

## OPERATIONS MANUAL POLICIES AND PROCEDURES

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These policies and procedures were prepared for use by ADB staff and are not necessarily a complete treatment of the subject. This *Operations Manual* was prepared by the Office of Anticorruption and Integrity (OAI) and issued by the Strategy, Policy, and Partnerships Department with the approval of the President and is subject to compliance review. Questions may be directed to the head, OAI.

### ANTICORRUPTION

#### A. Introduction

1. The Anticorruption Policy<sup>1</sup> of the Asian Development Bank (ADB) is intended to reduce the burden that corruption exacts upon governments and economies in Asia and the Pacific. The policy supports ADB's obligation, in accordance with Article 14 (xi) of the Agreement Establishing the Asian Development Bank (the Charter),<sup>2</sup> to ensure that ADB financing is used for its intended purposes.

2. Recognizing that a unified and coordinated approach is essential to the success of the shared effort to fight corruption, ADB—working 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 the Uniform Framework for Preventing and Combating Fraud and Corruption (Uniform Framework). The Uniform Framework outlines common principles and guidelines for conducting investigations and harmonizes the definitions of corrupt, fraudulent, collusive, and coercive practices.

3. ADB also approved the Anticorruption Policy: Harmonization of Debarments,<sup>3</sup> which provided the basis for ADB to enter into the Agreement for Mutual Enforcement of Debarment Decisions by and between ADB, AfDB, EBRD, IDB, and the World Bank Group (“the Participating Institutions”).

#### B. Definitions and Application

4. 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

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<sup>1</sup> ADB. 1998. *Anticorruption Policy*. Manila.

<sup>2</sup> ADB. 1965. *Agreement Establishing the Asian Development Bank*. Manila

<sup>3</sup> ADB. 2010. *Anticorruption Policy: Harmonization of Debarments*. Manila.

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another party.

- (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.<sup>4</sup>

5. All references to corrupt and fraudulent practices in the context of the Anticorruption Policy comprise corrupt, fraudulent, collusive, and coercive practices. Corruption involves the behavior of officials in the public and private sectors to improperly and/or unlawfully enrich themselves and/or those close to them, or to induce others to do so, by misusing their positions.

6. Pursuant to its Anticorruption Policy, ADB will work to ensure that all its projects, activities, and staff adhere to the highest ethical standards. The policy designates the Office of Anticorruption and Integrity (OAI) as the initial point of contact for allegations of fraud and corruption within ADB or ADB-financed projects or its staff. OAI will assess allegations and conduct investigations thoroughly and confidentially.

7. Pursuant to the Anticorruption Policy: Harmonization of Debarments, ADB may enforce sanctions imposed by the Participating Institutions (para. 3), and when appropriate, recognize sanctions imposed by national authorities, subject to ADB's rules, and exclude parties that have not observed the highest standard of ethics.<sup>5</sup>

### **C. The Policy**

8. ADB's Anticorruption Policy affirms that corrupt behavior is a serious impediment to social and economic development. Progress can be made in the fight against corruption if proper legal, institutional, and policy reforms are in place. ADB seeks to address corruption as part of its broader governance work and recognizes the importance of accountability for public officials, transparency and predictability in public administration, and participation under its governance policy.

9. One of ADB's operational priorities under Strategy 2030 is strengthening governance and institutional capacity. ADB will (i) support governments' efforts to eradicate corruption; (ii) promote effective, timely, and corruption-free delivery of public services; and (iii) implement anticorruption measures in ADB projects and programs.<sup>6</sup>

### **D. Scope of the Policy**

10. The Anticorruption Policy covers all ADB staff as well as all entities and activities associated with ADB.

11. The policy focuses on three objectives:

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<sup>4</sup> ADB. 2004. *Anticorruption Policy: Proposed Clarifications and Related Changes to Consulting and Procurement Guidelines*. Manila.

<sup>5</sup> ADB. 2010. *Anticorruption Policy: Harmonization of Debarments*. Manila. Para 13.

<sup>6</sup> ADB. 2018. *Strategy 2030: Achieving a Prosperous, Inclusive, Resilient, and Sustainable Asia and the Pacific*. Manila.

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- (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 governance issues, including corruption; and
- (iii) ensuring that ADB's projects and staff adhere to the highest ethical standards.

**E. Application of the Policy**

12. In consultation with its member countries, ADB will identify opportunities to reduce corruption as part of its broader emphasis on promoting good governance and sound development management. To reduce corruption in Asia and the Pacific, ADB will

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

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

13. A major thrust of ADB's anticorruption efforts will be governance and capacity building. ADB will employ a proactive approach and emphasize continual efforts to upgrade the efficiency of markets and the quality of the public sector. 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 than through short-term, reactive efforts to punish wrongdoers.

14. ADB will concentrate its broader governance efforts on policy dialogue to achieve economic liberalization and public administration reform. Regarding economic liberalization, ADB

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will advance policy recommendations to eliminate market distortions and reduce opportunities for rent seeking by firms or officials. Policy changes can support equal opportunities and reduce opportunities for corrupt or illicit behavior by (i) liberalizing licensing regimes, (ii) opening up access to foreign exchange markets, (iii) reducing administered prices, (iv) expanding credit opportunities for small farmers and businesspeople, (v) removing subsidies and soft loans to favored companies, and (vi) introducing a clear distinction between production and regulatory functions. ADB is pursuing many of these initiatives with its DMCs.

15. ADB will proactively advance these initiatives. Its priority governance initiatives can help DMCs effect changes that will make corrupt behavior more difficult to engage in and more easily detected if it occurs. ADB will be more effective if it focuses its anticorruption efforts on prevention rather than prosecution, although prosecution is necessary to provide a deterrent and ensure the integrity of ADB operations.

### **2. Supporting Promising Anticorruption Initiatives and Country Dialogue**

16. ADB may also be called upon to assist its DMCs in pursuing anticorruption programs. Such assistance could include (i) developing a national anticorruption strategy; (ii) improving the ability of courts to try corruption cases; (iii) responding to requests from legislators and government officials for legal or technical assistance in drafting anticorruption statutes or professional codes of conduct; (iv) strengthening the legal mechanisms for reviewing administrative action (e.g., by creating an ombudsperson position or mechanism for judicial review); or (v) improving the capacity of anticorruption agencies to detect and prosecute illicit behavior.

17. ADB will consider any request from a DMC for assistance in developing anticorruption measures. As these activities are often politically delicate and require detailed knowledge of the circumstances surrounding each case, ADB will provide staff with flexibility and discretion in pursuing such initiatives. 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 strategy and any ongoing efforts in governance and capacity development.
- (iii) The request should fall in an area where ADB has or can provide expertise.

18. For ADB's efforts to reduce unethical behavior between DMCs and its suppliers and contractors to be credible, ADB staff must be beyond reproach, and ADB's internal regulations and procedures must support the highest ethical standards. 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;
- (ii) reforming procurement;
- (iii) updating the Code of Conduct and creating independent internal reporting mechanisms;
- (iv) improving the quality of oversight; and

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- (v) advancing staff awareness.

**F. Other Anticorruption Initiatives**

**1. Anticorruption in Project Design**

19. Projects must be designed with fraud and corruption risks in mind. The design should also support good public sector management. Projects to strengthen public institutions should enhance the capacity of those 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), enhancing internal audit mechanisms, and strengthening inspector general functions.

**2. Anticorruption in Project Monitoring and Supervision**

20. Project processing missions provide opportunities for ADB staff to address anticorruption in project design. 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 promote greater transparency, accountability, and efficiency within ongoing ADB operations.

21. 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 the executing or implementing agencies recruit staff with the requisite skills in accounting and financial management and that robust internal control and accounting systems are in place before loan disbursement.

22. Staff should upgrade 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. Specialized training in forensic accounting and other investigative techniques, including on recognizing warning signs and potential vulnerabilities, will be provided to select OAI staff, financial analysts involved in ADB-funded projects, and project implementation officers. Designing appropriate efficiency indicators to monitor the financial and physical progress of projects regularly should be considered.

**3. Ensuring the Integrity of ADB Staff**

23. Violations by staff of their duties and obligations under ADB's rules and procedures will be dealt with severely. Depending on the gravity and the circumstances, ADB may discipline staff pursuant to the bank's administrative orders.

24. 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 conduct. This procedure will apply equally to (i) situations in which staff improperly and unlawfully enrich

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themselves and/or those close to them and (ii) circumstances in which they induce others to do so.

### **4. Ensuring the Integrity of ADB Projects**

25. ADB may declare a firm or individual ineligible to participate in ADB-financed activities, if ADB determines that a firm or an individual does not observe the highest standards of ethics or has engaged in corrupt, fraudulent, collusive, or coercive practice, irrespective of whether such practices occurred in competing for or execution of an ADB-financed activity.<sup>7</sup>

### **G. Anticorruption in Country Programming, Policy, and Sector Dialogue**

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

27. ADB has several mechanisms for dialogue with DMCs on governance issues, including corruption. These mechanisms include CPS discussions and policy and sector dialogue accompanying lending operations. In line 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. The CPS should recommend ways for ADB to advance the principles of sound development management, including measures to combat fraud or corruption.

28. ADB staff should consider the history of ADB operations in a sector or country, as well as whether ADB projects are likely to be affected by fraudulent or corrupt practices during design or implementation. Staff should also consider whether a country's ability to attain its national development objectives is compromised by fraud and corruption.

### **H. Implementation Arrangements**

29. Regarding ADB lending and TA operations and ADB staff matters, staff are required to report to OAI any allegations or evidence of corruption that they receive or encounter.

30. Once the allegation and/or evidence have been turned over, OAI will screen it in accordance with its established procedures and determine whether to proceed with an investigation. OAI may consult with the Office of General Counsel and/or other departments or offices.

### **I. Treatment of Fraud and Corruption Issues in ADB Reports and the Release of ADB Documents**

31. 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

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<sup>7</sup> ADB. 2010. *Anticorruption Policy: Harmonization of Debarments*. Manila (Para 11).

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can be taken. 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.

### **J. Recognition of Debarment by Participating Institutions**

32. A debarment by a Participating Institution (para. 3) that imposed a sanction may be mutually recognized by ADB if<sup>8</sup>

- (i) the decision was based, in whole or in part, on a finding of a commission of one or more of the sanctionable practices defined in the Uniform Framework: corrupt practices, fraudulent practices, coercive practices, and collusive practices;<sup>9</sup>
- (ii) the decision was made public by the sanctioning institution
- (iii) the initial period of debarment exceeds 1 year;
- (iv) the decision was made after the Agreement for Mutual Enforcement of Debarment Decisions has entered into force with respect to the sanctioning institution;
- (v) the decision by the sanctioning institution was made within 10 years of the date of commission of the sanctionable practice; and
- (vi) the decision of the sanctioning institution was not made in recognition of a decision made in a national or international forum.

### **K. Media and Policy Dissemination**

33. 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 fraud or corruption in ADB operations. Other ADB staff must seek the approval of their head of department or office, unless discussing issues of fraud and corruption generally. 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 Communications and Knowledge Management.

34. OAI 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.

### **L. Partnerships**

35. ADB cooperates closely with other international organizations in supporting international and country-specific efforts to combat corruption. These organizations include the IMF, the World Bank, and other multilateral development banks; the Organization for Economic Co-operation and Development; and bilateral development agencies. ADB may also work with civil society

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<sup>8</sup> ADB. 2010. *Agreement for Mutual Enforcement of Debarment Decisions*. Manila (Para 4).

<sup>9</sup> ADB. 2006. *Anticorruption Policy: Harmonized Definitions of Corrupt and Fraudulent Practices*. Manila (Para 4).

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organizations on international efforts to control corruption, as well as on specific anticorruption initiatives within a country. However, such work needs to be undertaken only with the full support and backing of the government concerned.

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**Bases**

- i. ADB. 2010. *Anticorruption Policy: Harmonization of Debarments*. Manila (R21-10).
- ii. ADB. 2006. *Anticorruption Policy: Harmonized Definition of Corrupt and Fraudulent Practices*. Manila (R179-06).
- iii. ADB. 2004. *Anticorruption Policy: Proposed Clarifications and Related Changes to Consulting and Procurement Guidelines*. Manila (R185-04).
- iv. ADB. 1998. *Anticorruption Policy*. Manila (R89-98).
- v. ADB. 1995. *Governance: Sound Development Management*. Manila (R151-95).