



Recommendation of the Council for
Development Co-operation Actors
on Managing the Risk of
Corruption

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Date(s)

Adopted on 16/11/2016

Background Information

The Recommendation for Development Co-operation Actors on Managing the Risk of Corruption was adopted by the OECD Council on 16 November 2016 on the proposal of the Development Assistance Committee (DAC) and the Working Group on Bribery in International Business Transactions. It revises and replaces the 1996 DAC Recommendation on Anti-Corruption Proposals for Bilateral Aid Procurement, making it a Council instrument. Neither was it considered to reflect the extent of knowledge developed in the field of anti-corruption and development that could also help to improve preventive measures in the activities conducted or funded by development actors. With a focus only on procurement, and particularly on procurement implemented by bilateral development agencies, the DAC Recommendation was considered as no longer fit for a changed development environment, involvement of new partners and channels for aid disbursement. The Council Recommendation gives it a whole-of-government perspective, and enables a more horizontal and comprehensive approach to the cross-cutting issue of corruption.

THE COUNCIL,

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-Operation and Development of 14 December 1960;

HAVING REGARD to DAC Recommendation on Anti-Corruption Proposals for Bilateral Aid Procurement [DCD/DAC(96)11/FINAL], which this Recommendation replaces;

HAVING REGARD to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; the Recommendation of the Council on Bribery and Officially Supported Export Credits [C(2006)163]; the Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions and in particular its Annex II: Good Practice Guidance on Internal Controls Ethics and Compliance [C(2009)159/REV1/FINAL] and the Recommendation of the Council on Public Procurement [C(2015)2];

HAVING REGARD to the OECD Policy Paper on Anti-Corruption Setting an Agenda for Collective Action [DCD/DAC/GOVNET(2006)3/REV2] and the Development Assistance Committee's study Working Towards More Effective Donor Responses to Corruption which calls for more effective coordinated and collective responses from international development agencies to cases of corruption involving aid;

RECOGNISING the important work on anti-corruption developed within the framework of the United Nations (UN) notably the United Nations Convention against Corruption (UNCAC) and the UN Sustainable Development Goals, in particular the target in goal 16 to substantially reduce corruption and bribery in all their forms;

RECOGNISING that corruption poses serious threats to development goals and that international development agencies have a common interest in managing and reducing, to the extent possible, the internal and external risks to which aid activities are exposed, in order to obtain effective use of aid resources;

RECOGNISING that corruption can be an ongoing and tenacious condition of the operating context for development activities and that aid can be another resource that ends up being exploited for corruption purposes;

RECOGNISING the role that development co-operation agencies may play in tackling the supply side of corruption including the bribery of foreign public officials;

RECOGNISING that, following good practices, international development agencies should seek to better understand the political economy of the countries and contexts in which they operate;

CONSIDERING that corruption risks are not easily managed with short-term or technical approaches, but rather require comprehensive and ongoing internal and external risk management approaches applied in full coordination with activities carried out by key relevant actors responsible for trade, export credit, international co-operation and diplomatic representations as well as the private sector;

CONSIDERING that international development agencies have an interest and a role to play in influencing peer government agencies as well as other actors operating in developing countries to effectively comply with anti-corruption obligations, such as anti-bribery commitments, in order to improve standards of operation within developing countries;

CONSIDERING that the staff employed by an international development agency (civil servants or contractual) is the first line of defence in preventing corruption and managing corruption risks in the disbursement of aid, but many other actors are also involved;

RECOGNISING that there are a number of good practices among donor agencies and standards already developed by the OECD and others, on which this Recommendation seeks to build and that aid donors have developed an array of policies and practices to address the associated risks as documented through the 2015 OECD study "Building Donors' Integrity Systems: Background Study on Development Practice" [DCD/DAC/GOVNET/RD(2015)2/RD10];

On the proposal of the Development Assistance Committee and the Working Group on Bribery in International Business Transactions:

I. **AGREES** that the purpose of this Recommendation is to promote a broad vision of how international development agencies can work to address corruption as defined in articles 15-25 of UNCAC, including the bribery of foreign public officials, and to support these agencies in meeting their international and regional commitments in the area of anti-corruption;

II. **AGREES** that, for the purpose of the present Recommendation, the following definitions are used:

- **Corruption risk management** refers to the elements of an institution's (public or private) policy and practice that identify, assess, and seek to mitigate the internal and external risks of corruption for its activities;
- **Implementing partners** refers to government's line ministries or other public agencies, as well as partners of international development agencies such as developing countries' governments, non-governmental organisations, multilateral organisations and suppliers of good and services involved in implementing aid projects or programmes or private sector organisations recipient of aid funds;
- **Internal integrity and anti-corruption system** refers to those elements of an agency's ethics, control, and risk management systems (laws, regulations and policies) that relate to corruption risk, including both prevention and enforcement elements;
- **International development agency (also referred as donor)** refers to government line ministries or other public or private agencies entrusted with the responsibility of disbursing public funds that are accounted for as Official Development Assistance (ODA);
- **Public Official** refers to any person who performs a public function or provides a public service, i.e. any person holding a legislative, administrative or judicial office, whether appointed or elected; exercising a public function, including for a public agency or public enterprise; and any official or agent of a public international organisation.

III. **RECOMMENDS** that Members and non-Members adhering to this Recommendation (hereafter the "Adherents") set up or revise their system to manage risks of and respond to actual instances of corrupt practices in development co-operation. Such a system should be implemented by the Adherent's international development agencies and their implementing partners when they are involved in the disbursement and/or management of aid and should include, as appropriate:

1. Code of Conduct (or equivalent), which should:

- i) Be applicable to public officials engaged in any aspect of development co-operation work and the management of aid funds;
- ii) Be decided on and endorsed by the highest authority within the international development agency, disseminated to all staff and communicated on an ongoing basis;
- iii) Clearly establish what practices should be avoided and embraced with regard to corruption and anti-corruption, using specific examples of corrupt practices to reduce possible differences in understanding across social, cultural and institutional settings.

2. Ethics or anti-corruption assistance/advisory services, which should:

- i) Assure human and financial resources are available to provide ethics and anti-corruption advice, guidance and support to staff in a safe, confidential, independent and timely manner;
- ii) Ensure that staff providing such advisory services are trained and prepared to discuss sensitive matters (i.e. such as how to respond to evidence or suspicions of corruption, and related issues) in a safe and non-threatening environment in order to build a strong, shared understanding of acceptable and unacceptable behaviours;

- iii) Build trust between staff responsible to providing advice in anti-corruption with the rest of personnel, in particular when reporting channels are also responsible for investigation.

3. Training and awareness raising on anti-corruption, which should:

- i) Include ethics and anti-corruption training, including for locally-engaged staff in partner countries. Opportunities for interactive training, including discussions of scenarios and exploration of possible responses, should be put in place for making codes of conduct and other anti-corruption rules practically applicable and meaningful across different social, cultural, and institutional settings;
- ii) Clarify the roles and responsibilities of different staff and tailor the extent and specialisation of training according to the exposure to corruption risk of each role, particularly in face of resource constraints;
- iii) Assure that training of all staff involved in posts that are more directly involved in dealing with corruption risks (such as programme design, management, procurement and oversight) goes beyond the internal ethics and reporting regime, to include corruption risk identification, assessment and mitigation approaches as well as main international obligations to which their country has committed to.

4. High level of auditing and internal investigation in order to ensure a proper use of resources and prevent, detect and remedy corruption risks, with the following functions provided for:

- i) Internal audit services. Detailed standards for internal auditors are available through relevant international professional associations and should serve as guidance as appropriate;
- ii) External audit, including of the agencies as well as of the projects/activities the agencies fund, conducted by relevant authorities (i.e. Supreme Audit Institutions, independent external audits). Detailed standards for external auditors are available through relevant international professional associations and should serve as guidance as appropriate;
- iii) Access to investigatory capacity, within or outside the agency, to respond to audit findings;
- iv) Systematic and timely follow-up of internal audit findings as well as findings from independent external audits to assure that weaknesses have been addressed and any sanctions implemented;
- v) Communication to staff about audit and investigation processes and outcomes, within confidentiality limits, to build trust, reduce perceptions of opacity and take into account lessons learned.

5. Active and systematic assessment and management of corruption risks in an ongoing way and at multiple levels of decision making, which should:

- i) Integrate corruption risk assessment into all programme planning and management cycles in formalised ways, informing relevant hierarchical levels within the international development agency, assuring analysis and review of corruption risk throughout the project cycle and not as a stand-alone exercise at the project design phase;
- ii) Provide guidance or frameworks appropriate for different levels of corruption risk analysis with a view to help programme managers identify how corruption might directly affect the desired outcomes of the activity, including more detailed assessment than a broad political economy analysis, such as a careful examination of assumptions regarding obstacles and opportunities for anti-corruption and identifying adequate anti-corruption measures;

- iii) Use tools like risk registers or matrices at the outset of a development intervention, and update them regularly throughout implementation, with necessary adjustments to anti-corruption measures;
- iv) Strengthen integration between agency control functions, including auditors and controllers, and programme management functions and other relevant stakeholders for the purposes of more effective corruption risk assessment and management;
- v) Build an evidence base for corruption risk management by sharing experience internally and among other international development agencies about the content and form of corruption risk assessments and management tools, ways that risk management is built into the project cycle, and the impact of these processes.

6. Measures to prevent and detect corruption enshrined in ODA contracts, which should:

- i) Ensure that funding for projects financed by ODA are accompanied by adequate measures to prevent and detect corruption and that implementing partners, including other government agencies, government of developing countries, NGOs and companies that have been convicted of engaging in corruption are denied such funding as appropriate;
- ii) Ensure that persons applying for ODA contracts be required to declare that they have not been convicted of corruption offences;
- iii) Establish mechanisms to verify the accuracy of information provided by applicants and ensure that due diligence is carried out prior to the granting of ODA contracts, including consideration of applicant's corruption risk management system, such as companies' internal controls, ethics and compliance programmes and measures, in particular where international business transactions are concerned;
- iv) Verify publicly available debarment lists of national and multilateral financial institutions during the applicant's selection process; include such lists as a possible basis of exclusion from application to ODA funded contracts;
- v) Ensure that ODA contracts specifically prohibit implementing partners (whether from the international development agency's own country, local agents in developing countries or from third countries) and their possible sub-contractors from engaging in corruption.

7. Reporting/whistle-blowing mechanism, which should:

- i) Be applicable for all public officials involved in development co-operation and implementing partners who report in good faith and on reasonable grounds suspicion of acts of corruption;
- ii) Remind public officials involved in the disbursement of aid, including implementing partners, of their obligation to report corruption including foreign bribery;
- iii) Issue clear instructions on how to recognise indications of corruption and on the concrete steps to be taken if suspicions or indications of corruption should arise, including reporting the matter as appropriate to law enforcement authorities in the beneficiary country and/or the international development agency's home country;
- iv) Assure broad accessibility of secure reporting mechanisms, beyond the staff of the international development agency to include implementing partners to the extent possible;
- v) Communicate clearly about how confidential reports can be made, including providing training if necessary, and streamlining channels to reduce confusion if different reporting mechanisms exist for different stakeholders;
- vi) Provide alternatives to the normal chain of management or advice services such as independent advisors, ombudsperson and, where relevant, access to law enforcement authorities;

- vii) Ensure protection for whistle-blowers, including protection from retaliation when reporting suspicion of corruption, including allegations of bribery paid by the donors' own staff or implementing partners;
- viii) Follow up on reported incidents of suspected corruption in a timely manner;
- ix) Communicate clearly and frequently about the processes and outcomes of corruption reporting, to build trust and reduce any perception of opacity around corruption reports and investigations.

8. Sanctioning regime, which should:

- i) Include, within ODA contracts, termination, suspension or reimbursement clauses or other civil and criminal actions, where applicable, in the event of the discovery by international development agencies that information provided by applicants to ODA funds was false, or that the implementing partner subsequently engaged in corruption during the course of the contract;
- ii) Respond to all cases of corruption;
- iii) Put in place a sanctioning regime that is effective, proportionate and dissuasive;
- iv) Include clear and impartial processes and criteria for sanctioning, with checks and balances in decision making to reduce the possibility of bias;
- v) Allow sharing information on corruption events, investigations, findings and/or sanctions, such as debarment lists, within the limits of confidentiality and/or other legal requirements, to help other international development agencies and other actors implementing aid to identify and manage corruption risks.

9. Joint responses to corruption to enhance the effectiveness of anti-corruption efforts, which would be achieved through:

- i) Preparing in advance for responding to cases of corruption involving aid when they arise, agreeing in advance on a graduated joint response to be implemented proportionally and progressively if performance stagnates or deteriorates;
- ii) Following the partner government lead where this exists;
- iii) Promoting and enhancing transparency, accountability and donor coordination where this lead is absent;
- iv) Encouraging other donors to respond collectively to the extent possible, but allowing flexibility for individual donors and making use of comparative advantage;
- v) Fostering accountability and transparency domestically and internationally, including publicising the rationale for and nature of responses to corruption cases;
- vi) Acting internationally, including working to influence their own peer government agencies in upholding anti-corruption obligations undertaken at the international level, but support implementing partners and field staff to link international efforts to anti-corruption actions in partner countries.

10. Take into consideration the risks posed by the environment of operation, which would be achieved through:

- i) Adapting to the fact that some corruption risks are outside the direct control of international development agencies relating to the corruption risk management systems put in place by aid recipients and grantees;
- ii) Performing in-depth political economy analysis where context allows, in order to have adequate understanding of the environment where the development intervention will be implemented, so that it is designed in such a way that development co-operation has adequate anti-corruption measures and does not inadvertently reinforce or support corruption;

- iii) Working collaboratively, providing resources and/or technical assistance, with recipients and grantees in the home country of the international development agency or in developing countries to improve their own corruption risk management systems;
- iv) Working collaboratively with key relevant government departments responsible for trade, export credit, international legal co-operation and diplomatic representation headquartered in the country of origin of the international development agency to improve joint efforts to fight corrupt practices, including bribe payments by companies;
- v) Raising awareness and foster responsible business behaviour of other relevant actors, private as well as public, active in developing countries, discouraging facilitation payments and where relevant highlighting the illegality of such payments pursuant to the legislation of the donor country;

IV. INVITES the Secretary-General to disseminate this Recommendation;

V. INVITES Adherents and their relevant government agencies such as international development agencies to disseminate this Recommendation among staff and throughout partners;

VI. ENCOURAGES relevant government partners, contractors and grantees to disseminate and follow this Recommendation;

VII. INVITES non-Adherents to take account of and adhere to this Recommendation;

VIII. INSTRUCTS the Development Assistance Committee and the Working Group on Bribery in International Business Transactions to:

- i) Establish a mechanism to monitor regularly the implementation of the Recommendation, within or outside of their respective peer review mechanisms, and in line with their mandates and programme of work and budget;
- ii) Report to the Council no later than five years following the adoption of the Recommendation and regularly thereafter, notably to review its relevance and applicability and whether it requires amendments in the light of experience gained by Adherents.

Adherents*

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- **Recommendations:** OECD legal instruments which are not legally binding but practice accords them great moral force as representing the political will of Adherents. There is an expectation that Adherents will do their utmost to fully implement a Recommendation. Thus, Members which do not intend to do so usually abstain when a Recommendation is adopted, although this is not required in legal terms.
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