

Anti-Corruption Action Statement: 2017

A. The need for action

1. Corruption is damaging:
 - a) It damages countries, resulting in projects which may be unnecessary, unreliable, dangerous, and over-priced. This can lead to loss of life, poverty, economic damage and underdevelopment.
 - b) It damages organisations, resulting in reduced project opportunities, tendering uncertainty, increased project costs, economic damage, extortion, criminal prosecutions, fines, debarment, and reputational risk.
 - c) It damages individuals, resulting in reduced morale, risks to safety, additional expense, extortion, criminal prosecution, fines and imprisonment.
2. The Anti-Corruption Forum (ACF) recognises that, since its foundation in 2004, there has been significant national and international action taken to help prevent corruption. In particular:
 - a) There has been increasing recognition internationally of the damage caused by corruption, and a growing determination to take effective action to minimise it. The national and international media frequently now carry stories of corrupt conduct, reflecting an increased public anger in relation to such practices.
 - b) Many organisations have implemented anti-corruption policies and procedures designed to prevent and deal with corrupt conduct by and against these organisations.
 - c) In 2011, BSI published the BS 10500 anti-bribery management systems standard. This was replaced in October 2016 by a new international anti-bribery management systems standard, ISO 37001. This standard can be implemented by organisations and may be independently certified in the same way as other management systems standards, such as ISO 9001 (quality management), ISO 14001 (environmental management) and OHSAS 18001 (safety management).
 - d) Numerous countries have strengthened their laws in order to make the prosecution of corruption easier. In the UK, the Bribery Act 2010 introduced a new offence that makes an organisation liable if a person associated with the organisation bribes another person, anywhere in the world, intending to obtain business or a business advantage for the organisation. The only defence the organisation would have to such an offence is if the organisation had in place adequate procedures designed to prevent such conduct. UK laws relating to fraud, cartels and money laundering have also been strengthened.
 - e) Multi-lateral development banks and export credit agencies have materially strengthened their anti-corruption procedures and enforcement.
 - f) There are now cases in many countries of successful prosecutions against organisations and individuals who have participated in corrupt conduct.

3. Ten years ago it may have been a relatively common occurrence to hear it stated that “corruption is an inevitable part of business”. As a consequence of the factors listed in 2 above, this is no longer a defensible response and is increasingly no longer the case.
4. However, despite the above major advances, existing anti-corruption mechanisms in many countries still do not effectively discourage, prevent or detect corruption, and do not adequately support the many organisations that wish to see a corruption-free environment. In particular, in countries where corruption is prevalent:
 - a) Many organisations continue, in response to pressures in specific markets, to pay bribes to win work. Organisations which are not prepared to bribe to win work often lose work to organisations which are willing to do so.
 - b) Organisations may face demands for bribes from government officials and representatives of the project owner. Failure to agree to these demands can result in the organisation being denied project awards, certificates, payments, permits and access to information.
 - c) Procurement officials may by-pass tender regulations, by, for example, falsely using an “emergency” procedure which allows the placing of a contract without a competitive process.
 - d) Individuals may face extortion demands, for example at police checkpoints, immigration or customs clearance, or as a pre-condition to obtaining connection to electricity, water or telephone services.
 - e) Existing mechanisms to prevent, report or deal with these demands are inadequate. It is widely believed that the majority of organisations and individuals which pay bribes, and officials and representatives who demand or accept bribes, are not currently identified or punished.
 - f) In many countries, ethical standards established by professional institutions as a condition of membership are not sufficiently communicated, respected or enforced. Frequently, professionals who should be bound both by the law and by these standards turn a blind eye to, condone, or actively participate in corruption.
5. The ACF calls on all those with interests in the domestic and international infrastructure, construction and engineering sectors to take effective and co-ordinated action to reduce corruption, on both a domestic and international basis, on both the supply and demand sides, and in relation to both the practice of corruption and the underlying drivers of corrupt behaviour.
6. The ACF in 2005 published its first Action Statement which recommended actions designed to reduce corruption. Many of these actions have to some extent been achieved in some countries during the last 10 years. The ACF is now publishing its second Action Statement, which takes into account previous advances, and which recommends the adoption of the following actions. The ACF believes that the effective implementation of these actions would materially contribute to the reduction of corruption in the infrastructure, construction and engineering sectors.

B. Recommended anti-corruption actions

7. Actions for business associations and professional institutions

Business associations and professional institutions can play a vital role in combating corruption. Business associations provide an avenue through which business leaders can meet and exchange views, and are the voice of industry. Professional institutions represent individual professionals, and ensure the integrity of their professions. The ACF recommends that associations and institutions take the following steps:

- a) Publicly speak out against corruption.

- b) Through publicity and training, increase awareness among members and staff of the existence of corruption and its consequences, and of circumstances where corrupt practices may occur.
- c) Promote the inclusion of ethics modules as part of professional qualification processes and of continuing professional development.
- d) Work in conjunction with other domestic and international business associations and professional institutions so as to develop a co-ordinated approach to anti-corruption issues.
- e) Work in conjunction with government bodies to ensure that national and international efforts to curb corruption are well-founded, consistent and effective.
- f) Business associations: Encourage their members to implement and maintain anti-corruption policies and procedures designed to prevent and deal with corrupt conduct by and against the organisation. This should include the implementation of an anti-bribery programme that is consistent with recognised good practice, as exemplified by ISO 37001.
- g) Professional institutions: Maintain, communicate and enforce an effective code of conduct which commits the institutions' members to a strict anti-corruption policy. The code should provide a disciplinary mechanism under which members who breach the code are sanctioned.

8. **Actions for organisations (government departments, companies and NGOs)**

Organisations, in the public, private and not for profit sectors, can play a major role in reducing corruption. The ACF recommends that organisations take the following steps.

- a) Chairmen and chief executives should publicise the business and moral case against corruption, and:
 - i) take steps to ensure the implementation of effective action by their own organisations;
 - ii) encourage the implementation of effective action by others, especially those with whom they do business; and
 - iii) promote a culture of business integrity.
- b) Organisations should implement and maintain anti-corruption policies and procedures designed to prevent and deal with corrupt conduct by and against the organisation. In addition, possession of an independently certified accreditation such as ISO 37001 would provide strong evidence of the adequacy of their anti-corruption procedures.

9. **Actions for project owners (public and private sector)**

Project owners play a vital role in corruption prevention, as they control the tender and project management mechanisms. The ACF recommends that project owners take the following steps:

- a) Implement and maintain anti-corruption policies and procedures (see paragraph 8 b).
- b) Require the production of an independent certification to ISO 37001 as a pre-qualification requirement for any bids for major packages of work. A suitable period of time should be allowed to organisations to obtain this certification.
- c) Pending implementation of the certification requirement under b), provide a positive weighting during tender evaluation to an organisation which has been independently certified to ISO 37001.
- d) Ensure that all procurement and project management procedures are fair, reasonable, objective and transparent, and have the prevention of corruption as one of their primary aims.
- e) Introduce effective anti-corruption monitoring and reporting procedures on the project (see paragraph 12).

10. **Actions for banks, export credit agencies, guarantors and insurers, and funders of development aid**

Multi-lateral and bi-lateral development banks, commercial banks, export credit agencies, guarantors and insurers play a central role in many projects. In many jurisdictions, a project would not go ahead without their support, which gives them significant leverage over the manner in which the project is implemented. As a result, they should play a leading role in corruption prevention. The ACF recommends that these parties take the following steps.

- a) Only agree to provide finance, guarantees or insurance in relation to a major project if each key participating organisation has obtained independent certification to ISO 37001. A suitable period of time should be allowed to organisations to obtain this certification.
- b) Undertake due diligence on key project participants, both during tender and project execution, to ensure that they are unlikely to behave corruptly in relation to the project.
- c) Ensure that all procurement and project management procedures in relation to the project are fair, reasonable, objective and transparent, and have the prevention of corruption as one of their primary aims.
- d) Ensure full transparency on government aid supported projects (see paragraph 11.11).
- e) Ensure that effective anti-corruption monitoring and reporting procedures have been implemented on the project (see paragraph 12).
- f) Monitor and audit the provision of project funding and budgetary support funding to ensure as far as reasonable that the funding is being used for its intended purpose.
- g) Co-ordinate their anti-corruption procedures with other banks, export credit agencies, guarantors and insurers so that they share best practice, and are not out of step with one another.
- h) Investigate, and where appropriate take action to:
 - penalise any organisation or individual which is involved in corruption or has misused funding; and
 - support any organisation that believes it has been a victim of corrupt practice(s) as part of the relevant project.

11. **Actions for Governments**

11.1 Action by governments is fundamental to an effective anti-corruption environment. While many governments may have signed international anti-corruption conventions, and may have introduced anti-corruption laws, few are taking genuine and effective action to prevent corruption on either the supply or demand sides. The ACF recommends that action should be taken by governments in the following areas.

11.2 **Enhanced co-operation with other countries:**

Governments should work with other governments, and with appropriate international institutions, to ensure that all countries properly implement their international obligations under the UN, OECD and other international anti-corruption conventions and agreements. In doing so, incentives should be provided that give favourable status to countries that demonstrate higher levels of compliance.

11.3 **Anti-corruption laws:**

There should be clear, comprehensive, fair and effective criminal and civil laws which prohibit corruption and provide effective remedies.

11.4 Investigating, prosecuting and judicial authorities:

There should be competent, effective and adequately resourced investigating, prosecuting and judicial authorities that are independent of government, and operate without interference from government, and which enforce the anti-corruption laws.

11.5 Debarment:

There should be an effective debarment policy, under which any organisation and related key individuals that have been convicted of committing a corrupt act are prevented from participating in public sector projects for a reasonable and specified period of time. Debarment procedures should take account of mitigatory circumstances in assessing the period of debarment, and should allow an organisation's debarment to be lifted after a reasonable period on proof of reform and implementation of adequate preventive procedures.

11.6 Asset recovery:

There should be effective procedures to enable the recovery and repatriation of assets gained or stolen through corrupt activities.

11.7 Approval procedures and permits:

There should be effective procedures to reduce the risk of corruption in relation to the issuing of government approvals and permits (e.g. planning, fire, safety, building regulations, work permits, visas, customs clearance) and reporting procedures for organisations that experience corrupt approaches in that regard.

11.8 Procurement and project management regulations:

Procurement and project management regulations in relation to public sector projects should result in a fair, reasonable, objective and transparent process, with the prevention of corruption as one of its primary aims.

11.9 Anti-corruption management programmes:

Government departments or public sector agencies which are responsible for managing public sector projects should implement the provisions referred to in paragraph 9.

11.10 Freedom of speech and of the press:

There should be freedom of speech, which allows the press and public to question and report on potentially corrupt activities.

11.11 Transparency:

Governments should routinely publish on a publicly accessible web-site(s) information in relation to public sector projects. In relation to each specific project, publication should routinely include details of the following:

- the project;
- details of all major contracts in relation to the project, including the award process, price, contract terms, major sub-contracts, variations, payments and outcomes;
- project evaluations and audits.

In situations where confidentiality is temporarily required (e.g. a tender), disclosure could be delayed until after tender submission. Information which is genuinely and permanently confidential (e.g. a manufacturing process) could be exempt from disclosure.

11.12 **Database:**

An internationally accessible database should be developed containing details of prosecutions and debarment linked to projects owned or funded by, or otherwise connected to the relevant government. Access to this database would assist other organisations in undertaking relevant due diligence prior to entering into contractual arrangements.

11.13 **Enhanced co-operation with industry:**

Governments and industry should work openly and actively with each other to develop and implement effective anti-corruption mechanisms.

12. **Project Anti-Corruption Monitoring**

Corrupt practices are normally concealed. It is difficult for anyone who does not have the appropriate skills, who does not have access to the relevant documents and people, and who does not have an in-depth involvement in the project, to be able to prevent or uncover these practices. The ACF believes that independent monitoring mechanisms need to be introduced at project level which are capable of preventing and identifying corrupt practices. It recommends the development and implementation of mechanisms under which, in a realistic manner that can be justified by the scale and scope of specific projects or programmes:

- a) the participants in a project commit to act with absolute integrity in relation to the project;
- b) compliance with the integrity commitments is monitored throughout the project by an independent expert who is given appropriate and confidential access to the project planning, design, documents, project site, organisations and individuals for the duration of the project; and
- c) breach of the commitments leads to contractual and, if appropriate, criminal sanction.

C. **Implementation**

The ACF intends to continue to co-operate with the UK Government and with other national and international organisations with a view to encouraging the development and implementation of the above and other appropriate actions.

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About the ACF

The Anti-Corruption Forum is an independent alliance of UK business associations, professional institutions and organisations with interests in the domestic and international infrastructure, construction and engineering sectors. The purpose of the ACF is (1) for business and individuals to exchange information and ideas on corruption prevention, and (2) to promote industry-led actions which can help eliminate corruption.

Since its formation in 2004, the ACF has developed close and respected consultative links to the UK Government, international companies, professional institutions and individuals in relation to anti-corruption issues.

If you wish to learn more about the Anti-Corruption Forum, or to join the ACF, see:

<http://www.anticorruptionforum.org>