



MAURITIUS MISSION TO THE UNITED NATIONS GENEVA

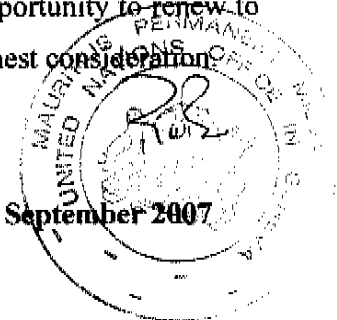
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The Permanent Mission of the Republic of Mauritius to the United Nations Office and other International Organisations in Geneva presents its compliments to the United Nations Office on Drugs and Crime, and with reference to the latter's Note (CU 2007/92) dated 25 June 2007 about resolution 1/8 of the Conference of the States Parties to the United Nations Convention against Corruption entitled "Best practices in the fight against corruption", has the honour to submit, as attached, proposals regarding best practices on aspects of the Convention that may be considered a priority.

The delay in submitting the information is regretted.

The Permanent Mission of the Republic of Mauritius to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the United Nations Office on Drugs and Crime the assurances of its highest consideration.

Geneva, 28 September 2007



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Vienna International Centre
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The Independent Commission Against Corruption, Mauritius

Proposals on Best Practices in the Fight Against Corruption

With respect to the request of the UNODC to make proposals regarding Best Practices, we would like to highlight the following that are requirements for state parties to the UN Convention against Corruption:

- State parties should bear in mind the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law and the need to safeguard integrity and to foster a culture of rejection of corruption. (Quote from Preamble)
- State parties should promote integrity, accountability and proper management of public affairs and public property. (Para C of Article 1)
- State parties shall endeavour to establish and promote effective practices aimed at the prevention of corruption. (Para 2 of Article 5)
- State parties shall increase and disseminate knowledge about the prevention of corruption. (Para 1b of Article 6)

For the purpose of making proposals regarding best practices on aspects of UN Convention that may be considered as priority, the Independent Commission Against Corruption (ICAC) has been inspired by the relevant extracts from the UN Convention against Corruption.

- State parties shall where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen **systems for the recruitment**, hiring, retention, promotion and retirement of civil servants. (Para 1 of Art 7)
- State parties shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish **appropriate systems of procurement**, based on transparency, competition and objective criteria in decision making, that are effective, inter-alia, in preventing corruption. (Para 1 of Art 9)
- State parties shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass inter-alia a system of accounting and **auditing standards and related oversight**. (Para 2 of Art 9)
- State parties shall **prevent conflicts of interest** by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure. (Para 2 of Art 12)

Initiatives taken by ICAC with respect to Best Practices

In the preparation of its three-year Action Plan (2006-2009), ICAC has come up with actions that are in line with the obligations contained in the international conventions signed and ratified by the Republic of Mauritius. The ICAC proposes that consideration be given to best practices in the following areas, as these are in line with relevant articles mentioned above in the UNCAC and ICAC strategies:

1. Best Practice Guide on Contract Works for Public Bodies.
2. Best Practice Guide on Procurement of Goods and Services for Public Bodies. (Para 1 of Art 9)
3. Best Practice Guide on Selection and Recruitment in Parastatal Bodies (Para 1 of Art 7)
4. Best Practice Guide on Inspection Works for Public Bodies
5. Do- It- Yourself – Corruption Risk Management
6. Do- It- Yourself Guide – Model Internal Audit Charter (Para 2 of Art 9)
7. Guideline on Gifts
8. Guideline for Policy Decision Makers (Board Members) in State-Owned Companies and Parastatal Bodies

Furthermore, the following Best Practice Guides and Handbooks are relevant and will be developed by ICAC in the coming two years.

- Guideline on Discretionary Powers
- Corruption Resistance Guide for Private Sector
- Booklet on General Anti-Corruption Practices for Parastatal Bodies
- Handbook on Conflict of Interest (Para 1 of Art 12)
- Handbook- Managing Integrity
- Handbook on Fighting Corruption in Public Sector
- Handbook "Promoting Character Education: Towards a Culture of Integrity"
- Handbook for Promoting Values Through Play

Proposals for Best Practices

1.0 Best Practice Guide on Contract Works for Public Bodies

Contract works are areas prone to corruption. In this respect, FIDIC, the world's leading professional organization of consulting engineers, made it clear that:

"Corrupt practices can occur at all stages of the procurement process; in the marketing of engineering services; during the design; in preparing tender documents (including specifications); in pre-qualifying and in evaluating tenders; in supervising the performance of those carrying out the construction; issuing of payment certifications to contractors; and making decisions on contractors' claims. (Policy statement on corruption – 1996)

Rationale

It is perceived that the whole domain of public works attracts active and passive bribery, because it involves a considerable segment of government's budget and the funds available to state owned companies.

Aims and Benefits

The objectives of the Best Practice Guide are to provide public bodies with a checklist to assess their own vulnerabilities to corruption risks in contract works.

Scope

The Best Practice Guide may cover high risk areas such as:

- The Planning Stage: Definition of specifications and availability of funds.
- Pre-qualification of consultants and contractors
- The Tendering Process: calling for tenders and bids opening
- Evaluation of bids
- Negotiations
- Award of tenders
- Contract Management: Site Inspections and Contract Variations
- Commissioning and taking over
- Payment

Methodology

A review of contract management in government may be conducted through interviews and discussion meetings. Research on how the integrity of contract management is preserved in other countries may also be carried out.

The assignment should be conducted out in close collaboration with the relevant stakeholders and ultimately to contract management workshop may be held to discuss the relevant strategies putting in practice the guide before launching.

2.0 Best Practice Guide on Procurement of Goods and Services for Public Bodies.

Almost all organisations purchase goods and services, often in large quantities and involving huge amounts of money. They need to obtain materials, equipment and services of the right quality and quantity at the right time and place and at the lowest overall cost. However, procurement is a highly sensitive area and is subject to much criticism.

Rationale

Public sector expenditures on procurement of goods and services involve significant funds. The main phases of the procurement process are highly prone to corruption and this may include such situations as tailor-made specifications to favour particular suppliers, breaching the confidentiality of suppliers offers, falsifying qualities or standards certificates and over and under invoicing.

Aim and Benefits

The aim of the guide is to establish a fair and efficient procurement system based on such principles as value for money, fairness and impartiality, transparency, efficiency, accountability, competence and integrity.

The purpose of the document is to provide some essential control procedures which should be implemented in a purchasing and tendering system and it provides guidelines for self- assessment of systems in respect of procurement.

Scope

The guide will cover areas which are most prone to corruption and includes amongst others:

- Identification of needs
- Pre-qualification and Tendering: Invitation of tender and receipt and opening of quotations/tenders
- Evaluation process
- Concluding the process: Award of contract and complaints system
- Managing the contract: Performance phase and payments

Methodology

A review of the procurement process in government and parastatal bodies will be conducted through interviews and discussion meetings. Research on how the integrity of procurement systems is preserved in other countries will also be carried out.

This exercise should be carried out in close collaboration with major relevant stakeholders and ultimately to conduct a workshop where the guide will be discussed before launching.

3.0 Best Practice Guide on Selection and Recruitment in Parastatal Bodies

The principle of merit selection is vital in public sector recruitment. High standards of integrity and probity as well as increased transparency and accountability in recruitment systems' procedures and processes are crucial to maintain the merit principle.

Rationale

Inability to meet excess demand in the labour market in many countries results in a high rate of unemployment thus creating further pressure on public recruitment agencies. This increases the risk of conflicts of interest in terms of pecuniary motives or favoritism, nepotism and cronyism in the recruitment process to the detriment of the principle of merit selection.

Another phenomenon that is worldwide spread is that there is a direct relationship between brain-draining and corruption practices in recruitment. The more the integrity of the recruitment process is put at stake the more the brain-drain is substantial.

Aims and Benefits

The Best Practice Guide on recruitment for Public bodies will provide some essential control procedures, processes and policies to enhance trust and confidence in the recruitment of public officers.

It will also cover different phases of the recruitment process, highlighting the exposure to corruption malpractices and ethical dilemmas related to recruitment functions.

It will also allow public institutions to perform a self-assessment of the system in respect of recruitment. It will guide organisations towards the best course of action in situations where the integrity of a recruitment process may be compromised.

Scope

The scope of the guide will cover high risk areas such as:

- Pre-recruitment: This includes the request to fill a position, job analysis, job specifications, job description and advertising.
- Enquiries on the post advertised.
- Applications: the recording of receipt of application and acknowledgment.
- The screening of applications
- Short-listing of applications
- Final Selection through interviews
- Pre-appointment of selected candidates

Methodology

A review of the recruitment and selection processes in government and Parastatal bodies will be conducted through interviews and discussion meetings. Research on how the integrity of recruitment process is preserved in other countries will also be carried out.

It is proposed to carry out this work in close collaboration with the Association of personnel Managers and ultimately to conduct a workshop where the guide will be discussed before launching.

4.0 Best Practice Guide on Inspection Works for Public Bodies

Law Enforcement Officers in relevant public bodies are entrusted with an important duty which consists of ensuring compliance with the law and regulations. This enforcement role is executed mainly through inspections.

Rationale of the Guide

Corruption Prevention Reviews (CPRs) conducted in different public bodies have revealed that due its nature, an inspection may be a breeding ground for corrupt practices. An inspector may use his office or position to screen an offender from punishment against receipt of a gratification. This is because the inspection function is exercised outside the offices and an inspector is often in direct contact with the offender. In fact, several Ministries and Departments have identified inspection works as being an area which requires immediate attention.

Inspectors have important public duties to ensure compliance with the law and regulations. In the execution of their functions, they have the discretion to sanction or screen an offender for non-compliance with relevant regulations.

There is hence the possibility that an inspector may use his office or position to screen an offender from punishment against receipt of a gratification. This is against public interest.

Aims and Benefits

In order to globally address the problem of corrupt opportunities that is intrinsically link to inspections, it is important to come up with an Inspection guide for Law Enforcement Officers in collaboration with stakeholders in this field. The guide will aim at promoting integrity of inspection works and enhance transparency and accountability while ensuring ethical behaviour of Officers involved in the enforcement functions. High standards of integrity and probity as well as increased transparency and accountability in inspection works are crucial to deter corrupt practices.

The guide will provide organisations involved in enforcement with a guiding tool for their enforcement officers, thus promoting best practices and integrity of the inspection function. It will also encourage a standard approach in planning, conducting, monitoring and reporting site inspections.

Scope of the Best Practice Guide

The guide will suggest some essential policies, processes and control procedures to enhance integrity of inspection works. The guide will focus on areas such as:

- Basic principles for better results and outcomes
- Exercise of discretionary power
- High level of autonomy
- Relationship with the other party
- Conflict of interest

Methodology

The methodology that will be adopted for the development of the guide is to analyse feedback information relevant to corruption loopholes and unethical behaviours related to inspection works. Research by other countries with a view to improving integrity in inspection works will also be carried out. It is proposed to invite suggestions from professionals in the field of inspections so as to fine-tune the contents and format of the guide.

5.0 Do-It-Yourself – Corruption Risk Management

Corruption Risk Management identifies potential risks, analyses their consequences, and devises and implements responses to ensure that goals are achieved. Managing risk can be achieved through the development of a risk management plan. It is a valuable process in the prevention of corruption. Indeed, large public bodies in Mauritius with an annual turnover of Rs 250 million are required by the Code of Corporate Governance to set up a Board Risk Committee.

Rationale

Prevention of corruption needs to be inbuilt in the culture of all organisations and form an integral part of the strategy within the organisation. Indeed, risk management should be on-going and integrated with other procedures so that staff accept it as a standard requirement of good management and not a one-off or annual activity. In principle, risk management techniques should be integrated into management control and organisational strategy.

Aims and Benefits

The ICAC is proposing this tool to promote corruption risk assessment as a self-assessment tool and also to guide public bodies in assessing and managing their risks of corruption. The aim of this tool is to ensure that principles of sound risk management are well understood and that organisations give adequate attention to risk management when designing processes as well as the setting up of the necessary framework for the management of corruption risk.

Scope

The tool will contain the following elements:

- (i) Defining, documenting, endorsing and communicating a Corruption Risk policy.
- (ii) Setting up of a Corruption Risk Management Team and defining its terms of reference.
- (iii) Corruption Risk Assessment: Risk identification; Risk Profiling; Risk Appetite (Tolerance Rate); Risk Prioritization.
- (iv) Corruption Risk Management
 - Selection of Risk Responses.
 - Targeting units/activities for risk management.
 - Developing Corruption Risk Management Strategies and Processes
 - Monitoring and continuous improvements
 - Communicating and Overcoming barriers

Methodology

New developments in the field will be analysed and the concept will be adapted to the local environment to make it simple and practical.

6.0 Do-It-Yourself Guide – Model Internal Audit Charter

Internal Audit function has witnessed a drastic change, evolving from a traditional to a progressive approach, thereby, bridging the expectation gap of its major stakeholders.

According to the Institute of Internal Auditors Research Foundation in America, the internal audit function should be "designed to add value and improve an organisation's operations. It should help an organization to accomplish its objectives by bringing a systematic, discipline approach to evaluate and improve the effectiveness of risk management, control and governance processes."

Rationale

The Internal Audit function is an activity that is crucial to the prevention and detection of corruption within an organization and needs to be strengthened. Most organizations do not have a comprehensive Internal Audit Charter and this impact on the independence and effectiveness of the internal audit function.

Aims and Benefits

ICAC will design a Do-It-Yourself Tool to guide public bodies in coming up with an Internal Audit Charter. This will be a useful tool for parastatal bodies as it will enhance the effectiveness of their internal audit function and allow management to discharge itself of its responsibilities to design, implement and monitor a sound system of internal control, systems and policies.

Scope

The Internal Audit Charter sets out the framework within which internal audit should operate:

- Objectives
- Authority
- Independence
- Objectivity
- Scope and Responsibilities
- Auditing Standards

- Audit Plan
- Performance Management
- Quality Assurance and Improvement programme
- Relationship with Management, Audit Committee and External Auditors
- Ethics

Methodology

The Charter will be developed taking into account the new approach to internal audit where the focus is on risk management, business and the customer and the methodology based on goals and strategies rather than transactions and compliance. Internal Audit functions in other countries will also be considered.

The draft copy will be distributed to relevant stakeholders to obtain their views and comments before the document is finalised.

7.0 Guideline on Gifts

During the course of their official duties, public officials are often faced with situations of dilemma of whether to accept a gift or not. Probably the most frequently encountered ethical issue relates to the acceptance of gifts from outside sources. A gift is defined as a gratuity, favour, discount, entertainment, hospitality, loan, forbearance or other items having monetary value. It also includes services.

Rationale

The practice of offering of gifts to public officials is an area where a change of attitude is urgently required. This has always raised delicate issues of propriety in relation to what is permissible and what is not. Whereas the role of public officials is to serve the public effectively and efficiently, the pitfall to be avoided is the loss of impartiality, real or perceived which the acceptance of gifts may bring about.

Aims and Benefits

The guideline will aim at helping public officials understand and comply with ethical standards

Scope

The guideline will include:

- Legal principles: definition of public official and gratification.

- Practical measures to deal with situations of dilemmas such as public presentations of gifts, discounts and rebates, frequent flyers and hotel accommodation.

Methodology

Based on the provisions set in legislations, a draft guideline on gifts may be developed. A committee comprising of relevant stakeholders may be set up to examine the practicability of the proposals and finalise the guideline.

8.0 Guideline for Policy Decision Makers (Board Members) In State-Owned Companies and Parastatal Bodies

In public bodies, mainly in parastatal bodies and government owned companies, the Board is the focal point of the corporate governance system. The role of the Board of any public body is to provide direction, support and guidance for the body, continuity of management and to promote commitment to its core values, policies and objectives. To function efficiently and effectively, a Board must put some thought into how the business should be conducted and adopt processes in a constructive way. Thus, all Public bodies must have, at their head, a Board, which is responsible for:

- defining the mission, vision, policies and corporate objectives of the organisation.
- giving leadership and strategic direction
- defining control mechanisms to safeguard public resources
- supervising the overall management of the body's activities; and
- reporting on stewardship and performance

Rationale

Board members have a crucial role to play in ensuring that their organisation is run efficiently and effectively. They are appointed as Board members to bring their personal expertise and experience to the Boardroom and are personally as well as corporately accountable for their actions and decisions as a Board member. They must also adhere to certain fundamental principles such as corporate responsibility, confidentiality and proper conduct.

Aims and Benefits

The main objectives behind developing such a guide will be:

- to provide the board members with generic information that is required to understand and fulfil their role in a proper way.

- to both outline the responsibilities of the Board as a corporate body and will also clarify the role of its individual board members.

Scope

The guide ~~will cover all the main aspects that Board Members should be~~ conversant with, such as responsibilities, principles of corporate governance, financial reporting and internal controls, risk management, statutory accountability as well as standards of behaviour on their part. The guideline will also prescribe standards of conduct expected for the proper fulfilment of functions and duties.

Methodology

The actual role and responsibilities of Board members will be first assessed with respect to good governance. A guide will be developed taking into consideration the views and comments of relevant stakeholders.

Implementation of Best Practices

A. Prior to finalization of these best practice guides, the views and comments of all stakeholders is necessary. Alternatively, the practices proposed should be tested on a pilot basis in one or few institutions.

B. It is very important to distribute widely the practices that are being promoted. In this respect, the following approach may be encouraged:

- Wide distribution among stakeholders of the guides.
- Use of IT to enable cheap and easy access to material pertaining to best anti-corruption practices and framework as well as issues pertaining to ethics management.

C. There should be frequent workshops with relevant stakeholders to take cognizance of the following:

- Constraints in implementation.
- Take stock of progress in implementation
- Disseminate strategies that have led to successful implementation of those practices by committed public bodies.

D. Follow-ups on a sample of public bodies should be carried out on a regular basis to ensure the effective in adopting and implementing.