

**USA Response: Collection of Information Prior to the Sixth Intersessional Meeting of the Open-Ended Intergovernmental Working Group on Prevention Established by the Conference of States Parties to the UN Convention against Corruption**

In response to the Secretariat's request for information contained in Note Verbale CU 2016/70(A)/DTA/CEB/ISS, the United States is pleased to provide the following response:

**I. Information requested from States parties and signatories in relation to the use of information and communications technologies for the implementation of the Convention in order to facilitate public sector transparency and combat corruption**

The United States has a long-standing record of promoting public sector transparency. Since 1967, The United States has afforded the public with a statutory right of access to federal government records under the Freedom of Information Act (FOIA). While initially a paper-based system, the U.S. has leveraged the internet and social media to enhance that transparency, engage the public, and meet its international obligations. While every government agency is required to provide substantial information about its budget, programs, activities and performance on an agency website, the following is a selection of examples of the use of information and communications technologies for more unique or targeted efforts that assist in open and usable information that facilitates and supports U.S. compliance with the Convention:

- 1. In relation to integrity in public procurement and management of public finances (article 9),** States parties and signatories may wish to provide information on measures that:
  - Utilize online platforms for the distribution of information relating to public procurement and tenders as a way to prevent corruption, enhance transparency and ensure competition and objective criteria in procurement decision-making.

Information sought may, in particular, include the following:

- Description of any electronic system of public procurement, including, for example:
- The means by which tender invitations are published;
- The inclusion of all pertinent information on the award of contracts;
- Ways in which applications may be submitted (including the use of electronic procurement platforms); and
- Ways in which the criteria to be used for selection and award are publicized.

In the Memorandum on Transparency and Open Government, issued on January 21, 2009, President Obama directed the Office of Management and Budget (OMB) to issue an Open

Government Directive, emphasizing the importance of disclosing information that “the public can readily find and use.” Responding to that instruction, the OMB issued the Open Government Directive, which instructed executive departments and agencies to take specific actions to implement the principles of transparency, participation, and collaboration, as set forth in the President’s Memorandum.<sup>1</sup> The Memorandum required executive departments and agencies to take actions toward the goal of creating a more open government. These included, publishing government information online, improving the quality of government data, and creating an enabling policy framework for Open Government through the use of emerging technologies.

One of the high-value data sets included in the Open Government Initiative is the Federal Budget of the United States government. The Federal Budget is publicly available through the OMB, and can be viewed on its website. Budgetary information publicly available includes information about the President's budget proposals for a given fiscal year, other budgetary publications that have been issued throughout the fiscal year, actual expenditures from previous fiscal years as well as projected spending for upcoming fiscal years. Historical Tables are also available to provide data on budget receipts, outlays, surpluses or deficits, Federal debt, and Federal employment over an extended time period, generally from 1940 or earlier to 2013 or 2017. Information on the budget can be found at <https://www.whitehouse.gov/omb/budget>. The General Accounting Office (GAO) audits the budget and other fiscal documents, and its audits are available on its website (e.g., <http://www.gao.gov/products/GAO-16-357R>).

The United States also uses Open Data to promote transparency in federal public procurement. The Federal Government of the United States procures over 450 billion dollars of goods and services each year. With few exceptions, the contracts are executed agency-by-agency following the requirements and procedures found in the Federal Acquisition Regulation (FAR) contained within Chapter 1 of Title 48 of the Code of Federal Regulations. The FAR (found at [www.acquisition.gov](http://www.acquisition.gov)) includes uniform policies and procedures for acquisition processes describing appropriate practices for all Executive Branch agencies to use during the pre-award, award, and post-award contract process.

The U.S. Federal contracting process is designed to promote transparency and fair competitive processes that directly contribute to the promotion of integrity and the prevention corruption. This process includes the open publication of tenders ([www.fbo.gov](http://www.fbo.gov)), awards, ineligible bidders, and information about subcontractors. Federal procurement is comprised of several electronic systems that support fraud protection at various parts of the contracting process. These systems include:

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<sup>1</sup> Available <[https://www.whitehouse.gov/sites/default/files/omb/assets/memoranda\\_2010/m10-06.pdf](https://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-06.pdf)>

#### Pre-award:

The System for Award Management<sup>2</sup> (SAM) is the Official U.S. Government system that consolidated the capabilities of several procurements such as Central Contractor Registry (CCR), Federal Agency Registration (Fedreg), Online Representations and Certifications Application (ORCA) and Excluded Parties List System (EPLS) into one system. SAM is an online procurement system used by anyone interested in the business of the Federal Government, including Entities (e.g. contractors, federal assistance recipients, and other potential award recipients) as well as the general public searching for government business information. Entities interested in applying for Federal contracts are required to enter information in SAM including marketing information, billing information, unique identification number, business size information, as well as business assertions.

Public data on SAM is available to search and view without having to login or register for a SAM account. Public users that want to save their searches or government users needing access to higher levels of sensitive data must register for a SAM user account. Through the SAM website, the public can search for a variety of data, including name of entity, geographic area served, and products and services rendered. Search results can be downloaded and saved in a variety of formats.

In addition to SAM, the Past Performance Information Retrieval System<sup>3</sup> (PPIRS) provides timely access to past performance information of contract awardees. PPIRS also includes the module for the Federal Awardee Performance and Integrity System.

#### Contract award:

The Federal Procurement Data System<sup>4</sup> (FPDS) provides public access to data on all federal contract actions over \$3,000. FPDS identifies who bought what, from whom, for how much, when and where. It also includes the interagency contract directory. FedBizOpps<sup>5</sup> is the single government point-of-entry for solicitations of any dollar amount and for required synopsis over \$25,000, allowing commercial business suppliers and government buyers to post, search, monitor, and retrieve opportunities in federal government markets. FedBizOpps contains announcements for federal contracting opportunities, training sessions for small businesses, announcements of changes to offers, can collect bids, and can be used to upload certain information for offers.

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<sup>2</sup> <https://www.sam.gov/portal/SAM/##11>

<sup>3</sup> <https://www.ppirs.gov/>

<sup>4</sup> [https://www.fpds.gov/fpdsng\\_cms/index.php/en/](https://www.fpds.gov/fpdsng_cms/index.php/en/)

<sup>5</sup> <https://www.fbo.gov/>

Post-award management:

Several electronic procurement systems promote transparency of the contracts and subcontracts awarded by the Federal government. The Federal Funding Accountability and Transparency Act Subaward Reporting System<sup>6</sup> (FSRS) is the reporting tool Federal prime awardees (i.e. prime contractors and prime grants recipients) use to capture and report subaward and executive compensation data regarding their first-tier subawards. The sub-award information entered in FSRS will then be displayed on [www.USASpending.gov](http://www.USASpending.gov) associated with the prime award, furthering Federal spending transparency. The Electronic Subcontracting Reporting System<sup>7</sup> also facilitates reporting of accomplishments toward subcontracting goals. Additionally, the Excluded Parties List System, the EPLS, is an electronic, web-based system that identifies parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits. The EPLS keeps its user community aware of administrative and statutory exclusions across the entire government, and individuals barred from entering the United States. The public can search for this type of information in SAM at [www.sam.gov](http://www.sam.gov) and click on SEARCH RECORDS.

All of these platforms contribute to a robust redress system for bidders who suspect instances of unfair and unequitable contracting procedures. Specifically, the transparency provided by these systems allows for increased oversight of the recipients and the types of contracts awarded. For example, businesses and watchdog organizations can review if contract awardees meet the necessary criteria for certain contracts. This is particularly helpful in protecting small businesses.

**In relation to participation of society (article 13)**, States parties and signatories may wish to provide information on measures that:

- Establish e-government mechanisms, online platforms, smartphone applications, mobile telephone-based reporting and social media to enhance the effective and efficient participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption;
- Enhance the transparency of, and promote the contribution of the public to, decision-making processes, in particular through the use of online platforms to facilitate consultation with the public on issues relating to the prevention of and fight against corruption;
- Promote public information activities, including through the use of information and communications technologies, that contribute to non-tolerance of corruption, as well public education programmes;

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<sup>6</sup> <https://www.fsrs.gov/>

<sup>7</sup> <https://www.esrs.gov/>

- Respect, promote and protect the freedom to seek, receive, publish and disseminate information concerning corruption, in particular through online mechanisms;
- Provide public access, including through online mechanisms, to relevant anti-corruption bodies for the reporting, including anonymously, of any incidents that may constitute an offence established in accordance with the Convention.

In 2013, President Obama issued Executive Order -- Making Open and Machine Readable the New Default for Government Information.<sup>8</sup> Upon this Executive Order, the White House Office of Management and Budget (OMB) issued guidance on Open Data Policy (M-13-13: Managing Data as an Asset).<sup>9</sup> This Policy made all U.S. government data open and machine readable by default. These data are now easily accessible at Data.gov, which hosts almost 200,000 data sets and continues to grow rapidly, and Federal agencies and the public are able to easily access and use newly opened data sets. The President also took steps to build further value in the open data ecosystem, engaging in activities such as datapaloozas (gatherings of data experts and advocates) and creating the role of the Chief Data Scientist at the White House with many Federal agencies following suit. In 2015, “Open Data” also became one of 15 goals as part of the U.S. Cross Agency Priority Goals, which will last four years with specific milestones and metrics to measure progress.

The U.S. Open Data policy is supported by the Project Open Data<sup>10</sup> website, a repository for tools and guidance on Open Data. The Project Open Data Dashboard is a website enabling Federal agencies, industry, and the general public and other stakeholders to view details on how Federal agencies are progressing on implementing the policy. The Dashboard is an open source project, and citizens are encouraged to contribute, including by reporting bugs, suggesting new features, translating content to a new language, writing or editing documentation, writing specifications, writing code and documentation, reviewing pull requests, and closing issues.

The United States has also used information and communications technologies to promote civic participation through several high-profile platforms and initiatives. While none of these initiatives are directly focused on corruption, they have helped increase transparency and civic engagement. Some of these initiatives include:

“We the People” is an online platform that gives Americans a direct line to voice their concerns to the Administration via online petitions. It is an easy way for individuals to make their voices heard through creating and signing petitions that call for action by the federal government on a range of issues. If a petition gathers enough signatures, it will be reviewed by White House staff and receive an official response. This platform helps the White House and the Administration

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<sup>8</sup> <https://www.whitehouse.gov/the-press-office/2013/05/09/executive-order-making-open-and-machine-readable-new-default-government>

<sup>9</sup> <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2013/m-13-13.pdf>

<sup>10</sup> <https://project-open-data.cio.gov/>

understand the views of the American people and have a focused and civil conversation with them. <https://petitions.whitehouse.gov/>.

In 2015, the sixth annual Health Datapalooza, sponsored by the U.S. Department of Health and Human Services, brought together over 2,000 data experts, technology developers, entrepreneurs, policy makers, health care system leaders and community advocates to discuss the world of health data. Experts focused on data-powered ways to improve services and quality of care, offer more choices, and improve access to information for health care providers and consumers, including one's own medical information. A similar Transportation Datapalooza, sponsored by the Department of Transportation in 2015, convened experts inside and outside of government to share on a broad spectrum of data collection, applications, and analytical techniques spanning all transportation modes.

The Obama administration has also made it a priority to use digital media as a platform to serve the American people. Under this initiative, several Federal agencies have made apps for smartphones:

**NASA app:** NASA was one of the first agencies to get a high-performance app online for everyone to download for free. The app allows people to customize exactly the type of news they want to get from ongoing missions to NASA press releases.

**FBI app:** The FBI's Most Wanted app on the iPhone lets users see the 10 most wanted fugitives in the country, get information about missing children, see wanted alerts by state and even submit tips to the FBI.

**eFOIA Mobile app:** In 2015, the Department of Homeland Security launched an app allowing users to submit and check the status of Freedom of Information Act requests. The app also allows users to access all the content of the FOIA website, including the FOIA Library.

**In relation to ensuring that the public has effective access to information (article 13 (1) (b)):**

- Legislation, regulations, policies and procedures regarding public access to information through ICT, such as online platforms, including details regarding:
- Means by which requests may be submitted (in writing, via Internet, by telephone);
- The types of bodies required to publish information;
- The scope of the information published;
- Any information that must be submitted by the requester as part of the request for information;
- Costs charged to submit a request
- Applicable time limits within which the Government must respond to the request;
- Grounds on which a request by a member of the public for information may be denied;
- Description of staff or entity responsible for administering access to information requests;

- Description of steps taken to ensure that existing laws, regulations, policies and procedures regarding access to information are widely known and accessible to the public;
- Description of the means by which the public is informed of how to access information.

The Freedom of Information Act (FOIA) provides the public – regardless of citizenship - the right to request access to records from any federal agency. Federal agencies are required to disclose any information requested under the FOIA unless it falls under one of nine exemptions which protect interests such as personal privacy, national security, and law enforcement. The FOIA also requires agencies to proactively post online certain categories of information, including frequently requested records.

FOIA requests must be in writing and reasonably describe the records an individual seeks. Most federal agencies now accept FOIA requests electronically, including by web form, e-mail or fax. There is no initial fee required to submit a FOIA request, but the FOIA does provide for the charging of certain types of fees in some instances (although the Requester can ask for this fee to be waived). The time it takes to respond to a request will vary depending on the complexity of the request and the backlog of requests already pending at the agency. Instructions on how to submit a FOIA request can be found at <http://www.foia.gov/faq>.

FOIA.gov serves as the government's comprehensive FOIA website for all information on the FOIA. Among many other features, FOIA.gov provides a central resource for the public to understand the FOIA, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly available. FOIA.gov also promotes agency accountability for the administration of the FOIA by publishing agencies' quarterly reports and graphically displaying the detailed statistics contained in Annual FOIA Reports so that they can be compared by agency and over time.

The U.S. Department of Justice, through its Office of Information Policy (OIP) is responsible for encouraging agency compliance with the FOIA and for ensuring that the President's FOIA Memorandum and the Attorney General's FOIA Guidelines are fully implemented across the government. In addition to its policy functions, OIP oversees agency compliance with the FOIA. All agencies are required by law to report to the Department of Justice on their FOIA compliance through submission of Annual and Quarterly FOIA Reports and Chief FOIA Officer Reports. These reports, which are posted online, inform the public about agency compliance with the FOIA, President Obama's FOIA Memorandum, and former Attorney General Holder's FOIA Guidelines, and they serve as yearly benchmarks for agencies as they continually refine their administration of the FOIA. OIP develops guidelines for those reports, issues guidance and provides training to agencies to help them complete the reports, and reviews and compiles summaries of both agency Annual FOIA Reports and Chief FOIA Officer Reports.

The Department of Justice has also started rolling out a “FOIA tag,” which uses metadata to tag information that could help the public more easily find FOIA documents in Internet searches. This “FOIA tag” enables the public to readily locate all agency documents that contain the FOIA tag, allowing the public to quickly and efficiently identify records on specific topics of interest to them that are located in FOIA Libraries.

To increase transparency in campaign financing, the Federal Election Commission hosts a Campaign Finance Disclosure portal that provides a single point of entry to campaign finance data. It includes easy-to-navigate maps and charts that display campaign finance in a way that meets the reviewer’s interest. It includes many search tools that help individuals use the FEC data sources. Many of the data sets can be downloaded so that individuals can perform their own analyses.<sup>11</sup>

The U.S. Office of Government Ethics (OGE), which is responsible for providing overall leadership and oversight of the executive branch ethics program, uses information and communication technology to ensure the public has access to information.

A primary source of information comes from OGE’s website. In the past few years, OGE has implemented a new strategy for communicating with the public through Director’s Notes posted on the homepage of OGE’s website, [www.oge.gov](http://www.oge.gov). The Director’s Notes provide a public-friendly explanation of OGE’s role in the executive branch ethics program. In addition, OGE created a space on its homepage, called OGE Highlights, to provide current news and information about OGE and the executive branch ethics program in an easy to understand manner.

In addition, the following high-value information is currently available for download (generally in TXT, HTML, and PDF formats) on OGE's website:

- OGE Advisories: OGE posts all written guidance to executive branch ethics officials and employees, including legal, education, and program advisories.<sup>12</sup>
- Ethics Program Review Reports: OGE conducts reviews of agency ethics programs and issues recommendations to improve the ethics program if deficiencies are found. OGE posts all program review and follow-up reports to its website.<sup>13</sup>
- Ethics Pledge Report and Related Waivers: On January 21, 2009, President Obama signed Executive Order 13490, which created new commitments for political appointees entering government service. This Executive Order requires every full-time, political appointee appointed on or after January 20, 2009, to sign an Ethics Pledge. The Executive Order also requires OGE to publish an annual report on the administration of

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<sup>11</sup> <http://www.fec.gov/pindex.shtml>

<sup>12</sup> <https://www.oge.gov/web/oge.nsf/OGES+Advisories/>

<sup>13</sup> <https://www.oge.gov/web/oge.nsf/Program%20Review%20Reports>

the pledge.<sup>14</sup> In addition to posting this annual report, all waivers are made publicly available on either OGE's website<sup>15</sup> or the White House website<sup>16</sup> when issued.

- **Annual Agency Questionnaire Responses:** This Questionnaire asks agency ethics offices for information about ethics officials and the administration of agency ethics programs, as well as core elements of the ethics program that assist in the identification and resolution of potential conflicts of interest. The compiled data provides valuable insights about the executive branch ethics program. In 2015, OGE began posting to its website each agency's response in full,<sup>17</sup> in addition to providing an online summary of the combined data from the agency questionnaire responses in a visual format.<sup>18</sup>
- **Travel Reports:** Agencies are required to submit to OGE semiannual reports of payments for travel, subsistence, and related expenses received from non-federal sources in connection with the attendance of employees at certain meetings or similar functions.<sup>19</sup>

OGE also uses social media to broaden its reach to key external stakeholders and make the information posted more useful to these stakeholders. Specifically, OGE uses its Twitter account<sup>20</sup> to direct the public to detailed information on its website and to provide an additional way to access OGE's latest publications. OGE also uses its Twitter account to provide information regarding changes in executive branch ethics laws, regulations, and programs. In addition, OGE has expanded its use of social media by creating Google+ and YouTube pages.<sup>21</sup> OGE uses these accounts to live stream ethics education offerings to ethics officials and to live-stream events such as OGE's National Government Ethics Summit.

Further, all public financial disclosure reports for presidentially appointed, senate-confirmed positions have been publically available, upon request, since 1979. A subset of the reports for certain presidentially appointed, senate-confirmed positions are available by email, once an individual completes

an easy-to-use online form on OGE's website.<sup>22</sup>

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<sup>14</sup> [https://www.oge.gov/web/oge.nsf/Annual+Report+on+Executive%20Order%2013490%20\(Ethics%20Pledge\)](https://www.oge.gov/web/oge.nsf/Annual+Report+on+Executive%20Order%2013490%20(Ethics%20Pledge))

<sup>15</sup> <https://www.oge.gov/Web/OGEnsf/Executive+Branch+Agency+Ethics+Pledge+Waivers>

<sup>16</sup> <https://www.whitehouse.gov/briefing-room/disclosures/ethics-pledge-waivers>

<sup>17</sup> <https://extapps2.oge.gov/annualquestionnaire/aq2014.nsf>

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[https://www2.oge.gov/web/oge.nsf/8c1c7c4b3ca9da3485257ea6006d9aff/\\$FILE/Executive%20Branch%20Ethics%20Program%20Roles%20and%20Responsibilities.pdf](https://www2.oge.gov/web/oge.nsf/8c1c7c4b3ca9da3485257ea6006d9aff/$FILE/Executive%20Branch%20Ethics%20Program%20Roles%20and%20Responsibilities.pdf)

<sup>19</sup> <https://www2.oge.gov/web/oge.nsf/Travel%20Reports?openview>

<sup>20</sup> <https://twitter.com/OfficeGovEthics>

<sup>21</sup> <https://www.youtube.com/user/OGEinstitute>

<sup>22</sup> <https://extapps2.oge.gov/201/Presiden.nsf>

**In relation to undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula (article 13 (1) (c)):**

- Description of public information (education and awareness-raising) activities that contribute to non-tolerance of corruption, particularly those using ICT, including specific initiatives targeting groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations;
- Description of various means and/or technologies that have been used for the purposes of undertaking public information activities;
- Description of the use of ICT in educational courses or modules that have been introduced in primary and secondary schools that include components on corruption or related issues such as ethics, civil rights or governance;
- Description of the use of ICT in university courses or modules that include components on corruption or related issues such as public administration, public procurement, ethics, criminal law or corporate governance.

Many U.S. federal agencies actively use social media to raise awareness about U.S. efforts to combat corruption both internationally and domestically. The Department of State, for example, is active in the social media arena, with a sizable following among Facebook, Twitter, and blog users, and utilizes social media to raise awareness about efforts to prevent and combat corruption, among other issues. The Department of State also plans to expand on a range of opportunities for the public to interact with Department of State officials and offer opinions, questions, and feedback, both in the United States and abroad. For example, the Department of State is launching a series of “Google+ Hangouts” in which the public can interact with senior State officials as they discuss a wide range of foreign policy issues that relate to good governance. The Commerce Department, as well as many other agencies, posts officials’ remarks about international anticorruption efforts and what the Department is doing to combat international corruption as a trade barrier on the internet, including Commerce blogs and LinkedIn. International Anticorruption Day provides a good example of how many agencies use social media to amplify what the U.S. Government is doing to fight corruption.

The U.S. government also utilizes the Internet as a platform for making educational materials available to the public. Examples of U.S. government anti-corruption publications available online include:

U.S. Efforts to Internationalize Action against Corruption: This online document outlines the different lines of effort in which the U.S. Government is engaged to combat corruption internationally.<sup>23</sup>

A Resource Guide to the Foreign Corrupt Practices Act (FCPA Guide): The FCPA Guide contains information about the FCPA's history, related international conventions, and key provisions of the statute; discusses enforcement efforts by the DOJ and SEC; and provides information about related issues, including the importance of an effective compliance program to detect and prevent FCPA violations. The FCPA Guide is an unprecedented resource, providing lawyers, the business community, and ordinary citizens a substantive discussion of the FCPA and its application. It is available in PDF format on several websites.<sup>24</sup> In addition to the FCPA Guide, the SEC<sup>25</sup> and DOJ<sup>26</sup> websites also provide comprehensive information on the enforcement of the FCPA. Information includes details of case summaries and translations of the FCPA in several languages, information on the Opinion Procedure, press releases, international conventions and other guidance.

**In relation to respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption (article 13 (1) (d)):**

- Outlines of the procedures or regulations that ensure the freedom of the public to seek and receive information concerning corruption, in particular using ICT. States parties and signatories may wish to include the following information, if applicable:
- The extent to which such information is proactively and systematically published by the Government online;
- The extent to which such information is available upon online request for access to information by a member of the public;
- Any restrictions applicable to exercise of the freedom to seek, receive, publish and disseminate such information, in particular using ICT, including:
- Restrictions necessary for respect of the rights or reputations of others (libel and defamation laws, etc.);
- Restrictions necessary for the protection of national security or *ordre public* or of public health or morals;
- Description of how such restrictions are applied in practice;
- Description of procedures that allow a member of the public to apply for review of, or appeal against, the application of such a restriction by the Government.

Information about corruption is proactively and systematically published by several U.S. government agencies. For example, through its website, the Federal Bureau of Investigation

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<sup>23</sup> <http://www.state.gov/documents/organization/200526.pdf>

<sup>24</sup> <http://www.sec.gov/spotlight/fcpa/fcpa-resource-guide.pdf>

<sup>25</sup> <http://www.sec.gov/spotlight/fcpa/fcpa-cases.shtml>

<sup>26</sup> <https://www.justice.gov/criminal-fraud/related-enforcement-actions>

(FBI) provides public corruption stories, revealing various incidents of corruption within state agencies, elected officials, and individuals within civil society. Individuals are able to connect and subscribe to the agency's various social media outlets (Facebook, Twitter, YouTube, iTunes, and Email) to get updates. The U.S. Office of Government Ethics (OGE) also annually issues a survey of prosecutions involving the conflict of interest criminal statutes (18 U.S.C. §§ 202-209). These surveys are publicly available on the OGE website.<sup>27</sup>

The General Services Administration also proactively publishes Entities suspended and/or debarred from receiving U.S. procurements. Suspensions and/or debarment actions are taken against Entities found to be involved in corrupt contracting practices. Any company or individual that is suspended or debarred is placed on [www.SAM.gov](http://www.SAM.gov) as an excluded entity. Before any contract is awarded, contracting officers are required to check [SAM.gov](http://SAM.gov) twice.

As outlined above, the Freedom of Information Act (FOIA) also provides the public the right to request access to records from any federal agency. Typically, a FOIA request can be made for any agency record, and a requestor can specify the format in which he or she wishes to receive the records (for example, printed or electronic form). However, not all records can be released under the FOIA. The U.S. Congress established certain categories of information that are not required to be released in response to a FOIA request because release would be harmful to a government or private interest. These categories are called "exemptions" from disclosures. Still, even if an exemption applies, agencies may use their discretion to release information when there is no foreseeable harm in doing so and disclosure is not otherwise prohibited by law. Additional information about what is exempted from disclosure is available on [FOIA.gov](http://FOIA.gov).

Requestors may file an administrative appeal if they are not satisfied with an agency's initial response to a request. This is done by sending a letter or e-mail to the designated appeal authority of the agency stating that the individual is appealing the initial decision made on the request. There is no fee or cost involved. After an independent review, the appellate authority will send a response advising of its decision. Once the administrative appeal process is complete, a requestor also has the option to seek mediation services from the Office of Government Information Services at the National Archives and Records Administration.

**In relation to taking appropriate measures to ensure that the relevant anti-corruption bodies are known to the public and providing access to such bodies for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with the Convention (article 13 (2)):**

- Description of online public information campaigns that promote awareness of the existence of anti-corruption bodies;
- Description of the means by which members of the public are provided with access to such bodies, particularly through ICT, for the reporting of acts of corruption;

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<sup>27</sup> <https://www.oge.gov/Web/OGE.nsf/Enforcement/CA7CA5DBD255B81F85257E9600636507?opendocument>

- Description of the operational mechanisms and applicable procedures for such reporting channels, including reporting obligations, information to be provided and whether reports may be made anonymously.

The United States has several anti-corruption bodies responsible for identifying and investigating acts of corruption. Many federal agencies have their own Offices of Inspector Generals (OIG), where the public can report information about waste, fraud, abuse or mismanagement involving federal programs or employees. All OIGs are required to provide mechanisms to file complaints through online submission portals, via email, or through a dedicated hotline.

In addition to the OIG, there are also several online platforms that allow individuals to report instances of fraud and corruption in federal agencies. The Office of Special Counsel, whose primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, has an online platform that allows individuals to file disclosures of wrongdoing, including acts of corruption and fraud.<sup>28</sup> Filing a complaint requires the user to set up a unique user identity; if an individual would like to file anonymously, he or she must complete a printed form and send it in by mail or fax. Individuals can also submit instances of corruption online through to various legislative committees, including the House of Representatives' Oversight and Government Reform Committee and the Veterans Affairs Committee. While these platforms do not allow users to file reports anonymously, they do stipulate information will be kept confidential to the fullest extent possible.

There are several different avenues available to whistleblowers to report acts of bribery, including violations of the Foreign Corrupt Practices Act (FCPA). Individuals and companies with information about possible FCPA violations by issuers may report them to the Enforcement Division of the Securities and Exchange Commission (SEC) via its online Tips, Complaints and Referral system.<sup>29</sup> They may also submit information to SEC's Office of the Whistleblower through the same online system or by contacting the Office of the Whistleblower. Information can be submitted anonymously, but this requires the whistleblower to be represented by a lawyer in connection to the submission. The SEC will, however, keep the identity of Whistleblowers confidential to the fullest extent of the law. Companies wishing to report unfair foreign governments trade barriers, which includes concerns about corruption and bribery, can do so to the Department of Commerce's Office of Trade Agreements Negotiation and Compliance through an online form.<sup>30</sup> Whistleblowers can also simply email the Department of Justice Fraud Section at [FCPA.Fraud@usdoj.gov](mailto:FCPA.Fraud@usdoj.gov) to report suspected acts of bribery.

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<sup>28</sup> <https://osc.gov/pages/file-complaint.aspx>

<sup>29</sup> <http://www.sec.gov/complaint/tipscomplaint.shtml>.

<sup>30</sup> [http://tcc.export.gov/report\\_a\\_barrier/trade\\_barrier\\_examples/bribery.asp](http://tcc.export.gov/report_a_barrier/trade_barrier_examples/bribery.asp)

The Department of Justice's Public Integrity Section (PIN) oversees the federal efforts to combat corruption through the prosecution of elected and appointed public officials at all levels of government. The Section has exclusive jurisdiction over allegations of criminal misconduct on the part of federal judges and also supervises the nationwide investigation and prosecution of election crimes. Every year, the PIN publicly publishes a report on its website outlining provides examples of noteworthy public corruption cases.

## **II. Information requested from States parties and signatories in relation to promoting good governance in sport and mitigating the risk of corruption that sport faces globally**

**In the context of prevention, please describe (cite and summarize) the measures/steps your country has taken (or is planning to take, together with the related appropriate time frame) to promote good governance and mitigate the risk of corruption in sport.**

Information sought may, in particular, include the following:

### **Legislation and policy**

- Good governance and/or anti-corruption legislation or policies (strategies, codes or other policies) that have been developed by the State party;
- Training of relevant officials and stakeholders in good governance and/or anti-corruption policies relevant to sport;
- Risk assessments of areas or sectors related to good governance and corruption in sports;
- Establishment of policy implementation, institutional or coordination mechanisms (allocated budget, designated responsible institutions, establishment of coordination structures, etc.).

### **Partnerships and inter-institutional coordination**

- Description of how the participation of relevant stakeholders is promoted, including whether they are consulted and involved in the development, implementation, coordination and monitoring of policies;
- Measures to promote cooperation, coordination and exchange of information between law enforcement authorities, sports governing bodies and/or the private sector in relation to integrity in sport;

The Federal Bureau of Investigation's (FBI) Sports Bribery Program leads the U.S. Government's efforts to combat and prevent corruption in sports. This program, which is an outreach initiative of the La Cosa Nostra/Major Theft Operations Unit in the Transnational Organized Crime Section of the Criminal Investigative Division, has several facets, including the Sports Presentation Program, which helps college and professional sporting associations ensure the integrity of their sporting events. Specifically, the program is designed to educate, and bring

awareness to, NCAA and professional athletes, administrators, and officials/referees with respect to Illegal Gambling and Sports Bribery/Match-Fixing. As part of this program, the unit maintains liaison with the NCAA and many of the U.S. professional sports leagues, to include the NBA, NFL, MLB, and NHL.

This program also investigates violations of federal statutes concerning gambling and corruption in the sports industry, usually with the involvement of organized crime. During the last several years, the FBI has investigated allegations of Sports Gambling and Point-Shaving against several NCAA male football and basketball players. In addition, the FBI conducted an investigation of one NBA Referee who served a prison sentence for his role in betting on games he officiated, as well as providing inside information to Organized Crime members.

The FBI's Sports Presentation Program continues to work with the FBI's Domestic and Overseas Attaché Offices in an effort to ensure the integrity of athletic events in the United States by mitigating the threat of Organized Crime influencing the outcome of U.S. amateur and professional sports matches.

**In the context of enforcement, please describe (cite and summarize) the measures/steps your country has taken (or is planning to take, together with the related appropriate time frame) to ensure the detection, investigation and prosecution of criminal offences linked to sport integrity.**

Information sought may, in particular, include the following:

- Examples of criminal cases involving offences linked to integrity in sport (corruption, money-laundering, organized crime, match-fixing, etc.);
- Criminalization of sport-specific offences such as match-fixing, competition manipulation, illegal betting and betting manipulation;
- Activities and training to develop the capacity of investigators, prosecutors and other relevant officials in relation to criminal offences linked to integrity in sport;
- Establishment of specialized law enforcement or prosecutorial units responsible for dealing with offences relating to integrity in sport;
- Development of cooperation and coordination mechanisms to promote interaction between law enforcement authorities and relevant stakeholders, such as sport organizations or private-sector entities, in relation to criminal offences relating to sport.

Illustrative examples of the United States' ability to reach crimes related to sport are the following recent actions against a number of individuals and organizations involved with FIFA:

In May 2015, United States prosecutors filed an indictment in federal court charging 14 defendants with racketeering, wire fraud and money laundering conspiracies, among other offenses, in connection with the defendants' participation in a 24-year scheme to enrich themselves through the corruption of international soccer. Later in December, an additional 16 defendants were charged in a superseding indictment. The new charges unsealed in December brought the total number of individuals and entities charged to date to 41. Of those, 12 individuals and two sports marketing companies have already been convicted as a result of the ongoing investigation. The convicted defendants have agreed to pay more than \$190 million in forfeiture. In addition, more than \$100 million has been restrained in the United States and abroad in connection with the alleged criminal activity.

The United States has issued mutual legal assistance requests seeking the restraint of assets located in 13 countries around the world. The indicted and convicted defendants face maximum terms of incarceration of 20 years for the Racketeer Influenced and Corrupt Organizations Act (RICO) conspiracy, wire fraud conspiracy, wire fraud, money laundering conspiracy money laundering and obstruction of justice charges. In addition, those that are charged with violations of tax laws face maximum terms of five and three years, upon conviction. Each defendant also faces mandatory restitution, forfeiture and a fine. The investigation is ongoing.

**Please outline actions required to promote good governance in sport and mitigate the risk of corruption and describe any specific challenges you might be facing in this respect.**

Examples of the types of challenge that States parties and signatories may face include:

- Developing an appropriate legislative framework in relation to good governance and corruption in sport (e.g. match-fixing, competition manipulation, illegal betting and betting manipulation);
- Bringing together government representatives and relevant international, sports and private-sector organizations to identify and implement good practice standards and helping officials to combat corruption in sport;
- Supporting the work of law enforcement and investigation services and sports organizations

The United States' legislative framework to mitigate the risk of corruption in sports is comprised of a plethora of different federal statutes. These include the Wire Act, the Travel Act, the Illegal Gambling Act, the Sport Bribery Act, and the Professional and Amateur Sports Protection Act. However, while these Federal laws are routinely enforced, the vast majority of sports regulation is the responsibility of the individual states, which develop and enforce their own legislative frameworks. As a result of this system, the Federal government plays a smaller role in the promotion of good governance in sports than the states. Moreover, many of the major sports associations, as private business or non-profit organizations, have developed their own internal

policies and regulations to promote good governance and mitigate the risk of corruption among players, coaches, and referring officials. Many enforcement actions are therefore outside the mandate of the U.S. government.