

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED
BY REPUBLIC OF KOREA**

ARTICLE 7, PARAGRAPH 4 UNCAC

CONFLICT OF INTEREST

REPUBLIC OF KOREA (THIRD MEETING)

Policies and measures to prevent conflicts of interest

- Enacting and implementing Public Service Ethics Act
- Enacting and implementing Code of Conduct for Public Officials
- Planning to enact Act on Prevention of Illegal Solicitation and Conflict of Interest
- Conducting Corruption Impact Assessment

Policies or measures that identify and address potential conflicts between the professional duties and personal interests of civil servants or elected public officials

A. Enacting and implementing Public Service Ethics Act¹

Republic of Korea enacted Public Service Ethics Act to guide public officials to meet their obligations by preventing corruption and securing fairness of the public sector.

Article 2-2 of the Act prescribes that conflicts of interest should be prevented preliminarily and public officials should not pursue their private interest abusing their authority. Articles following the Article 2-2 provide concrete initiatives such as Property Registration, Blind Trust of Stocks, Gift Declaration and Employment Restrictions of Retired Public Officials.

(Property Registration for Public Officials prescribed in Articles 3 through 14-3 will be described later.)

The initiative of Blind Trust of Stocks prescribed in Article 14-4 through 14-10 has been introduced to eliminate the connection between public officials' duties and stocks they hold. Under this initiative, elected and politically appointed officials, officials above „A(Ga)“-rank of SES and chairs of public service related organizations are supposed to dispose or entrust their stocks valuing over 30 million KRW.

Gift Declaration initiative prescribed in Article 15 and 16 requires public officials to declare any gifts they receive from foreign governments, other organizations, or individuals. However, gifts under 100 thousand KRW and personal gifts from foreign individual do not have to be declared.

Articles 17 through 19 prevent inappropriate connection between public officials and private companies by restricting retired officials to be employed to certain companies.

For 2 years, public officials above rank-4 and officials above rank-7 working in law enforcement, auditing, and issuing license are limited to get a job of private companies which are related to their former duties of last 5 years. This initiative was introduced to prevent retired public officials from exercising inappropriate influence on their former government agencies in favor of their new companies.

B. Enacting and implementing Code of Conduct for Public Officials²

The ACRC(Anti-corruption and Civil Rights Commission) of Korea enacted and has implemented the Code of Conduct for Public Officials, in order to set appropriate value and behavioral standards to help public officials not to be corrupted in conflict situations, including conflicts of interest, while carrying out their duties.

The Code of Conduct was created for public officials for the first time in 2003 in the name of “Code of Conduct for the Maintenance, etc. of Public Official’s Clean-Handiness,” based on the “Anti- Corruption Act” which was enacted on July 24, 2001. The application of the Code of Conduct has been extended to the executives and employees of public service related organizations since 2006.

Moreover, the Code of Conduct for Local Councilmen was separately enacted and promulgated as a presidential decree on November 2 in 2010, and has been implemented since February 3, 2011, particularly for local councilmen among local public officials, reflecting distinct characteristics of their status.

In order to prevent public officials from facing conflicts of interest while carrying out their duties, the Code of Conduct for Public Officials set 16 behavioral standards such as “Recusation for Conflicts of Interest (Article 5),” and “Prohibition of the Improper Use of Public Position (Article 10-2).” It also defines disciplinary measures for the violators. Details of the Code of Conduct for Public Officials regarding conflicts of interest are as follows:

Table 1. Behavioral Standards (Code of Conduct for Public Officials)

| Fair Performance of Duties (6 Articles) | Prohibition of Giving and Receiving Unfair Profits (7 Articles) | Creation of Healthy Climate of Civil Service (3 Articles) |
|---|--|--|
| <ul style="list-style-type: none"> ▶ Handling of Instructions that Hinder Fair Performance of Duties (§4) ▶ Recusation for Conflicts of Interest (§5) ▶ Exclusion of Preferential Treatment (§6) ▶ Prohibition of Use of Budget for Unspecified Purposes (§7) ▶ Handling of Unjust Request from Politicians (§8) ▶ Prohibition of Illegal Solicitation for Personnel Affairs (§9) | <ul style="list-style-type: none"> ▶ Prohibition of Influence Peddling (§10) ▶ Prohibition of the Improper Use of Public Position (§10-2) ▶ Prohibition of Illegal Solicitation (§11) ▶ Restriction of Use of Duty-related Information for Financial Transactions (§12) ▶ Prohibition of Personal Use of Public Property (§13) ▶ Restriction of Receiving Money or Other Valuables (§14) ▶ Prohibition of Giving Money or Other Valuables (§14-2) | <ul style="list-style-type: none"> ▶ Report on Outside Lecture or Conference (§15) ▶ Prohibition of Borrowing Money (§16) ▶ Restriction on Notification of Festivities and Funerals and on Receipt of Money Thereof (§17) |

C. Planning to enact Act on Prevention of Illegal Solicitation and Conflict of Interest

The ACRC is planning to enact a new law, so-called “Act on Prevention of Illegal Solicitation and Conflict of Interest” which deals with “conflict of interest,” currently stipulated in the Code of Conduct for Public Officials (Presidential Decree), and penalties for the violation, in order to more effectively prevent and manage conflict of interest situations facing public officials.

To this end, the Commission has prepared to draw up this new law, by studying foreign legislation cases such as the U.S. or Canada, collecting opinions of experts, and holding open discussions since last year. Furthermore, it has made and distributed “Guidelines for Conflict of Interest” as a practical guide for public officials to fairly carry out their duties and to effectively respond to conflict of interest situations.

The “Guidelines for Conflict of Interest” suggests 4-step measures (self-diagnosis check list – counseling about conflict of interest situations – managing conflict of interest – monitoring conflict of interest & taking disciplinary measures against violation) so that public officials themselves can assess corruption possibilities and resolve conflict of interest through the ethical counseling system.

D. Conducting Corruption Impact Assessment³

The Corruption Impact Assessment was designed as a preventive measure to review and remove corruption-causing factors out of laws and regulations when the bills are drafted. This assessment has been carried out since April 2006. When public organizations enact

or amend laws and regulations, they are required to prepare a draft and relevant materials and to request the ACRC to conduct the Corruption Impact Assessment on the draft, right after they start consultations with concerned agencies. The ACRC reviews and assesses corruption-causing factors of the draft and recommends improvement measures and detailed examples of enactment so that they can reflect the recommendations into their draft before legislative examination.

The Commission has prepared its specific criteria for items to be reviewed and assessed when detecting corruption-causing factors out of laws and regulations. Currently, however, as some corruption cases related to conflict between private and public interests have been revealed, the ACRC revised its “Guideline for Corruption Impact Assessment” (Sep. 28, 2011), adding “possibility of a conflict of interest” into the specific criteria, and the revised criteria has been applied since January 1, 2012.

<Table 2. Improvement of Corruption Impact Assessment Criteria>

| - Current criteria - | | - Revised criteria - | |
|---|--|---|---|
| Assessment item | Assessment criteria | Assessment item | Assessment criteria |
| Ease of compliance | Appropriateness of the burdens of compliance | Ease of compliance | Appropriateness of the burdens of compliance |
| | Appropriateness of discretionary regulation | | Appropriateness of discretionary regulation |
| | Possibility of preferential treatment | | Possibility of preferential treatment |
| Appropriateness of discretion | Clarity of discretionary regulation | Appropriateness of execution standards | Concreteness and objectiveness of discretionary regulation |
| | Appropriateness of discretionary range | | Appropriateness of the standards of consignment and entrustment |
| | Concreteness and objectiveness of discretionary regulation | | Clarity of financial support standards |
| Transparency of administrative procedures | Accessibility and openness | Transparency of administrative procedures | Accessibility and openness |
| | Predictability | | Predictability |
| | Corruption control tool | | Possibility of a conflict of interest |

1 Refer to attachment #1,2

2 Refer to attachment #3,4

3 Refer to attachment #5,6

Cases of the successful identification of conflicts of interest between the professional duties and personal interests of public officials and the process used to resolve such conflicts.

Case 1: The ACRC, through 2011 inspection for Code of Conduct, found out that 14 local state-owned companies abused their authority to hire employees for personal interest. It was found out that they abused their authorities over personnel affairs and distorted employment process, influenced by external pressure and solicitations: for example, hiring a specific person only with interview and resume after leaving out written tests, setting a very short period for a job opening to give only specific persons interview opportunities, or hiring an unqualified person for the job requirements. The ACRC confirmed the facts and requested the concerned public companies to come up with countermeasures to prevent recurrence of such violation, and informed the Ministry of Public Administration and Security of its opinions about institutional improvement concerned.

Case 2: It has been found that regarding subcontracts in construction area, public officials frequently selected unqualified or unlicensed subcontractors or connived in making low-price contracts violating appropriateness of subcontracts in return for bribery, etc. Accordingly, the ACRC conducted its Corruption Impact Assessment on Enforcement Decree of the Framework Act on the Construction Industry and made a recommendation to the Ministry of Land, Transport and Maritime Affairs to create measures to prevent conflict of interest, such as excluding private examiners out of its subcontract reviewing committee as they might directly and indirectly influence results of committee's reviews (on subcontractor's construction capability or appropriateness).

Case 3: Even though corporate credit cards of public organizations are supposed to be used for public purposes, they have often been used for personal interests including entertainment or luxury goods. For example, it was detected that senior officer A of a public organization charged golf goods worth 1500USD on his corporate card at a department store, while senior officer B charged a beef gift set and expensive liquors on his corporate card at an airport duty free shop on his business trip for his personal purpose. Accordingly, to prevent personal use of public funds, the ACRC introduced "Clean Card System" to establish a regularly monitoring system, designate more categories of business and goods a corporate card cannot be used to pay for, and open the breakdowns of corporate credit cards.