

III MEETING

CONVENTION OF THE UNITED NATIONS AGAINST THE CORRUPTION.

The State of Guatemala, as it leaves from his Governmental policy account with a legislative structure that allows him to norm, to control, to monitor and to sanction all those acts considered like crimes, against the public administration.

The State of Guatemala sustains the supremacy of its legal structure, in the POLITICAL CONSTITUTION OF the REPUBLIC, reaffirming the priority of the human person like subject and aim of the social order, like person in charge of the promotion of the communal property of the consolidation of the regime of legality, security, justice, equality, freedom and peace, within a permanent and popular stable order institutional, where governing and governed they come with absolute attachment to the right.

In this sense, one appears of detailed form the interventions of the State of Guatemala towards the interior of the public administration, with a view to the transparency and prevention of the corruption.

LEGAL STRUCTURE

1. **POLITICAL CONSTITUTION OF THE REPUBLIC OF GUATEMALA:** In

Title V Structure and Organization of the State, Chapter III Regime of Control and Fiscalization, Article 232. It establishes that the superior organ of Fiscalization is the General Comptroller of Accounts of the Republic.

2. **ORGANIC LAW OF THE BUDGET (Approved by the Congress of the Republic, Decree 101-97)**

They are subject to the dispositions of the present law:

- a) The Organisms of the State;
- b) The decentralized and independent organizations;
- c) The companies anyone is their form of organization, whose capital is conformed mainly by contributions of the State; and,
- d) The other institutions that conform the public sector.

This Law has as an aim to norm the systems budgetary of: integrated accounting governmental, treasury and public credit, to effect of:

- a) Realise the programming, organization, coordination, execution and control of the catchment and use of the public resources under the legality principles, economy, efficiency, effectiveness and fairness, for the fulfillment of the programs and the projects in accordance with the established policies;
- b) Systematize the processes of programming, management and evaluation of the results of the public sector;
- c) Develop and to maintain integrated systems that they provide opportune and reliable information on the behavior of the physical and financial execution of the public sector;
- d) Guard by the effective and efficient use of the public credit, coordinating the programs of disbursement and utilization of the resources, as well as the actions of the organizations that intervene in the management of the internal and external debt;
 - I. An integrated countable system, that responds to the needs of registry of the financial information and physical accomplishments, reliable and opportune, agreed to its own characteristics;
 - II. An efficient and effective normative, financial internal control system, of management on its own operations, organized on the basis of the general norms emitted by the General Comptroller of Accounts; and,
 - III. Procedures that assure the effective and efficient development of the institutional activities and the evaluation of the results of the programs, projects and operations.

The Ministry of Public Finances, through the specialized unit that corresponds, is the rector organ of the public budgetary process.

3. LAW OF INCOME AND EXPENSES OF the STATE (Approved by the Congress of the Republic, Decree 33-2011)

The State of Guatemala, through the Congress of the Republic approved the Budget of Income and Expenses for fiscal year 2012 and in order to guarantee the transparency in the quality of public

spending, in TITLE III GENERAL DISPOSITIONS; ARTICLE 3. twenty-nine (29) Norms of obligatory observance were included.

4. LAW OF PURCHASES AND HIRINGS OF THE STATE (Approved by the Congress of the Republic, Decree 57-92):

The purchase, sale and hiring of goods, supplies, works and services that require the organisms of the State, their decentralized and independent organizations, units executors, municipalities and public companies state or municipal, subject to the present law and their regulation. The donations that in favor of the State, their dependencies, institutions or municipalities make people, organizations, associations or other foreign States or Governments, will be in force solely by the agreed thing between the parts. If such organizations or dependencies must make some contribution, with the exception of the municipalities, previously they will hear the Ministry of Public Finances.

With regard to the provisions of international conventions and treaties of which the Republic of Guatemala is part, the dispositions contained in the present law and regulations of the matter, they will be applied in complementary form, as long as they do not contradict the same.

5. LAW OF PROBITY AND RESPONSIBILITIES OF CIVIL SERVANTS AND PUBLIC EMPLOYEES (Approved by the Congress of the Republic, Decree 89-2002)

This law is intended to create norms and procedures, to transparent the exercise of the Public Administration and to assure the strict observance of the public constitutional and legal rules in the exercise of the public state functions, avoid turned aside of the resources, goods, bottoms and values public to the detriment of the interests of the State, establish the patrimonial control mechanisms of the publics servants and employees, during the exercise of their positions and to prevent the personal advantage and any form with illicit enrichment of the people to the service of the State and with other individual or legal people who handle, administer, guard, collect and invest bottoms to public values, determining the responsibility that they incur.

6. ORGANIC LAW OF THE GENERAL COMPTROLLER OF ACCOUNTS (Adopted by the Congress, Decree 31-2002)

It corresponds to the General Comptroller of accounts of the Republic of Guatemala, the audit function in external form of the assets and liabilities, rights, income and expenses and, generally, all interest of

the Organisms of the State, independent and decentralized organizations, the municipalities and their companies, and other institutions that conform the public sector nonfinancier; of all person, organization or institution who receive bottoms of the State or make collections public; of companies non financiers; and other institutions of the nonfinancial public sector, of any person, entity or institution that receives state funds or make public collections; of companies nonfinanciers in whose capital the State participates, under any denomination as well as the companies in which these have participation.

Also the public work contractors and any national or foreign person whom, by delegation of the State, public receives, invests or administers public bottoms, concerning the handling of these.

The subject organizations of the public sector by law to other fiscalization instances are excepted.

The General Comptroller of Accounts will have to also guard by the probity, transparency and honesty in the public administration, as well as by the quality of the public cost.

7. CIVIL SERVICE LAW AND REGULATIONS (Adopted by the Congress of the Republic Decree 1748):

It constitutes the norm applicable to staff employed on a permanent basis , that is to say, with institutional dependency. Law through which the State of Guatemala realises the processes of call, hiring, promotion, evaluation of the performance, disciplinary regime, rights, obligations and retirement of the public servants. The organs superiors in charge of the application of this law correspond to: National Board of Civil Service and National Office of Civil Services.

The National Board of Civil Service, Integrates with three member holders and two substitutes, designated by the President of the Republic for a period of three years.

The National Office of Civil Services, Is the executive organ responsible for implementation of this law. It should consist of a director and deputy director and other essential staff to its operation and enforceability throughout the territory of the Republic.

8. LAW OF PUBLIC INFORMATION (Approved by the Congress of the Republic, Decree 57-2008):

The present law is of public order, of national interest and social utility; it establishes the norms and the procedures to guarantee all person, natural or legal, the access to the information or acts of the public administration that is in the archives, cards, registries, bases, bank or any other the private form of data storage that are in the organisms of the State, independent and decentralized municipalities, institutions and private organizations that: perceive, invest or administer bottoms, including trusts constituted with public bottoms, public works or services subject to concession or administration.

This law is based on the principles of:

- 1) Maximum advertising;
- 2) Transparency in the management and ejecution of public resources and acts of government;
- 3) Gratuidad en el acceso a la información pública
- 4) Sencillez y celeridad de procedimiento.

GOVERNMENT EFFORTS IN THE YEAR 2012

1. CREATION OF THE CONTROL AND TRANSPARENCY

SECRETARIAT. The current government created through the Governmental Agreement 37-2012, the Control and Transparency Secretariat, attached to the Vicepresidency of the Republic; which entered in effect on February 14, 2012. Such office will be in charge of three main topics:

- a. Fight against Corruption
- b. Transparency Promotion
- c. Public Information and Electronic Government.

2. SUBMISSION OF TRANSPARENCY LAW INITIATIVES. On March 12, 2012, the President of the Republic of Guatemala presented before the Congress of the Republic, two law initiatives containing important proposals to minimize corruption indexes:

- a. **Initiative 4461 “Law for Strengthening Institutional Transparency and Public Expenditure Quality”**, that proposes the strengthening of institutions that promote transparency and fight against corruption, through amendments to the Budget Organic Law, Decree 101-97 of the Congress of the Republic, Organic Law of the General Comptroller’s Office, Decree 31-2002 of the Congress of the Republic, Organic Law of the Tax Administration Superintendence, Decree 1-98 of the Congress of the Republic and the Law of the National System of Statistics and Geographic Information.
- b. **Initiative 4462 “Law for Strengthening Transparency and Public Expenditure Quality”** which is oriented to amend those legal disposition that regulate Government hirings, as well as the integrity of the public employees. Within the amendments are: State Contracting Law, Decree 57-92 of the Congress of the Republic, Government Employees Integrity and Responsibility Law, Decree 89-2002 of the Congress of the Republic and its amendments, Law of the Executive Body, Decree 114-97 of the Congress of the Republic, Law of the Civil Service, Law against Illicit Enrichment, Law of Public Trusts, Law of Planning and Evaluation of Public Management.