

The logo of the Asian Development Bank (ADB), consisting of the letters 'ADB' in white serif font on a dark blue square background.

ADB

FREQUENTLY ASKED QUESTIONS

ANTICORRUPTION AND INTEGRITY

Asian Development Bank

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Abbreviations

ADB	Asian Development Bank
AO	administrative order
AC	administrative circular
BPHR	Human Resources Division
BPMSD	Budget, Personnel, and Management Systems Department
DMC	developing member country
IOC	Integrity Oversight Committee
MDB	multilateral development bank
OAGI	Office of the Auditor General, Integrity Division
OM	operations manual
PPRA	project procurement-related audit
RM	resident mission
	Denotes conflict of interest situation

Foreword

The Asian Development Bank (ADB) recognizes that its staff are its frontline of defense in the fight against fraud and corruption, and are best placed to identify and report misconduct or suspected corrupt or fraudulent acts. Without the active and intentional support and participation of its staff, ADB would be severely limited in its fight against fraud and corruption, a vital element in its declared vision to reduce poverty in Asia and the Pacific region.

Anticorruption and integrity are often misconceived, and affected by cultural overtones and bias. This publication was developed to provide pragmatic information on these issues. While it is not an exhaustive treatment of the subject, it aims to provide both general and specific guidance to staff for commonly encountered situations under ADB's rules.

We hope that each of you will find it useful.

Philip Daltrop
Auditor General

Introduction

Purpose and Scope

What is the purpose and scope of these FAQs?

These frequently asked questions (FAQs) aim to assist staff to understand and apply the Asian Development Bank's (ADB) anticorruption policy and Integrity Principles and Guidelines.

Adherence to ADB's anticorruption policy will impact staff's behavior at ADB and outside of the workplace.

As such, while not meant to be all-encompassing, these FAQs provide pragmatic information to assist staff on both these fronts.

While the policy does cover all ADB-financed and supported activities, these FAQs were prepared for the use of staff directly employed by ADB,¹ and are not aimed at:

- individuals or firms that are not directly employed by ADB vis-à-vis those employed by developing member countries (DMCs) or their executing agencies;² or
- individuals or firms contracted to provide goods and works, whether directly to ADB or to its projects.³

The Anticorruption Policy

What is ADB's policy on anticorruption?

ADB has a zero tolerance policy to matters of corruption and fraud.⁴ A primary aim of the anticorruption policy is to ensure that ADB projects and staff adhere to the highest ethical standards.⁵

¹ ADB Board of Directors, the President, and Vice Presidents of ADB are covered by the *Code of Conduct and Ethics Committee and Procedures for Directors, Alternate Directors and the President* (1 September 2006). Vice Presidents are also covered by Administrative Order (AO) 2.02.

² Covered by *Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers* (April 2006) and Project Administration Instructions.

³ Covered by *Procurement Guidelines* (February 2007) and Project Administration Instructions.

⁴ *Anticorruption Policy*, para 57.

⁵ Operations Manual (OM) Section C5/BP, para 6(iii). 15 March 2006.

The Operations Manual (OM) elaborates on ADB's anticorruption policy as follows:

OM Section C5/BP

ADB's anticorruption policy strongly affirms that corrupt behavior is a serious impediment to the development process. Experience demonstrates that significant progress can be made against corruption if the proper legal, institutional, and policy reforms are in place.

ADB seeks to address corruption as part of its broader work on governance issues and recognizes the importance of accountability for officials in the public and private sectors, and transparency and predictability in public and private sector operations.⁶

ADB's policy supports governments' efforts toward effective and transparent systems for public service, anti-bribery and business integrity, and active public involvement in the fight against corruption. Anticorruption issues are incorporated in country partnership strategies and in policy sector dialogue.

It is intended to reduce the burden that widespread corruption places on the economies of Asia and the Pacific region, and on the economic growth of ADB's DMCs.

What are some basic rules that staff should know relating to ADB's anticorruption policy?

Staff must be familiar with the Code of Conduct (reproduced as appendix) as contained in Section 4 of Administrative Order (AO) No. 2.02. They should also be familiar with the definitions, procedures, and examples contained in AO No. 2.04.

Staff are obliged to familiarize themselves with *Integrity Principles and Guidelines* (November 2006) and ADB's *Anticorruption Policy* (July 1998).⁷

The duties and responsibilities of staff members are specified in Section 4 of AO 2.02. The Code of Conduct sets out the standards of conduct expected of all ADB staff. They are expected to maintain a high degree of integrity and concern for ADB's interests and to avoid situations and activities which

⁶ OM Section C5/BP, para 4. 15 March 2006.

⁷ These are also published in *Anticorruption and Integrity: Policies and Strategies* (December 2007).

may reflect adversely on ADB, compromise its operations, or lead to conflicts of interest.

Where applicable, the activities and individual interests of staff's immediate family (i.e., parents, spouse, children, and siblings) must also be taken into account.

Staff who fail to comply with the Code of Conduct risk facing disciplinary measures as set out in AO 2.04.

Staff are required to adhere to and observe the highest ethical standards within and outside the workplace, and to conduct themselves in a manner befitting their status as international civil servants.⁸

Staff must report incidents of fraud and corruption to the Office of the Auditor General, Integrity Division (OAGI).⁹ Staff could face disciplinary measures for failing to report fraudulent and corrupt practices. OAGI will

- use its best efforts to encourage and protect whistleblowers and will protect the identity of whistleblowers and witnesses from unauthorized disclosure throughout and following an investigation;
- maintain the confidentiality of any information that could, in its judgment, compromise whistleblowers or witnesses; and
- pursue all reasonable steps, including recommending to Budget, Personnel, and Management Systems Department (BPMSD) to pursue disciplinary procedures related to ADB staff, to ensure that whistleblowers and witnesses acting in good faith with allegations or evidence of fraud, corruption, or abuse are not subject to retaliation or punishment.

To whom does the anticorruption policy apply?

The anticorruption policy applies to all ADB staff and all entities associated with ADB and its activities.¹⁰ In other words, it applies to all ADB-financed activities, and to staff, borrowers, beneficiaries, bidders, suppliers, consultants, and contractors.

It applies to all staff employed directly or indirectly by ADB regardless of type of appointment. The anticorruption policy therefore encompasses those employed on a contractual or project basis, whether as individuals or through a firm.

⁸ *Anticorruption Policy*, paragraph 53; and AO 2.02, paragraph 4.3[i].

⁹ *Integrity Principles and Guidelines*, para 14.

¹⁰ OM Section C5/BP, para 5.

In certain circumstances, ADB may also impose sanctions on other parties who have not displayed behavior of the highest ethical standards but are otherwise eligible to participate in ADB-financed activity.¹¹

Who is responsible for implementing the anticorruption policy?

Each staff member is responsible for implementing the anticorruption policy, in that each of us has a personal obligation to ensure the integrity of ADB operations within our respective areas of responsibility.¹²

Under the terms of office approved by the President, OAGI is the initial point of contact for all allegations of fraud, corruption, and abuse among ADB-financed or supported activities, including its staff. It is responsible for conducting independent and objective investigations into allegations received, performing procurement-related audits, providing training in relation to prevention and detection of fraud and corruption, and advancing education and knowledge of anticorruption and integrity efforts.¹³

Corruption, Fraud, and Misconduct

How does ADB define corrupt and fraudulent practices?

Corrupt and fraudulent practices under ADB's anticorruption policy are defined in Table 1. Common examples of these are also provided there.

These definitions are harmonized with those of other international financial institutions.¹⁴

¹¹ ADB has the latitude to impose sanctions where ADB determines that an entity eligible to participate in an ADB activity has not maintained the highest ethical standards, even if the activity that demonstrates the failure to maintain such high ethical standards is not related to an ADB activity, and those sanctions may apply to any ADB activity or situation. *Anticorruption Policy Clarifications and Related Changes to Consulting and Procurement Guidelines*, para 17. 2004.

¹² OM C5/OP, para 33.

¹³ *Integrity Principles and Guidelines*, para 6.

¹⁴ *Integrity Principles and Guidelines*, para 2.

Table 1: Definitions

Type	Description	Examples
Corrupt practice	The offering, giving, receiving, or soliciting, directly or indirectly, anything of value to improperly influence the actions of another party	Bribery, kickbacks, extortion, bid manipulation
Fraudulent practice	Any action, including misrepresentation, to obtain a financial or other benefit by deception	Fraudulent claims; using goods of lower than agreed quality, submitting false documents or information, misrepresentation of qualifications
Collusive practice	An arrangement between two or more parties designed to improperly influence the actions of another party	Leaking of bid information, rigged specifications
Coercive practice	Impairing or harming, or threatening to impair or harm, directly or indirectly, any party or its property to improperly influence the actions of that party	Threats to harm one's reputation, giving a poor performance evaluation in retaliation, allowing reimbursement of expenses only in return for a favor

What is misconduct, and how is it related to the anticorruption policy?

Misconduct includes, but is not limited to, the failure to observe the Staff Regulations, AOs, administrative circulars (ACs), and all other duties of employment.¹⁵



¹⁵ AO No. 2.04, para 2.1.

OAGI is mandated to investigate allegations of misconduct involving:


- violations of the anticorruption policy;
- abuse (theft, waste or improper use of assets related to ADB-financed activity, either committed intentionally or through reckless disregard);
- a conflict of interest, which is any situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations; and
- any other misconduct as defined under ADB's AOs that OAGI would investigate at the request of the President or Director General, BPHR.¹⁶

Examples of misconduct include, but are not limited to:

Fraud

- submitting false medical insurance claims;
- fraudulently claiming dependency allowance;
- fraudulently claiming rental subsidy when property is effectively owned by claimant;
- intellectual dishonesty, e.g., plagiarism, copyright infringement;
- allowing unauthorized use of your medical insurance cards;
- submitting false documents—e.g., resumes, bank guarantees, certificates of employment, examination transcripts;
- unauthorized use of funds;
- abusing sick leave privileges;
- soliciting and receiving payments on ADB's behalf;
- submitting prescriptions from non-registered medical practitioners;
- abusing travel privileges;
- misrepresenting personal qualifications and experience;
- theft and embezzlement;
- excessive use of e-mail and phone/fax facilities for private purposes.

Conflict of Interest

- trading in short-term securities and currencies of borrowing member countries of ADB; 

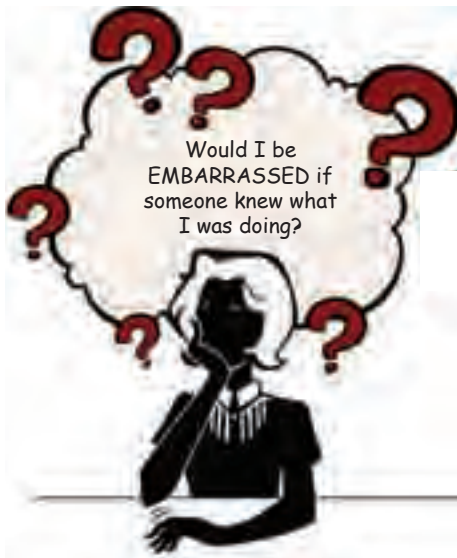
¹⁶ In accordance with procedures outlined in AO 2.04.

- facilitating bids, proposals, or submissions in exchange for personal benefit; ⚠
- using nonpublic financial information for private advantage, e.g., to profit from short-term trading or investment activity. ⚠

Other Misconduct

- harassment;¹⁷
- alcohol and drug abuse.¹⁸

⚠ *This describes a conflict of interest situation. Conflicts of interest are discussed further on pages 9–21. This symbol will be used throughout this document to indicate conflict of interest situations.*



¹⁷ The issue of harassment is covered by AO 2.11 Prevention of Harassment. 11 January 2007.

¹⁸ *Alcohol and Drug Abuse. Information for Staff.* March 1998.

The Vital Role of Staff

Conflict of Interest

What is a conflict of interest?

A conflict of interest is any situation which could potentially and/or improperly influence your decisions and/or compromise your personal integrity, irrespective of whether benefits are actually received as a result or not. For example, when a staff's personal interest or relationship may be—or is—put before ADB's best interest, that staff is in a conflict of interest situation. Avoiding a conflict of interest situation is crucial to safeguard your personal integrity, and justify the trust that has been accorded to you.

A conflict of interest can be

- *real/actual*—where actual benefits are received,
- *apparent*—where suspicions are raised of benefits improperly received, or
- *potential*—where one is in a position that enables benefits to be improperly received.

To identify if you are in a conflict of interest situation, try the



Personal Integrity and Responsibilities

How can I avoid conflict of interest or mitigate potentially damaging consequences of being in a conflict of interest situation?


Disclose the conflict of interest situation immediately. Disclosure should be made directly in writing to the staff member's Director, Head of Department/ Office, or immediate superior (if more senior). Inquiries and complaints about staff failing to disclose a conflict of interest may be sent to integrity@adb.org or to Director, OAGI. If possible, obtain written confirmation that the disclosure has been noted, and retain a copy for your files.

Administrative Circular No. B-2 is the guide for ADB staff in relation to disclosure of

- nonpublic information;
- financial and business interests;
- external publications;
- speaking in an unofficial capacity;
- benefits and gifts; and
- recognitions such as medals, awards, decorations, citations, and other similar honors.

Section 4 of AO 2.02 also addresses political and outside activities and interests.

If the conflict of interest arises from the ownership of an asset, one option is to **divest** personal assets or financial/business interests that put you in a position of conflict of interest.

 *Dispose shares in a corporation that bids for ADB-financed contracts.*

If you are aware that your situation (family connections, business interests, knowledge of nonpublic information) puts you in a potentially compromising situation, **abstain** from being part of the process that will require your influence on the outcome.



ADB staff must maintain a high degree of integrity and concern for ADB's interests.¹⁹ As such, any situation and activity, which may reflect adversely on the institution, compromise its operations, or lead to conflicts of interest, even if not specifically covered by AOs, ACs, or other ADB documents, must be carefully avoided.

⚠ *AO 2.01 states that its recruitment practices should avoid any element of nepotism, conflict of interest, and other questionable situations. Accordingly, close relatives of personnel or their spouses will not be eligible for appointment as a staff member of ADB. While the employment of close relatives is not specifically discussed as requiring disclosure, incumbent ADB staff whose close relatives are being considered for employment by ADB should disclose this fact to the relevant officers.*

Some examples of conflict of interest situations are discussed in the following FAQs. Examples are also contained in the following ADB guidelines and instructions.

- *Project Administration Instructions No. 2.01* (Issued December 2001, Revised February 2008) *General Guidelines on Recruiting Consultants* paragraphs 18–20, 25, 32–33.

¹⁹ AO 2.02, para 2.13.

- *Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers (February 2007)* paragraphs 1.10–1.11(c)

Can I accept gifts?

As a rule, ADB staff and their immediate family shall NOT accept benefits, favors, or gifts from sources external to ADB with respect to any ADB transaction, whether by way of compensation, commission, favorable buying or selling arrangements, gift, employment, or otherwise.²⁰ Examples are contained in Table 2.

However, when ADB staff or members of their immediate family find it difficult to refuse or decline benefits, favors, or gifts, they must promptly disclose this in writing to the head of department or office and follow all other procedures contained in Section 4 of AC B-2.



²⁰ AO 2.02, para 4.8(vi).

Table 2: Gifts

Example	Comment
Flowers, souvenirs, chocolates as a welcome, thank you, or farewell gift, i.e., small gifts of limited value	OK—not material, small gifts of limited value, or which are gestures of hospitality may be accepted but should be disclosed.
⚠️ Provision of free accommodation and/or entertainment	OK if it is a gesture of hospitality and there is no expectation to return a favor, but should be disclosed.
⚠️ Money, gold, diamonds, precious stones, rare fabrics or materials, e.g., shatoosh shawls, ostrich-leather briefcases.	NO—too significant for a return favor not to be expected
⚠️ Opportunity to buy, at lower cost, goods for your spouse’s import/export business, in exchange for your vote on a contract.	NO—a return favor is expected
Detour to view the sights, while on a helicopter ride to view progress in the construction of a reservoir (ADB-financed project).	OK, as long as the detour is insignificant in relation to the total distance and time of the trip.

Can I accept lunch invitations?

ADB staff should not accept free drinks or meals from external parties if it is perceived that a favor of any sort is expected in return, especially if the favor potentially compromises the staff’s integrity in the performance of official duties and responsibilities. However, reasonably hosted entertainment is acceptable. ADB staff receiving any such benefit or invitation should disclose this in writing to the head of department or office and follow all other procedures contained in Section 4 of AC B-2. See Table 3.



Table 3: Meals

Example	Comment
⚠ Working lunches	OK
⚠ Dinner at a five-star hotel with entertainment thrown in	OK if this is a normal gesture of hospitality and you do not suspect a return favor is expected.





Can I accept invitations to speak in public?

ADB staff may not deliver any speech or presentation, broadcast to the public, except if appropriate authorization is obtained, or unless this is in the course of normal official duties. Specifically, ADB staff must obtain authorization for external publications or speaking in ADB staff member's personal capacity, especially if these pertain to policies or activities of ADB or national policy issues.

To obtain appropriate authorization, ADB staff at the level of heads of department/office and below must follow instructions contained in Section 3 of AC B-2.

Table 4: Public Speaking

Example	Comment
<p> You are asked to give a speech at your child's school assembly</p>	<p>OK—provided you make it clear that you are speaking as a private individual, and not as a representative of ADB.^a</p>
<p> You are asked to give a seminar at a conference on strategies in private investment</p>	<p>The context in which the seminar is given, as well as the content of the seminar, must be cleared with ADB before accepting.^b</p>

^a AC B-2, para 3(a).

^b AC B-2, para 3(d).

Do I have to report if I or a member of my immediate family has an interest or ownership in another company? If so, to what extent and how do I report?

AO 2.02 lists business and financial situations which should be avoided and/or reported by ADB staff. Table 5 lists some of the situations and the corresponding ADB staff obligations:

Table 5: Influence and Investments

Situation	Comment
⚠ Private employment or engaging in any occupation or profession or own or operate any business	Must obtain prior approval of the President; not allowed if in ADB's opinion it is incompatible with the proper performance of their official duties
⚠ Service as a director, officer, or partner of any entity, other than as an authorized representative of ADB, or for a charitable, social, or religious entity.	Must obtain the prior approval of the President.
⚠ ADB staff or any immediate family member holds any financial or business interests which might reflect unfavorably on ADB, or which might be in real, apparent, or potential conflict with ADB staff duties.	Promptly disclose to director or head of department/office.
⚠ Securities held in trusts, estates, investment funds or similar investment vehicles, or in entities that are publicly traded.	Acceptable, as long as: <ul style="list-style-type: none"> • The purchase of these is consistent with the usual investment activities of the ADB staff member. • The aggregate holding is less than 1% of the particular class of shares held. • There is no right to exercise authority over operational activities or investment decisions of the entity.
⚠ Investing in securities (or options on securities) issued by ADB.	Acceptable, as long as they do not engage in speculative, short-term trading of the same.
⚠ My family has a share in a family concern that is bidding for an ADB-financed contract.	DECLARE and ABSTAIN from any involvement in the bidding process of the project.

The type of influence (financial or otherwise) and investment ADB staff may have in the relevant company or entity may take many forms. It may be previous, current, or prospective. It may be an involvement in the decision making of that entity, actual ownership of a portion of its equity, or employment by—or service to—that entity.

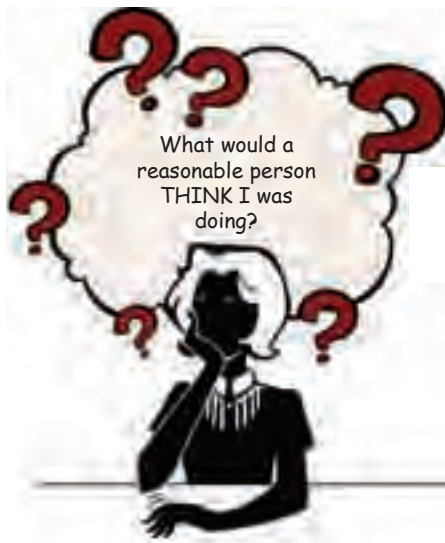
Note that no tangible remuneration or benefits need be received by ADB staff for this influence to result in a conflict of interest situation.

It is not possible to cover all scenarios. ADB staff are strongly advised to regularly and conservatively appraise their financial situation, and those of immediate family members, according to Section 4.10, AO 2.02 [refer Appendix], and act accordingly.

Some sample scenarios are provided in Table 6.

Table 6: Past and Future Activities

Example	Comment
<p>⚠ I once sat on the Board of a nongovernment organization (NGO) that's bidding for the contract that I have some involvement in.</p>	<p>DECLARE and ABSTAIN from decision making.</p>
<p>⚠ I have been offered a position at an NGO based on my knowledge of Country K. Before I leave, I am asked to go on a fact-finding mission to Country K. Should I go?</p>	<p>NO, as you may obtain confidential information that would impact on your subsequent employment. DECLARE and ABSTAIN from going.</p>




What if I or a member of my immediate family gains a position in the government of a donor country, or a DMC?

ADB staff must not hold other public employment or appointment which in ADB's opinion is incompatible with the performance of staff's official duties. They must obtain the prior approval of the President before accepting such employment or appointment.

If they accept appointment to any national public office of a political character or accept a nomination for such an office, they must immediately resign from ADB.

In situations where this involves an immediate member of ADB staff's family, the staff member should properly disclose this if it may potentially cause them to act improperly in the course of their ADB duties, or if it reflects unfavorably on ADB. If in doubt, disclosure is recommended. See Table 7.

Table 7: Public Office

Example	Comment
 Family member's election to the government, where dealings with that country is part and parcel of your normal ADB duties	DECLARE. Your duties may have to be realigned.

How should I declare financial, business, and political interests and affiliations if I consider these may potentially interfere with the proper carrying out of my ADB duties? Would I still be able to continue with my duties?

Disclose this promptly and in writing to your Director, Head of Department/Office or immediate superior (if more senior).

An instruction will then be issued for you to continue, modify, or curtail you from exercising your duties. This shall be provided to you in writing.

You may request a review with the Director General, BPMMSD should you disagree with the instruction.²¹

²¹ This is governed by Section 2 AC B-2 and described in para 4.10 AO 2.02.

What if knowledge of significant association or financial investment is known but not disclosed before the granting of a contract or loan?

If significant association or financial investment leads to ADB staff or immediate family receiving some benefit from the granting of the contract or loan, or otherwise resulting in a conflict of interest, the ADB staff member who failed to comply with disclosure requirements may be subject to disciplinary procedures in accordance with AO 2.04.

The nondisclosure need not be intentional for disciplinary procedures to commence.



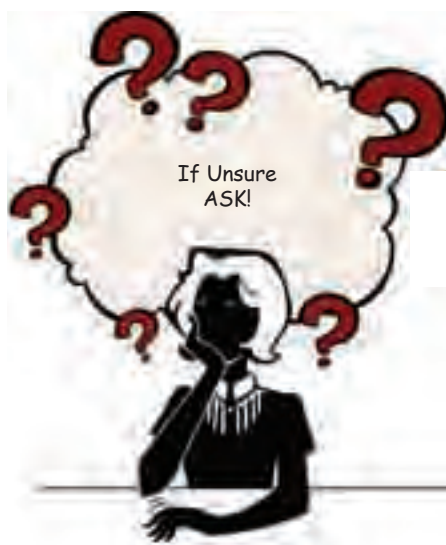
How long does the obligation of nondisclosure of unpublished information—and/or use of such information—apply after staff have separated from ADB?

As long as the information remains unpublished, the obligation of nondisclosure remains. This obligation continues even if staff have separated from ADB. Specifically, staff may not, within 2 years after separation from ADB, perform services in respect of any other matter in which ADB has an interest in, or to

which ADB is a party, and in which the relevant staff member participated personally and substantially while at ADB.²²

Those seeking to disclose such information, or use it for private advantage, must submit a written request to the President for approval, through their Head of Department or Office, immediate superior (if more senior), or the Director General, Department of External Relations (for former ADB staff members).

Unauthorized disclosure amounts to misconduct, and shall be subject to disciplinary procedures as appropriate.



Obligation to Report

Do I have an obligation to report instances of fraud and corruption?

Yes, you do.²³ ADB staff have an obligation to ensure the integrity of ADB operations within their respective areas of responsibility.²⁴

²² AO 2.02, para 4.6 (iv).

²³ *Integrity Principles and Guidelines*, para 14.

²⁴ OM Section C5/OP para 33.

They are specifically required to report allegations received, or provide evidence, of fraudulent or corrupt practices to OAGI for its investigation.²⁵

Parallel to this, ADB endeavors to ensure that ADB staff are informed and armed, so as to recognize and respond appropriately to suspicious practices.

The complainant should have reasonable grounds to believe that the allegation is credible and has substance.

Individual ADB staff members should not investigate suspected fraud or corruption, except if specifically requested to do so by the Office of the Auditor General (OAG). ADB staff must, however, consider the impact of corruption on ADB operations (such as in policy dialogue, programming decisions, and the administration of projects) in their respective areas of responsibility.

In rare cases where rapid follow-up actions may be needed to prevent the imminent loss of ADB resources or to protect the safety of ADB personnel, ADB staff may address these issues explicitly with the relevant external agencies after clearance from their head of department or office, OAGI, and, where law enforcement agencies are involved, the Office of the General Counsel (OGC). Any discussion with a given entity should, however, be limited to specific operations. Furthermore, the head of department or office should advise OAGI, and standard ADB operating procedures should be applied at the earliest possible time.²⁶

You may be wary of reporting for fear of retribution or retaliation. OAGI will ensure confidentiality and exert its best efforts protect the identity of the whistleblower.²⁷

Table 8 provides examples of indicators that may indicate instances of misconduct and/or violation of the anticorruption policy.

Materiality and Substance

Where the indicator is frequent, persistent, large and/or obvious, there is more likelihood of a credible suspicion of misconduct, or fraudulent or corrupt practices.

²⁵ OM Section C5/OP para 35 (iii).

²⁶ OM Section C5/BP paras 8–9.

²⁷ Refer to page 24 “How does ADB protect whistleblowers and preserve confidentiality?” for further discussion on this issue.

Table 8: Possible Indicators of Fraud and Corruption, and Misconduct

Fraud and Corruption	Misconduct
<ul style="list-style-type: none"> • Documentation from competing bidders that contain remarkably similar content and/or pricing (collusion) • Bank guarantees which cannot be confirmed by the relevant bank (fraud) • Certified photocopies provided, when original documentation is required but unable to be produced without reasonable explanation (fraud) • Commonality in ownership of competing firms, or in the respective directors (collusion) • Certificates provided by parties not independent from the certified party (fraud) • Bid documents contain information that could not reasonably be known outside project administration (corruption) • Inability to confirm a firm's stated experience and qualifications (fraud) 	<ul style="list-style-type: none"> • Excessive personal use of (say) phone or computer • A significant gift or privilege is given to ADB staff by a potential consultant or contractor • Inability to confirm representations in relation to education and experience • Reconciliations between funds entrusted to ADB staff and actual fund activity do not take place regularly, or is delayed without good reason • Similarity in name of ADB staff and firm/individual making a bid in a project, over which ADB staff has influence • Submission of fraudulent medical insurance claims • Inability to produce required original, certified documents to verify claims • Inability to produce coherent, rational explanations for observed behavior • A significant improvement in lifestyle in the absence of logical changes in financial circumstances • Misrepresentations made in Reports and Recommendations of the President (RRPs), or other ADB documents • Unauthorized official travel, and travel arrangements that do not comply with ADB's Business Travel (AO 4.01, paragraph 3.5).

What should I report?

All ADB-financed activity is subject to the anticorruption policy. Therefore, any person or entity that is associated with ADB-financed activity must abide by said policy. Any violation of this policy should be reported. This may involve

ADB staff, contractors, consultants, third parties, who in turn may be individuals or entities (i.e., firms, joint ventures, or any other structure).



In addition, observed misconduct on the part of ADB staff should also be reported.

To report allegations, please provide as much information and detail as possible, including who, what, when, where, why, and how.

For example:

- **Who** do you think committed the corruption or fraud? Who else was implicated? Who else might have been involved?
- **What** happened? Describe the events fully and using as much relevant detail as possible.
- **When** did it happen? Provide dates, time, and frequency.
- **Where** did it happen? Include not only the city and country but also, if possible, an actual address, the name of the building, the office number.
- **How** does your allegation relate to ADB business? Was an ADB staff member involved?

If you have documents, photographs, or other physical evidence of the alleged fraud or corruption, please send that information to OAGI, either with your report or separately.

How do I report allegations of fraud and corruption? Do I have to disclose my identity when reporting?

Report concerns or evidence of fraud or corruption related to any ADB-financed activities or its staff to OAGI by e-mail integrity@adb.org, fax 6362152, mail, in person, or by telephone 6325004.

Information concerning the identity of a complainant is strictly controlled within OAGI and will not be released to other ADB staff or to anyone outside ADB without the consent of the complainant.

You have the right not to disclose your identity when reporting allegations of fraud or corruption. If possible, provide a means by which OAGI may contact you, for example, an e-mail account using a pseudonym you have created for this purpose.

If you choose to identify yourself, OAGI will not divulge your identity to outside parties without your express consent.

Whistleblower Protection

How does ADB protect whistleblowers and preserve confidentiality?

A complainant or person reporting allegations of fraud and corruption or misconduct is often referred to as a whistleblower.

ADB's firm position is that the source of any allegation or evidence shall be treated with utmost confidentiality. OAGI will use its best efforts to encourage and protect whistleblowers and witnesses, and will protect their identities from unauthorized disclosure throughout and following an investigation.²⁸

A "clean desk" policy is practiced whenever OAGI staff in non-secure areas are away from their desk. OAGI staff are required to practice personal integrity and discretion. All OAGI offices and filing rooms allow physical

²⁸ As ADB is an independent, international financial institution and its anticorruption policy and procedures are administrative mechanisms, it is very limited in the steps it can take to protect the interests of whistleblowers who are not ADB staff. As such, the level of protection ADB accords to the whistleblower is not as comprehensive as it might be if these were legal or judicial processes.

access only upon verification of electronic and/or fingerprint ID. Cleaning and other administrative services staff can only access OAGI's secure areas during office hours and only under close supervision of OAGI personnel.

OAGI will warn you should confidentiality of your identity be at risk at any time. OAGI cannot, however, control the actions of others once investigations start, or your communication of your concerns with a third party (whether within or outside ADB).



OAGI will pursue all reasonable steps to ensure that whistleblowers acting in good faith are not subject to retaliation or punishment.

OAGI may engage, where necessary, appropriate officials to act to prevent retaliation against the source or anyone else connected with the investigation. Where an ADB staff member's personal safety or career prospects are at risk, OAGI will encourage Management²⁹ to take appropriate measures to remedy the situation.

Instances of retaliation and unauthorized disclosure amount to misconduct and will be subject to separate disciplinary procedure.

OAGI will screen allegations of retaliation—and open an investigation as required—made within 1 year after the date on which the complainant becomes aware of the alleged retaliation.

²⁹ Management refers to the President of ADB, and/or its Vice Presidents.

Unsubstantiated Allegations

Can't someone be hurt by false allegations?

An allegation alone is not sufficient to determine that the anticorruption policy was violated or misconduct had occurred. Each allegation will be investigated before it can be used as a basis for imposing disciplinary procedures or sanctions.

As the investigation is kept strictly confidential, the subject of the allegation is unlikely to be adversely affected while a conclusion is yet to be reached. If the allegation is found to be not credible or not verifiable, the case is closed with no other parties being informed.

What does ADB do about a person who deliberately files a false allegation?

AO 2.04 and the *Integrity Principles and Guidelines* allow ADB to impose disciplinary measures and/or sanctions on anyone knowingly reporting false, frivolous, or misleading information.

OAGI will investigate to ensure that there is evidence to support the above before any disciplinary procedures and/or sanctions are imposed.



Will I be punished if I file a report that turns out not to be true?

No one will be punished for reporting concerns in good faith in accordance with ADB's rules, even if they cannot be supported by additional evidence, or ultimately found to be incorrect. The key premise to making complaints is that they are believed to be accurate or suspicious enough to cause concern.

Will I be punished if I make allegations in a manner contrary to ADB procedures?

Spreading false or unsubstantiated allegations of fraud, corruption, or misconduct outside of ADB's procedures constitutes misconduct subject to disciplinary procedure. This may unfairly destroy the reputation of innocent parties. Moreover, spreading such information to third parties may damage ADB's reputation or relationships with stakeholders and DMCs, and expose the victims to possible harm or harassment.

OAGI Procedures

Complaints

What does OAGI do when a complaint is received?

OAGI gathers and screens all documents and information relevant to the complaint before deciding whether the allegation is to be

- closed, because of insufficient evidence or lack of substance and/or when it does not meet OAGI's criteria (see below);
- converted into an investigation; or
- referred to other departments or offices (where the complaint includes issues that do not lie within OAGI's mandate), even if the case is closed.

OAGI has four criteria that must be met for an allegation to be converted into an investigation. The allegation should be

- within OAGI's mandate,
- credible,
- verifiable, and
- material.

From then on, a standard internal process is followed, depending on whether the subject of the investigation is

- ADB staff, or
- bidders, consultants, contractors, suppliers, or other third parties to ADB-financed activity.

Note, however, that OAGI does not represent the complainant; its primary objective is to investigate the allegation(s) and make recommendations and/or take appropriate action according to its findings.

OAGI will report the outcome of the investigation to the complainant. However, the complainant is not privy to the findings of the investigation. Also, the identity of sanctioned parties is revealed only on a need-to-know basis.



Does OAGI investigate all complaints?

OAGI screens each complaint to identify whether it is within OAGI’s mandate, is credible, verifiable, and material.

OAGI will only commence investigation should the complaint meet all the above criteria, and require more time and resources to investigate properly. If no further action is required, the complaint will either be closed or, if appropriate, referred to other departments and offices.

Does OAGI investigate anonymous complaints?

Yes. This is done according to procedures described above.

Investigations

How does ADB conduct investigations of allegations of fraud and corruption?

ADB Staff

For allegations relating to ADB staff, OAGI undertakes those that relate to fraud, corruption, and conflicts of interest (as previously defined in Table 1),

as well as cases of abuse (of resources, position, privileges, and benefits). All other allegations fall under the jurisdiction of the Human Resources Division (BPHR) (e.g., harassment and negligence); however, BPHR may, within its discretion, refer the matter to OAGI or other offices for investigation in accordance with Appendix 2 of AO 2.04.

OAGI discreetly and confidentially conducts preliminary evaluation of the allegation to determine whether it is credible, material, and legitimate. If the allegation is found to be neither credible nor verifiable, the case is closed with no party being informed, to minimize potential adverse impact on the ADB staff. During the evaluation process, OAGI may notify the ADB staff and seek clarification. In such a case, the ADB staff member will be informed that, if explanations prove unsatisfactory, BPHR may initiate formal disciplinary proceedings.

Once OAGI concludes its investigations, its recommendations are forwarded to Director, BPHR, who is then responsible for initiating formal disciplinary procedures as deemed appropriate, in accordance with AO 2.04. These include notifying the ADB staff of the charges and providing an opportunity to respond. ADB staff may then initiate an appeals process, should he/she disagree with the disciplinary action that has been taken.



Individuals and entities involved in ADB-financed activity

When OAGI finds sufficient evidence that the subject under investigation (who is not ADB staff) has violated ADB's anticorruption policy, OAGI will notify the subject of the investigation of its findings, who may prepare, in their own words, an explanation of the facts and circumstances, and submit any evidence they believe is relevant.

This will be presented to the Integrity Oversight Committee (IOC), which has sole discretion to determine whether the alleged violation took place, based on the:

- findings and recommendations of OAGI, and
- submissions from the subjects under investigation.

The IOC may then impose sanctions as appropriate.

The subject of the investigation has 90 days after the imposition of any sanction to appeal the IOC decision—which must include new and relevant information not known to the subject at the time OAGI first sought its explanations—to the ADB's Sanction Appeals Committee.

While ADB currently does not post the names of sanctioned or reprimanded entities on its website, it shares this information with ADB staff and staff of entities involved in ADB-financed activities, such as executing agencies, only on a need-to-know basis. OAGI also shares the information with other international organizations and may consider referring information to the appropriate national authorities when it finds that a referral is warranted.

ADB-supported activity

Occasionally, OAGI's attention is called to the inappropriate behavior of individuals or entities that are neither ADB staff nor directly involved with ADB-financed activity. In such situations, OAGI will alert the relevant authorities and/or organizations of their findings, so appropriate action may be taken against these individuals and/or entities as appropriate.

ADB also has the latitude to impose sanctions where ADB determines that an entity eligible to participate in an ADB activity has not maintained the

highest ethical standards, even if the activity that demonstrates the failure to maintain such high ethical standards is not related to an ADB activity, and those sanctions may apply to any ADB activity or situation.³⁰

Can ADB staff employ independent professional or legal assistance during grievance and appeals procedures?

ADB staff members may consult, at their own expense, outside legal counsel regarding a matter under investigation.

However, they may not be accompanied by such legal counsel on ADB premises or during interviews conducted as part of an investigation.³¹

Do ADB staff have an opportunity to review and challenge OAGI's investigative findings?

ADB's investigative standards afford subjects of an investigation an opportunity to review the investigative findings and provide explanations and supporting documents before any disciplinary measures or sanctions are imposed.

How does ADB investigate and sanction corrupt government officials?

If investigative findings indicate that a government official is engaged in fraudulent or corrupt practice, or involved in any abuse or misconduct, OAGI will report its findings to ADB Management and may refer the case to appropriate authorities of a concerned member government.

OAGI will work with Management and the relevant operational department to assess ways that ADB may respond pursuant to the anticorruption policy and other ADB rules, policies, and procedures.³²

³⁰ *Anticorruption Policy Clarifications and Related Changes to Consulting and Procurement Guidelines*, para 17. 2004.

³¹ This is because ADB's processes are administrative in nature, as opposed to legal or judicial.

³² This may involve withdrawal of funding and/or additional conditions imposed for continued funding.

Impact on Projects

Ongoing Investigations

How does an ongoing investigation on firms and/or individuals—who are either involved in a bid and tender process or fulfilling a contract previously awarded—impact on operations?

OAGI's investigations are generally conducted independently of operations. Even if an investigation is ongoing, the operational departments can proceed as usual although with due regard for the issues that have arisen if these may potentially affect project performance.

If a tender is ongoing, the procurement process also should generally proceed independently of any investigation by OAGI. The executing agency and ADB's operational departments may make their own determinations purely from a procurement standpoint and, if necessary, disqualify a bidder if there is any breach of the applicable procurement rules and guidelines. However, such determinations will not be binding on OAGI.

OAGI will inform the relevant ADB departments if it receives allegations involving operational issues, while protecting the identity of the source of the allegations.

Sanctions

What sanctions can be imposed?

If OAGI determines that a party has violated ADB's anticorruption policy, it presents these findings, including any response from the party, to the IOC. It is the IOC that decides whether to impose sanctions on a party.

Sanctions that the IOC may impose include reprimands and debarment of parties. When debarred, a party is ineligible to participate in ADB-financed activity, though usually without effect on existing contractual obligations. The IOC may nonetheless recommend the cancellation of existing contractual obligations.

Participation in ADB-financed activity may take various forms, such as bidding for contracts in ADB-financed projects, supplying goods to other contractors, participating in ADB seminars, etc. Sanctioned entities are not allowed to engage in any such activities.

Do sanctions imposed on a firm apply to its employees or associated firms?

The IOC shall sanction a firm that is determined to have violated ADB's anti-corruption policy, as well as any individuals who were deemed responsible for the violation. Depending on the circumstances of the case, it may also extend the sanction to the principals (owners, directors, officers, or major shareholders) of a firm, as well as related parties, including affiliated or associated firms or joint venture partners. In reaching its decision, the IOC will consider

- management and organizational structure;
- if the related party was involved in or had influenced the corrupt or fraudulent practice, abuse or other misconduct, or other failure to adhere to ADB's anticorruption policy that was the subject of the investigation, or was the intended beneficiary of such acts; and
- the ability of the sanctioned firm to control or significantly influence the related parties.

These individuals and entities so sanctioned may not participate in ADB-financed or otherwise-supported activity—either independently or through nomination by an eligible firm—unless they have completely disassociated themselves with the debarred firm.

However, unless specifically sanctioned, related parties remain eligible to participate in ADB-financed activity independently of the sanctioned entity.

Conversely, firms in which a sanctioned individual holds a principal interest will be ineligible to participate.

What impact do sanctions have on the progress of contracts that have previously been awarded to sanctioned parties and which are still in progress?

A sanction usually does not affect existing contractual obligations of the debarred party. However, the IOC may recommend to the operational departments the cancellation of existing contractual obligations.

ADB may cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the borrower or beneficiary of ADB-financing are engaged in fraud or corruption during the procurement or the execution of the contract, without the borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation.

Who is responsible for enforcing the sanctions list?

It is the obligation of all ADB staff with access to the sanctions list to ensure that firms and individuals who have been sanctioned uphold their obligation in refraining from participating in ADB-financed activities.

ADB approving officers should review the sanctions list and ensure that they have not found the firm or individual in question, or an entity which closely resembles the firm or individual in question before affixing their signatures on ADB business documents. This includes short-list evaluation documents, procurement contract summary sheet, contracts, payment vouchers, etc.

Once Sanctioned

What should we do when a contract variation is needed for a sanctioned entity?

OAGI usually allows a debarred party to fulfill contractual obligations that existed when ADB debarred the party.

Where the variation sought (including extensions and addendums) is additional to existing contractual obligations, this must be separately endorsed by ADB. For this to happen, ADB project staff should seek OAGI clearance.

This is to ensure that the variation fulfills the objective and intent of the IOC decision, as well as to ensure that the variation does not circumvent a sanction.

OAGI generally will endorse variations with no financial impact because they are unlikely to counteract reasons for the sanction.

However, when a variation will increase remuneration to the debarred party, OAGI will consider the following, among other factors:

- reason for the variation, including technical considerations;
- cost (absolute and relative to the total project) and duration of the initial contract;

- cost (absolute and relative to the contract) of the variation in question;
- portion of contract value and variation allocated to the debarred party versus associated parties;
- additional contract time;
- whether debarment was related to the contract;
- reason and extent for the sanction imposed on the debarred party.

OAGI may advise the following:

- ADB should finance the variation;
- ADB should finance a limited variation to facilitate a transition to alternative arrangements;
- ADB should not finance the variation and recommend termination of the contract;
- ADB should not finance the variation, but allow the borrower to continue the contract in the best interests of the project/activity.

Does ADB cross-debar entities that have been sanctioned by other multilateral development banks?

No, it does not. ADB only disqualifies an entity if ADB itself has sanctioned the entity.

Nonetheless, ADB continues to work with other multilateral development banks (MDBs) to harmonize the joint fight against fraud and corruption.

In the meantime, OAGI does respond to specific issues raised in relation to parties that have been debarred or blacklisted by other MDBs or governments, and will make recommendations as appropriate, in discussion with the Central Operations Services Office (COSO) and the concerned regional department.

Does ADB recognize national blacklists?

ADB generally does not recognize national blacklists in the running of ADB-financed or -supported projects. However, national blacklists may be considered if blacklisted entities or individuals are the same nationality as the DMC and its executing agency.

As with sanctions lists published by other MDBs, ADB cannot ensure that criteria and due process employed by the countries with national blacklists are the same as those that ADB employs.

As such, if ADB staff become aware of national blacklists, they should

- determine the basis for the blacklist,
- advise OAGI and COSO of the blacklist, and
- ensure that the blacklist is not considered in any ADB-financed contracting or procurement decisions unless the exclusion is endorsed by COSO and OAGI.

Why doesn't ADB publish the names of blacklisted firms and individuals on its website as other multilateral development banks do?

ADB's sanctions list is not secret. ADB staff members who need to know have access to that list. In the interests of cooperation, harmonization, and transparency, OAGI shares the sanctions list, confidentially, with other international organizations that need to know.

However, this list is not made available to the public.³³ ADB believes this practice best supports fair and consistent implementation of its anticorruption policy.

ADB's anticorruption policy and *Integrity Principles and Guidelines* are administrative tools, and do not provide for legal or judicial assessments of fraud or corruption.

As such, for ADB to publicly identify an entity or individual would lead to practical difficulties, as the terms fraud and corruption carry significant legal implications in member countries.

Each of ADB's 67 members has its own definitions of fraud and corruption, and these may vary significantly. In not publishing its sanctions list, ADB makes no judgment on the chosen definitions of its members.

Moreover, making such a list public may take public attention away from other ADB core efforts in combating poverty, and require unjustifiable time and expense on ADB's part addressing rebuttals, especially from entities with significant resources.

³³ The exceptions are when OAGI is unable to contact sanctioned parties, or when parties have breached a previously imposed sanction. The names of these parties are published on the ADB website.

Preventive Measures

Education

Does ADB provide training on how to prevent, detect, and deter fraud and corruption?

OAGI provides training to ADB staff, consultants, and representatives from DMCs, and their national supreme audit institutions. Topics include ADB's anticorruption policy and procedures, general corruption and fraud awareness, and identification of internal control mechanisms that detect and deter corruption and fraud.



Training needs are identified through a combination of specific requests by ADB departments and/or representatives from the DMCs, investigative and operational experience, and proactive strategies to educate and build capacity in the region as well as within ADB, in line with other anticorruption-related events in the region.

Furthermore, all ADB senior staff are expected to exercise due diligence in management and oversight, ensuring that ADB staff and others within their sphere of responsibility adhere to the highest ethical standards. They are

required to act on any allegations received or evidence of fraud and corruption they encounter, whether it involves ADB staff or others associated with ADB-financed activity.

OAGI actively welcomes constructive feedback and input into its training agenda.

Support

How does ADB help lessen corruption in governments?

ADB seeks to adopt a proactive stance and takes a longer-term view in its anticorruption efforts. It supports promising anticorruption initiatives in governments by, for example, prioritizing funding and technical assistance for such activities.

ADB supports country-led anticorruption efforts by:

- providing support to key integrity institutions (supreme audit, controller general, inspectorates, anticorruption commissions, judiciary, etc.);
- strengthening public financial management, procurement systems, and business processes to reduce discretion and therefore reduce vulnerability to corruption;
- working with civil society to monitor ADB project/program outcomes;
- supporting (at the request of client governments) development and implementation of national anticorruption strategies; and
- sharing knowledge among countries in the region.

ADB provides advice and training on better public and corporate governance. For example, facilitating a legal environment that promotes low rewards and high risks for those who engage in corrupt actions will help reduce overall corruption levels.

Anticorruption issues are incorporated in country programming, and policy and sector dialogue. These issues are considered more explicitly in the country partnership strategy (CPS) (formerly country strategy and program) documents, which also discuss and recommend ways in which ADB can help advance principles of sound development management, including measures

which combat fraud and corrupt practices.³⁴ These include risk assessments of country systems for combating corruption, and preparation of risk management plans to address identified corruption risks. Corruption risk assessments and management plans must also be prepared for sectors in which ADB will be actively engaged.

When evidence of fraudulent and corrupt practices is compelling, this evidence is explicitly stated—using plain language—in relevant reports.

ADB is part of a Joint International Financial Institutions (IFI) Anti-Corruption Task Force to work toward a consistent and harmonized approach to combat corruption. The leaders of member institutions realize that a unified and coordinated approach is critical to the success of the shared effort to fight corruption and prevent it from undermining the effectiveness of their work.

Systems

What is ADB doing to prevent fraud and corruption in its projects?

ADB project staff and resident missions (RMs) are at the forefront of ADB's work in the field. OAGI considers ADB staff in the headquarters and RMs to be strong partners and allies in preventing fraud in projects.

OAGI strongly encourages ADB project staff and RMs to visit their projects while in the field. An ounce of prevention is worth a pound of cure. OAGI has found that allegations of fraud and corruption appear more in never/seldom visited project sites.

Robust internal measures exist to enhance the integrity of ADB operations. These measures include:

- explicitly including anticorruption and integrity clauses—and consequences thereof—in loan agreements and project documentation;
- requiring that ADB and its borrowers apply its policy and procedures for selecting, contracting, and monitoring consultants required for loan and technical assistance projects;³⁵

³⁴ *Governance Policy*, August 1995.

³⁵ *Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers*. April 2006 and Project Administration Instructions.

- applying ADB's strengthened procurement policy with respect to goods and works financed in whole or in part by ADB;³⁶
- enhancing integrity through project design, planning, implementation, and monitoring. Project designs must include preparation of corruption risk assessments, among others, and specific measures to be taken to mitigate risks during project implementation;³⁷
- clarifying independent internal reporting mechanisms, and disseminating the same, to address allegations of corruption, ensuring confidentiality and due process;
- enhancing integrity through project design, planning, implementation, and monitoring; and
- ensuring that all ADB staff are familiar with the anticorruption policy and ADB's code of conduct, and act in a manner consistent with both the letter and the spirit of the same.

Through OAGI, ADB also conducts project procurement-related audits (PPRAs) to increase accountability in ADB projects.³⁸ Please refer to next section.

Audit

How does OAGI select the projects for the PPRAs?

PPRAs conducted by OAGI increase accountability in ADB projects. They help identify and address areas which potentially facilitate acts of fraud and corruption. PPRAs work to enhance internal controls employed so as to frustrate fraudulent and corrupt acts, as well as to maximize efficient and effective use of resources.

PPRAs of projects with active loans and technical assistance are chosen by considering the following criteria:

- projects which the supreme audit institution of the borrowing DMC has accepted the invitation to participate in the PPRA;

³⁶ *Procurement Guidelines*, February 2007; and Project Administration Instructions.

³⁷ *Second Governance and Anticorruption Plan (GACAP II)*, July 2006.

³⁸ These OAGI-led audits supplement the annual financial audits conducted in the ordinary course of operations as specified in ADB's financing agreements.

- projects for DMCs where a PPRA has never been done;
- projects with loans exceeding \$20 million, with sufficient contracts awarded;
- projects for a region and sector not covered by other PPRAs within the same year;
- projects that are not relatively close to completion, so there is sufficient time for these to benefit from PPRA findings and recommendations;
- projects with contracts not fully awarded and/or the associated loan is not yet fully disbursed, so they may still benefit from PPRA findings and recommendations; and
- projects for which a PPRA has been suggested by ADB's relevant department head and/or ADB senior staff.

Appendix

ADB's Code of Conduct³⁹

4. Duties and Responsibilities of Staff Members

4.1 Definitions

For the purposes of Section 4 on duties and responsibilities of staff members:

"Immediate family" means spouse, child, mother, father, brother, or sister.

"Short-term trading" means any combination of the buying or selling of securities by staff members or their immediate family within a period of 6 months.

"Staff members" means all staff regardless of type of appointment.

"Unpublished information" means any information which has not been publicly released pursuant to the provisions of the President's Staff Instructions on Confidentiality and Disclosure of Information, dated 22 November 1994 or any provisions of the Operations Manual supplanting such Staff Instructions.

4.2 Application

This section shall apply to all staff members and, where so provided, to the immediate family of staff members. Where this Section affects the interests and activities of the immediate family of staff members or requires disclosures pertaining to them, such staff members shall make appropriate inquiries and use their best efforts to secure compliance with this Section 4 by and in respect of such immediate family members. Staff members shall make such disclosures as are required by this section to the best of their knowledge following such inquiries.

³⁹ Administrative Order No. 2.02, Section 4. June 2003.

4.3 General Principles of Conduct

(i) **International Civil Servant Status and Propriety of Action**

In the discharge of their functions, staff members owe their duty entirely to ADB and to no other authority and shall avoid any action, and in particular any kind of pronouncement, which may reflect unfavorably upon their position as employees of an international organization, either in their own country or elsewhere. They should always bear in mind the reserve and tact incumbent upon them by reason of their international functions, and they are required to exercise the utmost discretion in regard to matters of official business.

(ii) **Privileges and Immunities, Exemptions and Facilities**

The privileges, immunities, exemptions, and facilities that staff members enjoy under the Agreement Establishing the Asian Development Bank and the Agreement Between the Asian Development Bank and the Government of the Republic of the Philippines Regarding the Headquarters of the Asian Development Bank and any other agreements entered into between ADB and governments of member countries are granted in the interest of ADB and not for the personal benefit of the individual. Therefore, these privileges, immunities, exemptions, and facilities furnish no excuse to staff members who enjoy them for nonperformance of their private obligations or failure to observe laws and police regulations. Staff members are expected to satisfy in good faith their obligations as residents of the host countries of ADB, including all applicable personal obligations outside ADB, the non-fulfillment of which could reflect unfavorably upon their position as staff members or could affect the efficient performance of their duties.

(iii) **Internal Grievance and Appeal Procedures**

Administrative review and appeals procedures for the review and settlement of the claims of staff members concerning the terms and conditions of their employment are set out in Administrative Order No. 2.06, and Administrative Order No. 2.07 provides for a right of appeal to ADB's Administrative Tribunal. Staff members who have such claims and had access to the foregoing procedures may not resort to national courts or other tribunals outside ADB to resolve such claims.

4.4 Disclosure of Information

(i) Information Disclosure and its Use for Private Advantage

Except in the course of their official duties or by express authorization of the President, staff members may not:

- (a) communicate any unpublished information known to them by reason of their official position to any person within or outside of ADB whom they know or should know is not authorized by ADB to receive such information; or
- (b) use, or allow the use of, unpublished information known to them by reason of their official position with ADB to private advantage, directly or indirectly, or for any interest contrary to the interests of ADB.

In carrying out the above obligations, which shall continue after separation from ADB, staff members shall scrupulously observe the rules and procedures established by ADB to protect unpublished information.

(ii) Publications and Public Speaking

Except in the course of their official duties or with the necessary authorization, staff members during the term of their appointment or service may not:

- (a) publish, cause to be published, or assist in the publication of any book, pamphlet, article, letter, or other document relative to the policies or activities of ADB or to any national political questions;
- (b) deliver any speech or presentation, broadcast through radio, or television or other electronic media, or hold press conferences or grant press interviews on such policies, activities, or questions; or
- (c) speak on behalf of ADB or state its policies as a participant in any seminar or conference.

(iii) Authorization

The procedures for obtaining the authorizations referred to in this Subsection 4.4 are set out in Administrative Circular No. B-2.

4.5 Political and Outside Activities and Interests

Staff members may exercise their political rights, but shall refrain from participation in political activities which may interfere or conflict with their duties

or their status as staff members. Staff members shall not hold other public employment or appointment which in ADB's opinion is incompatible with the proper performance of their official duties, and must obtain the prior approval of the President in respect of any such employment or appointment. If they accept appointment to any national public office of a political character or accept a nomination for such an office, they shall immediately resign from ADB.

4.6 Business Affiliations and Private Activities

(i) Private Activities

(a) Staff members shall not hold private employment or engage in any occupation or profession or own or operate any business which in ADB's opinion is incompatible with the proper performance of their official duties, and must obtain prior approval of the President for any such private employment, occupation, profession, or business. Moreover, staff members shall not serve as a director, officer, or partner of any entity, other than as an authorized representative of ADB or with the prior approval of the President. Such prior approval shall not be required with respect to services performed as a director or officer for a charitable, social, or religious entity.

(b) Trading Activities on ADB Premises

Without limitation of the foregoing, staff members and/or their immediate family shall not engage in private trading activities such as foreign exchange dealings, merchandising of goods and foodstuffs, real estate brokering, money lending, or car renting or brokering on ADB premises, or make improper use of commissary privileges.

(ii) Previous Association

Staff members shall not exercise any responsibility with respect to an ADB transaction involving a former employer other than a member government, as (i) a recipient or beneficiary of ADB financing, investments, or guarantees; (ii) a guarantor of any such financing; or (iii) a supplier of goods or services to ADB, except as authorized by the President.

(iii) Prospective Employment

Staff members who are seeking, negotiating, or have an arrangement concerning prospective employment other than at ADB shall

not exercise any responsibility with respect to an ADB transaction in which a prospective employer has or may have an interest of the kind set forth in the preceding paragraph.

(iv) **Subsequent Employment**

Except with the authorization of the President, former staff members who have separated from ADB after the effective date of the AO may not, within 2 years after separation from ADB, perform services for any other entity or person other than any international organization, government or government agency, in respect of any matter in which ADB has an interest or to which ADB is a party and in which the relevant staff member participated personally and substantially while at ADB.

4.7 Retention of Reemployment and Pension Rights

Upon employment by ADB, staff members may retain reemployment rights or pension rights previously acquired in the service of another public or private organization.

4.8 Financial Interests, Investments, and Trading Activities

(i) **Purchase of Interest in Recipient of ADB Financing, etc.**

- (a) Except as otherwise provided in Subsection (iii) below, staff members or members of their immediate family shall not make investments in:
 - (1) securities (including investment funds) which the staff member's department or office advised about or participated in creating within 2 years following completion of such assignment;
 - (2) securities of an entity known by the purchaser to be an actual or prospective recipient of ADB financing, investment, or guarantee; or
 - (3) securities of any company or other entity upon whose board of directors or trustees the staff member serves or served as part of such staff member's duties for ADB, except with respect to qualifying shares required by law or by the articles of such company or other entity.
- (b) If a staff member or an immediate family member has or comes into possession of any securities referred to in

paragraph (a) above, the staff member shall make arrangements for their prompt divestiture.

- (c) The provisions of this Subsection (i) shall not apply to securities held by trusts, estates, investment funds, or similar investment vehicles, provided that neither the staff member nor any immediate family member has the right to exercise investment discretion over investments made by such investment vehicles.

(ii) Previous Involvement in Decision-Making Process

Except as otherwise provided in Subsection (iii) below, staff members who are or were involved to any extent in the decision-making process to determine the selection of any entity which:

- (a) is a supplier of goods or services (including consulting or construction services) to be acquired or financed by ADB, or which is being considered as such a supplier;
- (b) is a financial institution from which ADB is a borrower or to which ADB is otherwise indebted, or which has been selected or is being considered for selection as an underwriter for issuance of securities by ADB; or
- (c) otherwise engages in financial transactions with ADB; shall not purchase, directly or indirectly, debt or equity securities of, or any interest in, any such entity referred to above or any of its affiliates.

(iii) Permitted Purchases of Recipients of ADB Financing, etc.

Notwithstanding the foregoing, staff members and their immediate family may purchase securities of, or an interest in, an entity even though such entity or one or more of its affiliates is an actual or prospective recipient of Bank financing or supplier of services to ADB if:

- (a) the purchase is made for investment in shares consistent with the scale and nature of their usual investment activities;
- (b) the security or interest is publicly traded; and
- (c) after such purchase, their aggregate holding (whether held directly or indirectly) constitutes less than 1% of the total of any class of the outstanding securities of the entity in which the investment is made.

(iv) Securities Issued by ADB

Staff members and their immediate family may invest in securities issued by the Bank, but shall not engage in short-term trading in

such securities. The buying or selling of a right or obligation to buy or sell such securities shall be treated as buying or selling the securities.

(v) **Currency Trading**

Staff members and their immediate family shall not engage in short-term trading for speculative purposes in currencies of borrowing member countries of ADB or in financial instruments denominated in the currencies of such countries. For such purposes, the term “financial instruments” includes debt instruments, financial futures, and options on financial futures “for speculative purposes” means to engage in such transactions for profit in amounts which are disproportionate to the normal annual expenditures or income of such person in such currency.

(vi) **Benefit from ADB Transactions Prohibited**

Neither staff members nor members of their immediate family shall accept benefits, favors, or gifts from sources external to ADB with respect to any ADB transaction, whether by way of compensation, commission, favorable buying or selling arrangements, gift, employment, or otherwise.

Staff members or their immediate family members who find themselves in circumstances which make it difficult to refuse any such benefit, favor, or gift shall follow the procedures set out in Administrative Circular B-2.

4.9 Medals, Decorations, or Similar Honors

Staff members and former staff members may not accept medals, decorations, or similar honors from any Government, or from any other authority or person external to ADB, for services rendered during the period of their appointment or service with ADB. Staff members who find themselves in circumstances which make it difficult to refuse or decline any such medal, decoration, or honor shall follow the procedures set out in Administrative Circular No. B-2.

4.10 Disclosure of Financial and Business Interests

- (i) A staff member shall promptly disclose to the staff member’s Director or Head of Department/Office, in accordance with the procedures set out in Administrative Circular No. B-2, any financial or business interest of such staff member or of an immediate family member which might reflect unfavorably on ADB, or which might be

in actual or apparent conflict with the staff member's duties. Upon such disclosure, the staff member shall refrain from exercising any responsibility as a staff member which might affect such interest, except as otherwise directed by such staff member's Director or Head of Department/Office.

- (ii) In the event ADB has reason to believe that a staff member or an immediate family member has engaged in conduct or entered into a transaction prohibited under this Section 4, such staff member may be required to provide to ADB a certified statement of relevant financial and business interests and to use best efforts to provide a comparable statement in respect of relevant immediate family members.

4.11 Sanctions

Staff members who fail to comply with their obligations under this Section 4 shall be subject to the disciplinary procedures and sanctions for unsatisfactory conduct and misconduct set out in Administrative Order No. 2.04, including the possibility of termination or summary dismissal if warranted by the gravity of the misconduct in question.

4.12 Approvals

Staff members seeking approvals required from the President pursuant to this Section 4 shall direct such requests to the Director General, BPMSD who shall make recommendations to the President in respect of such requested approvals.