  
25 procedure, the name of tenderer selected and characteristics and relative  
26 advantages of the chosen tender. •
- 27 ➤ The conditions of contract did not comply with the procurement documents and with  
28 the outcome of the procurement procedure, there were changes of contract in a  
29 short time.

## f) CONTRACT IMPLEMENTATION PHASE

### **Corruption and fraud risky areas:**

- Winning bidders/contractors compensate bribes and other extra payments with poor quality, defective or different specifications than those contracted. Faulty or sub-specification work execution, requiring early repairs or expensive correction.
- Contract renegotiation or "change orders" introduce substantial changes to the contract, often in small increments that can be decided by site engineer.
- Price increases during execution through "change orders" reflecting changes in specifications or cost increases, facilitated often by collusion between corrupt contractor and corrupt control official.
- Contract supervisors or monitors are "bought" or are not independent and willing to justify false or inexistent claims.
- Complaints about the quality of goods and services received.
- Evidence of over charging and duplicate billings.
- Insufficient pre-audit of contractor payments.
- Accountants doing final accounts and Auditors are biased or "bought" and willing to support false certificates.

## g) ADDITIONAL WORKS OR DELIVERIES

Additional works can be a means of disrespecting the rules, favouring a supplier and avoiding open procurement procedure. Additional works should only be admissible in exceptional cases.

### **Corruption and fraud risky areas:**

#### Additional works or deliveries were not admissible

- The additional works were no tin minority of performance according to the contract documents.
- Reason for additional works was given by conditions which previously existed.



- Additional works were not necessary for the procurement.

## h) ELECTRONIC PROCUREMENT

Public authorities use e-procurement for contracts to achieve benefits such as increased efficiency and cost savings (faster and cheaper) in government procurement and improved transparency which contributes to reducing corruption in procurement.<sup>91</sup> One of the most effective measures to fight against corruption in procurement field is to expand e-Procurement as it has significant positive effects in reducing opportunities for corruption and increasing the possibility of transparency and accountability. There is a push for more cross-border procurement, contracting authorities and supplies will have more faith in a e-procurement system that ensures the highest standards of integrity. This trust in undertaking cross border procurement via internet may have significant economic impacts and benefits for the public at large.

An electronic procurement system that is designed to boost the confidence in integrity and fairness of a country's domestic procurement are likely to attract many more bidders from beyond the national level and make truly borderless procurement across the country much more feasible.

There are seven main types of e-procurement<sup>92</sup>:

- Web-based ERP (Enterprise Resource Planning): Creating and approving purchasing requisitions, placing purchase orders and receiving goods and services by using a software system based on Internet technology.
- e-MRO (Maintenance, Repair and Overhaul): The same as web-based ERP except that the goods and services ordered are non-product related MRO supplies.
- e-sourcing: Identifying new suppliers for a specific category of purchasing requirements using Internet technology.
- e-tendering: Sending requests for information and prices to suppliers and receiving the responses of suppliers using Internet technology. May or may not involve e-auctions.

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<sup>91</sup> <http://en.wikipedia.org/wiki/E-procurement>

<sup>92</sup> <http://www.enotes.com/topic/E-procurement>

- e-reverse auctioning: Using Internet technology to buy goods and services from a number of known or unknown suppliers.
- e-informing: Gathering and distributing purchasing information both from and to internal and external parties using Internet technology.
- e-market There is no system of evaluation sites: Expands on Web-based ERP to open up value chains. Buying communities can access preferred suppliers' products and services, add to shopping carts, create requisition, seek approval, receipt purchase orders and process electronic invoices with integration to suppliers' supply chains and buyers' financial systems.

#### **Corruption and fraud risky areas:**

- Procedures conducted by electronic means are not sufficiently recorded and documented; it is difficult to audit the procedure.
- There is no control of records.
- There are problems with access to the electronic system.
- The electronic system is managed by one person only.
- Electronic system has security problems.
- The public authority does not evaluate the transparency and the credibility of the electronic procurement system.

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## 2.4 Monitoring and reporting

Monitoring and reporting are a continuous processes throughout each government agency in their fight against corruption. They generate information that helps to track progress against corruptive plans or actions and thus enables corrective measures to be instituted. Monitoring is part of a periodic assessment of the internal processes and is a basis for future courses of action and strategies. Monitoring, auditing, evaluating and reporting are looked upon as a key priority area in the fight against corruption.

There is a need for more than just a passive monitoring system. While it achieves that purpose - in both forcing internal monitoring within organisations and through external monitoring by third party auditing bodies - in building a corruption prevention brand it becomes a desirable accreditation that actively fights corruption through the self-perpetuating nature of recognised accreditations and competitive forces in the industry.

The use of standardised guides and implementation of procedures is an ideal methodology for similar corruption monitoring and prevention approaches.

#### 2.4.1 Internal reporting-procedures within the auditee

Transparency of decisions and the decision-making process shall be guaranteed, especially via clear mechanisms for reporting and precise and complete documentation of proceedings.

The decision-making processes shall ensure transparency, e.g. by means of checking operations and reporting and complete documentation (minutes, notes, reports, orderly record-keeping).

The auditee shall optimize the monitoring of transactions and operations by incorporating control mechanisms (re-submission of files and records, etc.) in management procedures.

Awarding of public contracts shall be regularly monitored as part of administrative and task-related supervision to identify any prohibited influencing factors. This includes monitoring of purchasing patterns and vendor relations, random checking by senior management and effective audit programmes.

The content of reports shall be evaluated and discussed. It has to be used for the correction of deficiencies, reorganizations, etc.

#### 2.4.2 Reporting to institutions outside the auditee's body (SAI, parliament, IG, prosecutors)

The anti corruption officer of each government agency shall report to the national SAI at least on a yearly basis on all cases of suspected or detected corruption within their area of responsibility.

The supreme federal authorities shall report at least annually to the Ministry of the Interior (or a similar government institution) – also on behalf of their subordinate agencies – on the cases of suspected corruption in which proceedings were initiated and the results of proceedings concluded during the reported year; this information is to be submitted in the required anonymous form, organized according to area, circumstances of the case, and measures taken.

Reporting of SAI's findings to the national IG or prosecutors is subject to individual national laws and regulations, however, it is expected that such reporting and its procedures are to be well-regulated and documented in the government agencies operating procedures.