

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 POLICY

A. Introduction

1. ADB's anticorruption policy is intended to reduce the burden that widespread systemic corruption places on the economies of the Asia and Pacific region and the economic growth of ADB's developing member countries (DMCs). 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. In accordance with Article 36(2) of the Charter, ADB's anticorruption policy is based solely on economic considerations and concerns of sound development management.

B. Definitions and Application

2. In pursuance of this policy, ADB defines

- (i) "corrupt practice" as the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to improperly influence the actions of another party;
- (ii) "fraudulent practice" as any action, including misrepresentation, to obtain a financial or other benefit by deception;
- (iii) "collusive practice" as an arrangement between two or more entities without the knowledge of, but designed to improperly influence the actions of, another party;
- (iv) "coercive practice" as impairing or harming, or threatening to impair or harm, directly or indirectly, any party or its property to improperly influence the actions of that party; and
- (v) "conflict of interest" as a situation in which a party has interests that could improperly influence that party's performance of its official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.

3. 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 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

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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.

C. The Policy

4. ADB's anticorruption policy strongly affirms that corrupt behavior is a serious impediment to the development process. Experience demonstrates that significant progress can be made 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.

D. Scope of the Policy

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

6. 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 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 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. 2004. Doc. R185-04. *Anticorruption Policy: Proposed Clarifications and Related Changes to Consulting and Procurement Guidelines*. 1 October. Manila.

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

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

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

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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.

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

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ANTICORRUPTION POLICY

A. Introduction

1. ADB's anticorruption policy will be implemented rigorously to achieve the objectives of (i) supporting competitive markets and effective public administration, (ii) supporting promising anticorruption efforts and including anticorruption issues in country dialogue, and (iii) ensuring that ADB projects and staff adhere to the highest ethical standards.

2. 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:

- (i) address anticorruption issues in ADB lending and technical assistance operations, including during project preparation and supervision;
- (ii) address anticorruption issues in country programming dialogue including the country strategy and program (CSP);
- (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;
- (v) support training, education, and dissemination activities among staff, government officials, consultants and contractors, representatives of civil society, and other ADB stakeholders;
- (vi) compile best practices, in the region and elsewhere, concerning relevant anticorruption issues and initiatives, and support for 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.

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B. Application of the Policy

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

3. A major thrust of ADB's anticorruption efforts is supporting competitive markets and ensuring transparent public administration. This effort has two components. The first seeks to reduce the scope of direct government intervention in the economy, in the belief that markets should be efficient, effective, and competitive, and have as few barriers to entry and exit as possible. This reduces the opportunity for firms or officials to take advantage of artificially restricted markets or suboptimal pricing to demand monopoly rents. The second component focuses on supporting improvements in public administration and public sector management.

4. 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 is likely to be more effective if it focuses its anticorruption efforts on measures for prevention and not on short-term efforts aimed at prosecution, although the latter is necessary to provide an appropriate deterrent and to ensure the integrity of ADB operations.

2. Supporting Promising Anticorruption Initiatives, and Country Dialogue

5. ADB may also be called upon to assist its developing member countries (DMCs) to pursue an explicit anticorruption program. ADB assistance is guided by three considerations: (i) the nature of the DMC request for ADB assistance, (ii) the degree to which the request is consistent with ADB's broader country operational strategy and ongoing efforts in governance and capacity building, and (iii) the extent to which the request falls in an area where ADB has expertise.

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

6. If ADB's efforts to reduce unethical behavior between its DMCs and 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, the third pillar of ADB's anticorruption policy calls for robust internal measures to ensure the integrity of ADB operations along the following dimensions:

- (i) maintaining the integrity of ADB lending and technical assistance (TA) operations by considering issues of corruption more explicitly in the formulation of the CSP;
- (ii) applying ADB's strengthened procurement policy: rejecting a proposal where corrupt or fraudulent practices were employed by the bidder, canceling the portion of the loan allocated thereto, and making such bidders ineligible for future ADB procurement;

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- (iii) creating and using independent internal reporting mechanisms to address allegations of corruption among ADB staff or within ADB operations;
- (iv) enhancing integrity through project design and improving the quality of oversight for ADB loans and TAs; and
- (v) ensuring that all ADB staff are familiar with the anticorruption policy and ADB's code of conduct, and act in a manner consistent with both the letter and the spirit of these statements.

C. Implementation Arrangements

7. The Integrity Division of the Office of the Auditor General (OAGI) is the point of contact for allegations of fraud and corruption in ADB-financed activities or among its staff. On 30 September 2005, the President approved the Integrity Guidelines and Procedures, which established detailed procedures for OAGI's work. The Integrity Guidelines and Procedures were developed in consultation with the Budget, Personnel, and Management Systems Department (BPMSD), the Office of the General Counsel (OGC), and other relevant departments, and will be reviewed and updated periodically in consultation with the same departments.

8. With regard to ADB lending and TA operations, or to matters dealing with ADB staff, staff are required to report to OAGI, for investigation, 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. ADB staff must, however, consider the impact of corruption on ADB operations (such as in policy dialogue, programming decisions, and the administration of projects) in their respective areas of responsibility.

9. In rare cases where rapid follow-up actions may be needed to prevent the imminent loss or diversion of ADB resources or to protect the safety of ADB staff and consultants, staff may address these issues explicitly with the relevant entity, executing agency, or appropriate law enforcement agencies after clearance from their head of department or office, OAGI and, where law enforcement agencies are involved, OGC. Any discussion with a given entity or government agency should, however, be limited to a specific operation or set of operations. Furthermore, the head of department or office should advise OAGI, and standard ADB operating procedures should be applied at the earliest possible time.

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

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1. Ensuring Integrity in ADB Financed Activity

11. In light of the complex nature of corruption, it is important that ADB Management and staff are given flexibility in dealing with individual cases within the framework of the anticorruption policy. While acknowledging the need for fairness and consistency in its operations, and strongly affirming the need for its operations to adhere to the highest levels of probity and integrity, ADB notes that different types of corruption will require different responses. There is a need for careful judgment based on accurate information and the specifics of the situation. If OAGI's investigation determines that fraud or corruption has occurred in an ADB-financed loan or TA project, then—depending on the nature of the violation and the government's willingness to act decisively in addressing it—ADB could pursue a range of options. Breaches of specific loan regulations or covenants could result in, among others, a decision by Management to refuse to finance certain expenditures, suspend disbursements, accelerate the maturities of loans, or cancel a portion of or an entire loan. ADB could request the reassignment, demotion, dismissal or possible prosecution of personnel associated with various components of the project.

12. If ADB determines that fraud or corruption has reached such proportions that it poses a significant impediment to the probity and integrity of ADB operations or the attainment of a country's fundamental development objectives, it could elect to lower or suspend ADB lending and/or TA operations to that country after discussions with the national authorities and consultation with ADB's Board of Directors. Conversely, where a country has made significant progress in improving the efficiency, effectiveness, and integrity of its public and private sectors, ADB could elect to accelerate the lending program or provide additional TA resources to ensure sustainability of the reforms.

2. Anticorruption Issues in Project Design

13. Individual projects must be designed bearing in mind the risk of fraud or corruption within the project. Projects should also be designed in ways that support good public sector management. Where feasible, the financial management and administration of ADB projects should be integrated into the regular systems of government to prevent "enclaving"—the creation of quasi-independent units within a broader organization with their own accounting and reporting procedures. Projects aimed at strengthening public institutions should include components that enhance their capacity to prevent and detect fraudulent or corrupt practices, such as improving cash management (particularly in sectors that generate user fees or other revenues) or their internal audit and inspector general functions. Appraisal missions should consider the best means for ensuring the timely submission of project accounts. The selection of appropriate procurement modalities should be carefully considered, including the design of contract packages.

3. Anticorruption Issues in Project Monitoring and Supervision

14. Project processing missions provide opportunities for ADB staff to address anticorruption issues in project design. In this context, particular attention needs to be given to strengthening

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the ability of counterpart agencies to manage financial and human resources effectively and to carefully monitor their performance. Country portfolio review missions, country disbursement missions, and project review missions provide useful venues 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, the Strategy and Policy Department (SPD), the Operations Evaluation Department, and the Regional and Sustainable Development Department (RSDD).

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

- (i) identifying projects that are particularly at risk,
- (ii) conducting direct field investigations for major infrastructure projects,
- (iii) auditing executing agencies directly involved in project implementation,
- (iv) disseminating a description of ADB's anticorruption policy in local languages, and
- (v) improving cooperation with capable nongovernment organizations (NGOs) in monitoring certain facets of project implementation.

16. Directors and staff should devote attention and resources to upgrading the quality of project monitoring and implementation missions, 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 will be provided to financial analysts and project implementation officers. Designing appropriate efficiency indicators to monitor the project's financial and physical progress regularly should be considered.

4. Ensuring the Integrity of ADB Staff

17. 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 of the case, disciplinary measures may be imposed pursuant to ADB's administrative orders.

18. In addition to any disciplinary action taken against staff, ADB staff found to have engaged in corrupt conduct will be required to make full restitution of any benefits arising from

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such 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.

5. Audit

19. ADB will undertake measures to improve the quality of project audits.

20. Specialized training in forensic accounting and other investigative techniques will be provided to selected OAG staff. Ongoing OAG efforts to streamline internal work procedures to free up greater resources for audits of high-risk and high-impact areas will continue. OAGI will conduct audits of project procurement-related activities, which will help prevent and detect corruption and fraud. OAG will also institute a program of random audits of ADB projects.

21. OAG will strengthen its exchange of information with supreme audit institutions in the DMCs, and play an active role in helping to upgrade the audit capability of such institutions.

6. Anticorruption Issues in Country Programming, Policy and Sector Dialogue

22. ADB staff who prepare CSP 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 issues of corruption and its impact within their particular geographic and/or sectoral sphere of operations.

23. ADB has several mechanisms for dialogue with its DMCs on issues of governance (including corruption), ranging from CSP discussions to the policy and sector dialogue accompanying various lending operations. In keeping with the evolving practice of the International Monetary Fund and the World Bank, Management and staff will consider issues of fraudulent or corrupt practices more explicitly in country risk analysis and in formulating the CSP. The CSP documents will discuss and recommend ways in which ADB can help advance the principles of sound development management, including measures that would help to combat fraudulent or corrupt practices.

24. 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.

25. As a general rule, staff should address problems of fraud and corruption in the context of broader governance and public sector management issues. Particular effort should be devoted to:

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- (i) continuing to expand ADB's assistance on issues of governance and capacity building, with particular attention to promoting market liberalization and public administration reform;
- (ii) giving increased emphasis to strengthening key laws and institutions for advancing transparency and accountability, such as supreme audit institutions, procurement agencies, regulatory agencies, ombudsman offices, administrative courts, and public information laws;
- (iii) giving increased emphasis to strengthening key functions for advancing transparency and accountability, such as civil service recruitment and promotion, or cash management and expenditure control;
- (iv) supporting promising anticorruption initiatives on a case-by-case basis; and
- (v) supporting regional initiatives, where appropriate, and research on advancing accountability and transparency in the Asia and Pacific region.

26. Staff engaged in policy and sector dialogue should integrate these concerns into their discussions with DMC governments.

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

27. 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 appropriate remedial action can be taken.

28. 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.

8. The Media and Policy Dissemination

29. 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 about either specific examples of fraud or corruption among suppliers or in DMCs, or the general level of corruption within an ADB-financed activity, an 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).

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30. 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 will work with OGC to disseminate current and updated information about the policy to ADB suppliers and consultants.

31. 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.

9. Partnerships

32. ADB cooperates closely with other international organizations, such as the International Monetary Fund, 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.

10. Staff Responsibilities

33. While it is not the intention of this policy to turn ADB staff into police officers, or to make the objective of reducing corruption paramount over other development goals, all departments and staff have a compelling obligation to ensure the integrity of ADB operations within their respective areas of responsibility. ADB staff must familiarize themselves with the content of this policy and ADB's code of conduct, and must be prepared to respond appropriately as circumstances demand (Asian Development Bank Administrative Order 2.02, Section 4.)

34. All senior ADB staff, including heads of all ADB departments and offices, their deputies, directors, and the heads of all resident or regional missions and representative offices are responsible for supervising all employees within their sphere of responsibility. They should exercise appropriate due diligence in management and oversight, ensuring that ADB staff and all other persons who are associated with, and provide services for their unit, adhere to the highest ethical standards. They should respond to any allegations or evidence they encounter among either ADB staff or within ADB operations in accordance with the relevant staff guidelines and procedures. The same principle applies to mission leaders with respect to all mission members.

35. All departments and staff have an obligation to ensure the integrity of ADB operations within their respective areas of responsibility. Under the policy, each professional and support staff member is required to:

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- (i) adhere to the “Code of Conduct” set forth in ADB’s administrative orders, regarding rights, duties, and responsibilities of staff;
- (ii) familiarize themselves with the contents of this policy and be prepared to respond appropriately, as required, within their specific area of competence in advancing integrity among ADB member governments, contractors, and suppliers; and
- (iii) ensure the probity and integrity of ADB operations by reporting any allegations or evidence of fraudulent or corrupt practices to OAGI for investigation.

36. Individual staff members are ADB’s front line of defense against fraud and corruption. They could be held responsible for any failure to take reasonable precautions or to turn over allegations or evidence of fraudulent or corrupt practices within ADB lending and TA operations or among ADB staff to OAGI for investigation.

37. OAGI and BPMSD, working in conjunction with other relevant ADB departments, will provide both specialized training on issues of governance, ethics and anticorruption to all ADB staff and more general training on recognizing potential danger areas to financial analysts and project implementation officers. Working in collaboration with DER, OAGI and BPMSD will also conduct general information briefings and produce and update information material, as appropriate.

38. To monitor and coordinate ADB’s efforts with respect to anticorruption initiatives and programming, the departments and offices concerned will be requested to provide SPD, OAG, and OGC (with respect to legal frameworks and legal issues of relevance to other areas of action) with periodic appraisals of the ways in which they are implementing the policy.

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

Compliance: This OM section is subject to compliance review.

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