

OPERATIONS MANUAL BANK POLICIES (BP)

These policies were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.

ANTICORRUPTION

A. Introduction

1. The anticorruption policy¹ of the Asian Development Bank (ADB) is intended to reduce the burden that corruption exacts upon governments and economies in the Asia and Pacific region. The policy supports ADB's obligation in accordance with Article 14 (xi) of the Agreement Establishing the Asian Development Bank (the Charter), to ensure that the proceeds of ADB financing are used only for their intended purposes.

2. In pursuance of the above, ADB, working together with the African Development Bank (AfDB), European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB), the Inter-American Development Bank (IDB), the International Monetary Fund (IMF), and the World Bank, developed a uniform framework for preventing and combating fraud and corruption (Uniform Framework). The Uniform Framework outlined common principles and guidelines for conducting investigations, and harmonized the definitions of various types of corrupt, fraudulent, or otherwise unethical practices.

B. Definitions and Application

3. Pursuant to the harmonized definitions under the Uniform Framework, ADB employs the following definitions:

- (i) A corrupt practice is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- (ii) A fraudulent practice is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) A coercive practice is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or property of the party, to influence improperly the actions of a party;
- (iv) A collusive practice is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

¹ ADB. 1998. *Anticorruption Policy*. Manila.

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- (v) A conflict of interest is any situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.²

4. Corrupt, fraudulent, collusive, and coercive practices comprise corruption, which involves behavior on the part of officials in the public and private sectors, in which they improperly and/or unlawfully enrich themselves and/or those close to them, or induce others to do so, by misusing the position in which they are placed. Corruption also encompasses the behavior of entities facilitating corrupt, fraudulent, collusive, or coercive practices, including any government employee (including employees of state-owned enterprises and subvented agencies); any employee of an individual, firm, or organization; and any principal, partner, shareholder, director, or officer of any such firm or organization, as well as agents operating on their behalf.

5. Pursuant to its anticorruption policy, ADB will work to ensure that all of its projects, activities, and staff adhere to the highest ethical standards. To help achieve this, the anticorruption policy designates the Office of the Auditor General (OAG) as the initial point of contact for allegations of fraud, corruption, and abuse within ADB or ADB-financed projects or its staff. The Integrity Division of OAG (OAGI), its staff, and/or any party OAGI or the Auditor General authorizes or the President appoints to perform investigations that OAGI would otherwise perform, shall assess allegations and conduct investigations thoroughly, and confidentially, and shall recommend administrative action for ADB to take to address such allegations.

C. The Policy

6. ADB's anticorruption policy strongly affirms that corrupt behavior is a serious impediment to the process of social and economical development. Experience demonstrates that significant progress can be made in the fight against corruption if the proper legal, institutional, and policy reforms are in place. ADB seeks to address corruption as part of its broader work on governance issues, and recognizes the importance of accountability for officials in the public and private sectors, and transparency and predictability in public and private sector operations.

7. Strategy 2020 focuses on improving governance and preventing corruption in ADB's five core specializations: (i) infrastructure; (ii) environment, including climate change; (iii) regional cooperation and integration; (iv) financial sector development; and (v) education. Strategy 2020 also places renewed emphasis on project implementation and portfolio performance, the application of quality-at-entry mechanisms, and project-readiness criteria.³

² ADB. 2004. *Anticorruption Policy: Proposed Clarifications and Related Changes to Consulting and Procurement Guidelines*. Manila (Doc. R185-04, 1 October).

³ ADB. 2008. *Strategy 2020: The Long-Term Strategic Framework of the Asian Development Bank 2008-2020*. Manila.

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D. Scope of the Policy

8. This policy covers all ADB staff and all entities and activities associated with ADB and its activities, including proposed, ongoing, and completed public and private sector projects and operations.

9. Specifically, ADB's anticorruption policy is centered upon three objectives:

- (i) supporting competitive markets, and efficient, effective, accountable, and transparent public administration as part of ADB's broader work on good governance and capacity building;
- (ii) supporting promising anticorruption efforts on a case-by-case basis and improving the quality of ADB's dialogue with its Developing Member Countries (DMCs) on a range of governance issues, including corruption; and
- (iii) ensuring that ADB's projects and staff adhere to the highest ethical standards.

Basis: This OM section is based on:

ADB. 2006. *Anticorruption Policy: Harmonized Definition of Corrupt and Fraudulent Practices* (Doc. R179-06). 29 August. Manila.

ADB. 2004. *Anticorruption Policy: Proposed Clarifications and Related Changes to Consulting and Procurement Guidelines* (Doc. R185-04). 1 October. Manila.

ADB. 1998. *Anticorruption Policy* (Doc. R89-98). 11 June. Manila.

ADB. 1995. *Governance: Sound Development Management* (Doc. R151-95). 17 August. Manila.

This OM section is to be read with OM Section C5/OP.

Compliance: This OM section is subject to compliance review.

For inquiries: Questions may be directed to the Director, Integrity Division, Office of the Auditor General.

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ANTICORRUPTION

A. Introduction

1. The anticorruption policy¹, governance policy,² and the Second Governance and Anticorruption Action Plan (GACAP II),³ provide the strategic framework for ADB's governance and anticorruption work.

2. GACAP II was launched to improve ADB's performance in the implementation of its governance and anticorruption policies in sectors where ADB operates, and to design and deliver better quality projects. It outlines a risk-based approach to managing governance and fighting corruption, refocusing efforts to achieve results in three governance themes, namely: (i) improving public financial management, (ii) strengthening procurement systems, and (iii) combating corruption through preventive enforcement and investigative measures.

3. The following key result areas (KRAs) envisaged in GACAP II encourage ADB to anchor support to DMC-led, long term, program-based approaches for national and sub-national governments, and to be an integral part of DMC sector development plans:

KRA 1: Improve identification and management of governance, institutional, and corruption risks in country partnership strategies (CPSs), midterm reviews of CPSs, and annual country portfolio review missions.

KRA 2: Strengthen governance and anticorruption components in project and project design.

KRA 3: Strengthen program and project administration and portfolio management.

KRA 4: Improve organizational structure, human resources, and access to expertise.

4. ADB will systematically identify, in consultation with its member countries, opportunities for reducing corruption as part of its broader emphasis on promoting good governance and sound development management. In reducing corruption in the Asia and Pacific region, ADB will:

¹ ADB. 1998. *Anticorruption Policy*. Manila.

² ADB. 1995. *Governance: Sound Development Management*. Manila (Doc. R151-95, 17 August).

³ ADB. 2006. *Second Governance and Anticorruption Action Plan*. Manila (Doc. IN216-06, 4 August).

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- (i) address anticorruption issues in ADB lending, grants, and technical assistance operations, including during project preparation and supervision;
- (ii) address anticorruption issues in country programming dialogue including the CPS;
- (iii) cover anticorruption aspects in policy dialogue and policy-intensive lending operations;
- (iv) undertake analyses of corruption-related issues in the context of loan-related economic and sector work, as well as any economic and sector work financed by technical assistance (TA) and grants, or carried out by ADB staff;
- (v) support training, education, and dissemination activities among ADB staff, government officials, consultants and contractors, representatives of civil society, and other ADB stakeholders;
- (vi) compile a list of best practices, in the Asia and Pacific region and elsewhere, concerning relevant anticorruption issues and initiatives, and support research and international efforts to combat corruption;
- (vii) enforce strict guidelines on procuring goods and works, and in selecting consultants; and
- (viii) ensure that ADB staff adhere to the highest ethical standards.

B. Application of the Policy

1. Supporting Competitive Markets and Efficient, Effective, Accountable, and Transparent Public Administration

5. A major thrust of ADB's anticorruption effort will be on governance and capacity building. ADB will employ a proactive approach that places a premium on continuous efforts to upgrade the efficiency of markets and the quality of the public sector as a whole. This focus on prevention over prosecution reflects the belief that most of ADB's priority governance initiatives have significant positive externalities in the struggle against corruption. Long-term success is more likely to come through patient and persistent economic, legal, and institutional reforms rather than through short-term, largely reactive efforts to punish wrongdoers.

6. ADB will concentrate its broader governance effort on economic liberalization and public administration reform. Regarding the former, ADB will advance policy recommendations to eliminate market distortions and reduce opportunities for rent seeking by firms or officials. The liberalization of licensing regimes, the opening up of access to foreign exchange markets, the reduction of administered prices, the expansion of credit opportunities for small farmers and business people, the removal of subsidies and soft loans to favored companies, and the

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introduction of a clear distinction between production and regulatory functions are all ways in which policy changes can level the playing field and reduce opportunities for corrupt or illicit behavior. ADB is already pursuing many of these initiatives in its dialogue with DMCs.

7. In advancing such initiatives, ADB seeks to adopt a proactive stance. Most priority governance initiatives can make corrupt behavior more difficult to engage in and more readily detected once it occurs. Over the longer term, ADB will be more effective if it focuses its anticorruption efforts on prevention measures rather than on short-term efforts aimed at prosecution, although the latter is necessary to provide a deterrent and to ensure the integrity of ADB operations.

2. Supporting Promising Anticorruption Initiatives and Country Dialogue

8. ADB may also be called upon to assist its DMCs in pursuing explicit anticorruption programs. Such assistance could include efforts to develop a national anticorruption strategy, improve the ability of the courts to try corruption cases, respond to requests from legislators and government officials for legal or technical assistance in drafting anticorruption statutes or professional codes of conduct, strengthen the legal mechanisms for review of administrative action (e.g., by creating an ombudsman position or mechanism for judicial review), or improving the capacity of anticorruption agencies to detect and prosecute illicit behavior.

9. ADB will carefully consider any request from a DMC for assistance in developing an anticorruption effort. Since these activities are likely to be politically delicate and require detailed knowledge of the particular circumstances surrounding each case, ADB will provide staff with flexibility and discretion in pursuing such initiatives on a case-by-case basis. ADB's assistance is guided by three principles:

- (i) the assistance must be requested by the DMC government,
- (ii) the request must be consistent with ADB's broader country operational strategy and ongoing efforts in the fields of governance and capacity development, and
- (iii) the request should fall in an area where ADB has or can provide relevant expertise.

3. Ensuring that ADB Projects and Staff Adhere to the Highest Ethical Standards

10. If ADB's efforts to reduce unethical behavior between DMCs and its suppliers and contractors are to be credible, it is essential that ADB staff be beyond reproach, and that ADB's internal regulations and procedures support the highest ethical standards. Toward this end, ADB's anticorruption policy also calls for more robust internal measures to enhance the integrity of ADB operations. These measures will take place along five dimensions:

- (i) maintaining the integrity of ADB lending and TA operations;

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- (ii) procurement reform;
- (iii) updating the Code of Conduct and creating independent internal reporting mechanisms;
- (iv) improving the quality of oversight; and
- (v) advancing staff awareness.

C. Other Anticorruption Initiatives

1. Anticorruption in Project Design

11. Individual projects must be designed bearing in mind fraud and corruption risks. Projects should also be designed in ways that support good public sector management. Where feasible, ADB should take measures to prevent "enclaving"—the creation of quasi-independent units, with their own accounting and reporting procedures, within a broader organization—in the financial management and administration of ADB-funded projects. Projects aimed at strengthening public institutions should include measures that enhance the capacity of such institutions to prevent and detect fraudulent or corrupt practices. Such measures could include improving cash management (particularly in sectors that generate user fees or other revenues), improving internal audit mechanisms, and strengthening inspector general functions.

2. Anticorruption in Project Monitoring and Supervision

12. Project processing missions provide opportunities for ADB staff to address anticorruption in project design. In this context, particular attention needs to be given to strengthening the ability of counterpart agencies to manage and monitor financial and human resources effectively. Country portfolio review missions, country disbursement missions, and project review missions provide useful avenues for discussing the policies and practices that impede the efficient implementation of ADB projects. ADB staff responsible for conducting such missions should take advantage of these opportunities to promote greater transparency, accountability, and efficiency within ongoing ADB operations. Recommendations for future improvements should be circulated to OAG, Strategy and Policy Department (SPD), the Operations Evaluation Department (OED), and the Regional and Sustainable Development Department (RSDD).

13. ADB's anticorruption efforts will emphasize the implementation of practical and cost-effective prevention and control measures, consistent with the Charter principle of "economy and efficiency". Examples include ensuring that staff with the requisite skills in accounting and financial management are recruited by the executing or implementing agency, and ensuring that robust internal control systems and accounting systems are in place before loan disbursement. Other measures include the following:

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- (i) identifying projects that carry high corruption risks,
- (ii) conducting direct field investigations for major infrastructure projects,
- (iii) auditing executing agencies directly involved in project implementation,
- (iv) disseminating ADB's anticorruption policy translated into local languages,
- (v) involving cooperation with capable nongovernmental organizations (NGOs) in monitoring certain facets of project implementation.

14. Staff should devote attention and resources to upgrading the quality of implementation missions and project monitoring, particularly for high-risk projects. The technical expertise of these missions should be broadened to ensure that staff with relevant qualifications, particularly in financial, managerial, and policy areas, participate. Mandatory training on recognizing "red flags" and areas of potential vulnerability should be provided to financial analysts involved in ADB funded projects and project implementation officers. Designing appropriate efficiency indicators to regularly monitor the financial and physical progress of projects should be considered.

3. Ensuring the Integrity of ADB Staff

15. Violations of the duties and obligations incumbent on staff in accordance with ADB's rules and procedures will be dealt with severely. Depending on the gravity and the circumstances, disciplinary measures may be imposed pursuant to ADB's administrative orders.

16. In addition to being subject to disciplinary action, ADB staff found to have engaged in corrupt conduct will be required to make full restitution of any benefits arising from that corrupt conduct. This procedure will apply equally to situations in which staff improperly and unlawfully enrich themselves and/or those close to them, and circumstances in which they induce others to do so.

4. Anticorruption in Country Programming, Policy and Sector Dialogue

17. ADB staff who prepare CPS documents, and staff responsible for processing and/or implementing loans and TA projects, need to address corruption in the context of broader governance and capacity building issues. They should be knowledgeable about corruption and its impact within their particular geographic and/or sectoral sphere of operations.

18. ADB has several mechanisms for dialogue with DMCs on issues of governance (including corruption). These mechanisms range from CPS discussions to policy and sector dialogue accompanying various lending operations. In keeping with the evolving practices of the IMF and the World Bank, management and staff will give special attention to potential fraud and corruption issues in country risk analyses and CPSs. For CPS preparation, risk assessment and risk management plans must be prepared for country systems in public financial management,

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procurement, and combating corruption. ADB staff involved in the preparation of these risk assessments and risk management plans should meet with DMCs to discuss and review relevant governance and corruption issues. The risk assessment for country systems should inform the preparation of risk assessments for ADB priority sectors, which should in turn inform the design of ADB projects and programs. The CPS should recommend ways for ADB to help advance the principles of sound development management, including measures to combat fraudulent or corrupt practices.

19. ADB staff should consider the history of ADB operations in a given sector or country, and whether ADB projects are likely to be affected by fraudulent or corrupt practices during their design or implementation. They should also consider the extent to which that country's ability to attain its national development objectives is compromised by fraud and corruption, and the degree to which the government is willing or able to control corruption if it threatens the effectiveness of ADB projects and/or that country's general economic and social development. They should also keep in mind that a rushed implementation of institutional changes often increases the risks and levels of corruption. As a general rule, staff should address problems of fraud and corruption at the national and local government level.

D. Implementation Arrangements

20. OAGI is the point of contact for allegations of fraud and corruption in ADB-financed activities or among its staff. On 7 November 2006, the President approved guidelines and principles which establishes detailed procedures for OAGI's work, and are based on common principles and guidelines endorsed by the AfDB Group, EBRD, the EIB Group, the IDB Group, and the World Bank Group.

21. With regard to ADB lending and TA operations and ADB staff matters, staff are required to report to OAGI any allegations or evidence of corruption that they receive or encounter. In the context of this policy, "evidence" is any physical object, record, document (in any form), testimony, or other information that tends to establish the existence or non-existence of an allegation or fact. Individual ADB staff members do not investigate such allegations or evidence of suspected corruption, except as they may be specifically requested to do so by OAG.

22. Once the allegation and/or evidence have been turned over to OAGI, OAGI shall screen it in accordance with its established procedures and determine whether to proceed with an investigation or not. OAGI may consult with OGC and/or other departments or offices.

5. Treatment of Fraud and Corruption Issues in ADB Reports and the Release of ADB Documents

23. When there is compelling evidence that corrupt activities have hampered the effectiveness of ADB projects or lowered their rate of return, this evidence should be explicitly noted in ADB documents, including project supervisory reports, project completion reports, project performance evaluation reports, and other relevant documents, so that remedial action can be taken.

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24. Management and staff should use plain language in the reports, and avoid using opaque or euphemistic language that may obscure the nature of the problem. This principle also applies to country programming exercises, and ADB research and analytical work.

E. Media and Policy Dissemination

25. Vice presidents and heads of departments or offices (with the approval of their vice presidents) may speak to the media as they deem necessary about issues of fraudulent or corrupt practices in the conduct of ADB operations. Other ADB staff shall seek the approval of their head of department or office, unless discussing issues of fraud and corruption in general terms. Staff should not speak to the media either about specific examples of fraud or corruption among suppliers or in DMCs, or about the general level of corruption within an ADB-financed activity, entity, or country without clearance from the vice president concerned or, in his or her absence, the head of the Department of External Relations (DER).

26. The operational departments and RSDD will work in collaboration with SPD and OGC to disseminate current and updated information about the policy to ADB member countries and executing agencies. The Central Operations Services Office (COSO) will take the lead in disseminating current and updated information about the policy to ADB suppliers and consultants.

27. In consultation with DER, OAGI will (i) maintain for public dissemination a simplified brochure and other information materials describing ADB's anticorruption policy, and (ii) update and disseminate these materials. OAGI will also maintain its website as part of the ADB internet site.

F. Partnerships

28. ADB cooperates closely with other international organizations, such as the IMF, the World Bank, and other multilateral development banks; United Nations agencies; the Organization for Economic Co-operation and Development; and bilateral development agencies in supporting international and country-specific efforts to combat corruption. It may work with NGOs on various international efforts to control corruption. It may work with NGOs on specific anticorruption initiatives within a particular country, although such work needs to be undertaken only with the full support and backing of the government concerned.

Basis: This OM section is based on OM Section C5/BP and the documents cited therein.

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