

ADB

Anticorruption Policy

Description and Answers
to Frequently Asked Questions

Asian Development Bank



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Abbreviations

ADB	-	Asian Development Bank
AU	-	Anticorruption Unit
DMC	-	developing member country
GDP	-	Gross domestic product
GPM	-	Governance and Public Management
NGO	-	nongovernment organizations

Introduction

The effects of corruption—here defined as the abuse of public or private office for personal gain—are complex and varied. However, both recent experience in the Asian and Pacific region and a growing body of empirical evidence indicate that corruption has a strong negative impact on economic and social growth. Various studies have indicated that direct costs of corruption are substantial, as shown in the following examples.

- Corruption can add between 20 percent and 100 percent to the procurement of government goods and services in several Asian countries.
- Foreign investment is rerouted toward more transparent and predictable investment sites.
- Losses due to corruption can total more than a country's foreign debt.
- In countries where corruption is endemic, senior enterprise managers spend as much as a third of their time dealing with government officials, as opposed to less than 5 percent in countries where it is not a problem.

The indirect costs of corruption are much greater. Scarce resources are squandered on uneconomical projects because of their potential to generate lucrative payoffs, and priority sectors such as education and health suffer disproportionately. The quality of development projects is compromised, and public safety is endangered by substandard products and construction. Civil service morale is eroded

and productivity declines. In extreme cases, corruption can contribute to political instability and regime collapse.

Asian Development Bank (ADB), a multilateral development finance institution, was established in 1966 to promote the social and economic progress of the Asian and Pacific region. The Bank is owned by the governments of 58 members, of which 41 are from the Region. Over the past three decades, the Bank has become a major catalyst in promoting development in the world's most populous region.

ADB seeks to combat fraud and corruption as part of its broader work on issues of governance and capacity building. In 1995, the ADB's Board-approved policy paper, *Governance: Sound Development Management*, recognized the importance of accountability for public officials, and transparency and predictability in government operations—critical principles in the fight against corruption. To extend its ongoing work on governance, the Bank's Board of Directors unanimously approved an Anticorruption Policy on 2 July 1998.

About the policy

The ADB's Anticorruption Policy is intended to reduce the burden that widespread, systemic corruption exacts upon the governments and economies of the Region. The Bank's concern about combating corruption is grounded solely upon economic considerations and concerns of sound development management. Specifically, the policy is centered upon three objectives:

- supporting competitive markets, and efficient, effective, accountable, and transparent public administration;
- supporting promising anticorruption efforts on a case-by-case basis and improving the quality of the ADB's dialogue with its developing member countries (DMCs) on a range of governance issues, including corruption; and
- ensuring that the ADB's projects and staff adhere to the highest ethical standards.

Under the first component of the Bank's policy, ADB will press for market liberalization and institutional reforms. Liberalization of licensing regimes and foreign exchange markets, reduction of administered prices, removal of subsidies and soft loans to favored companies, and introduction of a clear distinction between production and regulatory functions are market-based reforms that could reduce the opportunity for corrupt or illicit behavior. Public administration initiatives aimed at advancing integrity include civil service reform, as poor salaries, low morale and productivity, uncertain prospects for career development, and insufficient linkage of merit to promotion

can foster pervasive corruption among public officials. Reforms in business processes must be carried out to improve the efficiency and effectiveness of the public sector, while reducing opportunities for corruption by narrowing its scope for intervention. Other priority areas would include procurement reform, strengthening legislative and judicial procedures, and improving financial management.

Under the second element, ADB will help governments that ask for specific anticorruption programs on a case-by-case basis. ADB will integrate anticorruption considerations into its dialogue with DMCs on governance issues. It will also support regional anticorruption efforts; workshops, seminars, conferences, and training activities; research and publications dealing with anticorruption issues; and collaboration with local and international nongovernment organizations (NGOs) whose mission or work program advances such initiatives.

The final leg of the Bank's Anticorruption Policy calls for more robust internal measures to enhance the integrity of Bank operations along five dimensions. Highest priority will be given to maintaining the integrity of the Bank's lending and technical assistance operations. Under the new policy, ADB could potentially change its programming mix between sectors, or even lower its aggregate lending to a country if corruption poses a fundamental threat to the probity of Bank projects or that country's broader development prospects. A second priority has been to strengthen the Bank's procurement policy by adopting measures allowing for the cancellation of a contract or loan if there is evidence of corruption, along with blacklisting firms and the right to audit companies working on Bank-financed projects. Other priorities involve disseminating the ADB's new Code of Conduct and creating independent internal reporting mechanisms to address allegations of corruption among ADB staff or within ADB operations; improving the quality of oversight and management of ADB loans and technical assistance grants; and ensuring that all ADB staff and Bank counterparts within the DMCs are familiar with the Anticorruption Policy and act in a manner consistent with both the letter and the spirit of this policy.

Answers to commonly asked questions

How does ADB define corruption?

The term “corruption” is used as a shorthand reference for large range of illicit or illegal activities. ADB defines corruption as “the abuse of public or private office for personal gain.” A more comprehensive definition is

“corruption involves behavior on the part of officials in the public and private sectors, in which they improperly and unlawfully enrich themselves and/or those close to them, or induce others to do so, by misusing the position in which they are placed.”¹

With regard to the public sector, areas of “improper and unlawful enrichment” of greatest interest to the Bank will typically include the design or selection of uneconomical projects because of opportunities for financial kickbacks and political patronage, or procurement fraud, including collusion, overcharging, or the selection of contractors and suppliers on criteria other than the lowest evaluated substantially responsive bidder. It would also include illicit payments to prevent

¹ Within this definition, the term “official” is deemed to include any government employee, or an employee of an individual, firm, or organization, as well as agents operating on their behalf. “Those close to them,” includes members of their immediate and extended family, friends, business partners and associates, employees, and political supporters.

the application of rules and regulations in a fair and consistent manner, particularly in areas concerning public safety, law enforcement, or revenue collection. It would incorporate payments to government officials to foster or sustain monopolistic or oligopolistic access to markets in the absence of a compelling economic rationale for such restrictions. The theft or embezzlement of public property and monies; the sale of official posts, positions, or promotions; nepotism; or other actions that undermine the creation of a professional, meritocratic civil service; and extortion and the abuse of public office, such as using the threat of a tax audit or legal sanctions to extract personal favors, would also fall under this category.

With regard to the private sector, examples of corrupt behavior of greatest interest to the Bank would include the deliberate disclosure of false or misleading information on the financial status of corporations that would prevent potential investors from accurately valuing their worth, such as the failure to disclose large contingent liabilities or the undervaluing of assets in enterprises slated for privatization. It would also include the misappropriation of confidential information for personal gain, such as using knowledge about public transportation routings to invest in real estate that is likely to appreciate.

From time to time, it may be necessary for the Bank to employ more specialized definitions of corruption to address particular types of illicit behavior. In the area of procurement, for example, the Bank defines corrupt practice as including “the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.”

Is corruption really all that bad for development?

Yes. In earlier decades, some scholars argued that corruption had a beneficial impact upon economic development. In countries where public sector wages are often low and in some cases may not even be enough to live on, some maintained that it was natural for civil servants to augment their salaries by other means. It was alleged that corruption could advance economic efficiency by helping to restore artificial and administratively determined prices to market-clearing levels. Others maintained that

corruption played a useful role in allowing cumbersome administrative procedures to be bypassed, or in transferring resources from wealthy individuals and corporations to those of more modest means. Still others maintained that corruption was a natural stage of development.

More recent research has demonstrated that there are serious flaws in these perspectives. First, such arguments often refer to the benefits stemming from specific illicit acts and do not consider the systemic impact of corruption. Although a given incident or transaction can have positive results, it may also generate negative externalities that degrade the performance of the system as a whole and compromise the economy's long-term dynamic efficiencies. Second, many of the alleged benefits from corruption only appear as such against the background of a public sector that is failing to perform effectively. The experience of countries such as Singapore indicates that patient and persistent efforts toward improved public sector management are likely to result in greater benefits over time than tolerating relatively high levels of corruption to compensate for these deficiencies. Finally, corruption is indiscriminate, in that it encourages people to avoid both good regulations and bad.

Although there is much that is not known about corruption and its impact, the most recent empirical work indicates that it often extracts a significant cost upon the development process. Studies of corruption within individual cases or sectors paint a disturbing picture of resources lost, squandered, or devoted to suboptimal uses. Econometric studies of the comparative impact of corruption upon various countries indicate that it can play a significant role in reducing their overall gross domestic product (GDP) and in diverting foreign investment to more stable and predictable sites. Studies of corruption in capital investment show that it diverts resources away from social sectors and toward defense and major infrastructure projects. Asset life is also lowered, as resources are directed away from maintenance and toward new projects and equipment. Survey data indicates that the costs of corruption are often borne disproportionately by the poor, while the provision of public goods and services is skewed toward the rich, the powerful, and the politically well connected.

Corruption has been around for a long time. Why is the Bank only addressing it now?

The Bank has long been aware of the dangers of corruption among its projects and staff, and it has taken extensive measures to ensure that its operations adhere to the highest ethical standards. The Bank has historically integrated improvements in public sector management in its projects, which have helped to improve transparency, accountability, and efficiency in many government ministries and departments.

The Bank's recent and more explicit focus on issues of governance and anticorruption has been in response to increased demand by the Bank's major stakeholders. On the donor side, the end of the Cold War has reduced the willingness of countries providing aid to overlook improprieties in light of broader geopolitical interests. Donor fatigue has placed increasing pressure on assistance agencies to demonstrate that they are delivering maximum value for the money. On the recipient side, in countries throughout the Asian and Pacific region, the citizenry has served notice that it is no longer willing to tolerate gross abuses of public trust for private gain. The liberalization of the press in many parts of the world has enabled journalists to write more freely about official indiscretions. Improvements in education and increased information flow between countries have made the public more aware of anticorruption efforts in other countries and less willing to tolerate systematic abuses at home. The rise of new global NGOs dedicated to fighting corruption has helped bring and keep the issue in the spotlight in both the developed and the developing world.

Doesn't the Bank's Anticorruption Policy involve making value judgments that conflict with local norms and practices?

No. There are occasional gray areas, such as the practice of "rice cake money" in the Republic of Korea or the tradition of presenting gifts to government officials in Thailand. However, there are many areas that are black and white. All ADB members, for example, have legislation outlawing the bribery of public officials.

The Bank believes that at its core, corruption is a governance issue, in that it involves the ability of public and private sector organizations to implement policies and projects effectively and to advance transparency, predictability, and accountability in their operations. The Bank's interest in combating corruption is motivated solely by its twin desire to ensure the highest degree of integrity among its projects and rapid, sustainable, and equitable growth among its members.

What measures does the Bank take to ensure that its projects are free from corruption?

The Bank relies on a number of institutional arrangements and reporting mechanisms to monitor the use of its resources. Project staff are responsible for designing projects and monitoring the physical implementation of projects, with assistance from the resident missions. The Consulting Services Division and Project Coordination and Procurement Division are responsible for overseeing the recruitment of consultants and the procurement of goods and services, working in collaboration with project staff. The Controller's Department is responsible for overseeing disbursement by the Bank on loan and technical assistance projects; it is also responsible for administering loan repayments. The Treasurer's Department is responsible for payments and cash management.

The Bank's *Guidelines for Procurement* and procurement procedures have, in effect, been introduced to limit the possibility of fraud and corruption. The stringent procurement procedures set out in the Bank's *Guidelines for Procurement* ensure that bidders are treated equally and that the bidding process is carried out in a transparent and fair manner. In addition, internal procedures providing for the involvement of the Procurement Committee and the Consultant Selection Committee, with representatives from various departments, have promoted equal and fair treatment of contractors, suppliers, and consultants. These committees ensure that contracts are awarded to the lowest evaluated substantially responsive bidder and that consultant proposals are ranked on the basis of quality.

The Office of the General Auditor conducts independent and objective appraisals and audits of the Bank's financial, accounting, administrative, and operational functions, and related information systems to ensure efficient and effective management. Disbursement guidelines require annual audit reports on all project accounts to ascertain whether loan and technical assistance funds were made to authorized payees in accordance with the agreements and the purposes intended. The Operations Evaluation Office is responsible for evaluating the performance of Bank loans and grants.

Bank staff are subject to a rigorous Code of Conduct that carefully delineates their rights and responsibilities. The Bank is developing a series of training courses in disciplines ranging from ethics to forensic accounting to strengthen its internal capacity for addressing these issues. An elaborate set of internal procedures are used to ensure that staff adhere to the highest ethical standards, on the one hand, while protecting them from malicious or unfair accusations, on the other.

As was noted above, many of these measures are being strengthened and new ones undertaken, in the wake of the approval of the Bank's Anticorruption Policy in July 1998.

What should I do if I come across evidence of corruption among Bank staff or in a Bank-financed project?

Your first step should be to contact the ADB's Anticorruption Unit in the Office of the General Auditor. The postal address, telephone and facsimile numbers and e-mail address are provided on page 14. Formal allegations should be lodged by providing the name and institutional affiliation (if any) of the individual lodging the complaint, a brief discussion of the nature of the complaint itself, including the names of the individual(s), organizations and/or any relevant third parties charged with malfeasance, as well as any corroborating evidence.

Anonymous complaints will be accepted, however, the Bank's capacity to follow up on such information is often limited. The Bank has protections for "whistleblowers" (i.e., individuals who come forward with justified allegations of corruption) and employs stringent

precautions to ensure that the highest levels of confidentiality are observed at all times.

The Anticorruption Unit will also be available to field informal inquiries regarding potential conflicts of interest or examples of corruption among Bank staff and projects. To ensure confidentiality, all communication is handled by trained investigative professionals and routed through secure phone and fax lines.

What will the Bank do if it encounters evidence of corruption among its staff or within its projects?

The Bank has a fundamental commitment to ensuring that its staff and projects adhere to the highest levels of integrity. Its response to specific allegations of corruption will be tailored to the circumstances surrounding the allegation. Should the allegation involve Bank staff, then—depending upon the nature of the infraction—staff found guilty of such behavior will be subject to a number of sanctions, including summary dismissal and possible prosecution.

If the Bank's investigation uncovers credible evidence of corruption in a Bank-financed loan or technical assistance, then—again depending upon the nature of the infraction and the government's willingness to act decisively in addressing it—the Bank could pursue a range of options. Breaches of specific loan regulations or covenants could result in a decision by Management to blacklist the firm involved, refuse to finance a contract award, suspend disbursements, or cancel the loan. Short of that, the Bank could request the reassignment, demotion, dismissal, or prosecution of personnel associated with various components of the project.

Will Bank lending to countries be affected if corruption is found to be a fundamental problem?

Yes. If the Bank consistently encounters problems within a particular executing agency or sector, it could change its programming mix and avoid future lending and technical assistance operations in that area. The Bank can also

focus its programming on strengthening NGOs and civil society to facilitate greater transparency and accountability in that sector or to provide alternative means of service delivery.

Cases may occur in which corruption has reached such proportions that it poses a significant impediment to the probity of Bank operations or the attainment of a country's fundamental development objectives. Under such circumstances, Management could elect to lower or suspend Bank lending and technical assistance operations to that country after consultation with the country and the Board. Conversely, situations may also exist where a given country has made significant progress in improving the efficiency, effectiveness, and integrity of its public and private sectors. Under such circumstances, Management may elect to accelerate the lending program or provide additional technical assistance resources to ensure sustainability of the reforms.

For further information

Requests for further information about the Anticorruption Policy or the ADB's broader efforts in the area of governance should be made to the Governance and Public Management (GPM) unit of the Bank's Strategy and Policy Office. The Anticorruption Policy can also be found on the Bank's Internet web page at **<http://www.adb.org>**.

To report allegations of corruption

To report allegations of corruption, please contact the Anti-corruption Unit (AU) in the Office of the General Auditor. All correspondence in this regard should be addressed to the Anticorruption Unit with the envelope marked : “Strictly Confidential: To Be Opened by AU Staff Only.”

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