

Annex 4: Library of Illustrative Diagnostic Guides¹

The 19 Diagnostic Guides provided in this Annex can support the Assessment Team in conducting in-depth analyses of major government sectors and functions, helping the team target major sources of corruption vulnerability and outline strategies and concrete actions that are likely to reduce opportunities for corruption. The guides for several functions or sectors/institutions may be applicable across several sectors. For example, the Diagnostic Guides for privatization, public procurement, and tax and custom administration may also support assessments of the private sector. These Guides are only illustrative and in most cases should not be used as interview scripts. Rather, they should be modified and new questions added to suit the country- or sector-specific circumstances or individuals interviewed. Teams will need to use their own judgment as to whether all of the issues in each Guide are equally important. The following Guides are included:

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JUDICIARY¹

The judiciary is one of the key institutions in fighting corruption in any country. To be able to prosecute corruption effectively, the judiciary must be independent, free of any political influence, must have the capacity and adequate resources. But often the judiciary is vulnerable to corruption itself. Therefore effective mechanisms to prevent corruption should be embedded into the judiciary. The following guide includes both sets of questions – effectiveness of the judiciary to prosecute corruption and to prevent itself from being a corrupt institution.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
<p>Judicial independence</p> <p><i>Independence</i></p> <p><i>Jurisdiction</i></p> <p><i>Financial Independence</i></p> <p><i>Career development</i></p> <p><i>Court ruling</i></p>	<ul style="list-style-type: none"> • Does the law guarantee judicial independence? Is the judiciary independent and free from improper influence in practice? • Control over court organization and management is not highly concentrated in the hands of a few officials or judges. • Do courts have jurisdiction to review the actions of the executive (i.e. Presidency, the Prime Minister’s or other Ministers and their officials) and the legislature? • Is there sufficient funding to perform functions? Is funding allocated fairly throughout courts of different jurisdictions and levels? • Does the judiciary have control over its own budget? • Is funding for the judiciary independent of the political process? • Are levels of remuneration of court personnel and of judges compatible with the salary market in country (and, for judges, is remuneration compatible to the fees that private lawyers can command)? • How transparent are procedures for judicial appointments? What, if any, improper influence is exercised over appointments? • Are judges selected or appointed for life or long terms? (Typically, such terms are considered to reduce opportunities for corruption as judges feel less dependent and less concerned about their career after they serve on the bench.) • Are the recruitment and career development of judges based on merit, by law? In practice? • Is there a confirmation process for high court judges (i.e. conducted by the legislature or an independent body)? • Are personnel decisions within the court system based on publicized and transparent criteria? • Are judges protected by law or in practice from removal without relevant justification? • Is there a law that prohibits interference with judges in a course of court hearings? If there is a law, is it enforced in practice? • Are there safeguards for judicial officials who report undue pressure from political powers to their superiors, to the police, to the prosecutor, to other authorities or to the public? • Judicial decisions are not subject to significant influence from other judges, the government, or private interests.

¹ Teams may also want to refer to USAID’s Anticorruption Program Brief on Combating Corruption in the Judiciary (http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/anti-corruption/)

	<ul style="list-style-type: none"> • Judicial decisions can not be reversed other than through a judicial appellate process. • Do judges have immunity for actions taken in their official capacity (by law or in practice)?
Integrity mechanisms and Internal Controls	<ul style="list-style-type: none"> • Do judicial codes of conduct — including procedures for ensuring compliance and for imposing disciplinary measures — exist? Are they well-publicized? To what degree are they implemented? • Are there rules on conflict of interest for the judiciary and are they effective? • Are judges prohibited from running their own legal practices? • Are there rules on gifts and hospitality and are they effective? • Are disclosure of assets rules applicable to judges or other senior judiciary officials and are they adhered to in practice? • Does anyone monitor conflict of interests, gifts and hospitalities, or lifestyle? If there is monitoring, is it done effectively and is information publicly available? • Are there post-employment restrictions and if so, are the restrictions adhered to? • Is there an ombudsman (or other complaint mechanism) for the judicial system? If so, is he/she protected from political interference? Does the judicial ombudsman (or equivalent agency) initiate investigations and impose penalties on offenders? • Are there provisions for whistleblowing on misconduct within the judiciary? If so, are they effectively used? • Are bar associations well organized? What role do they play in monitoring the judicial system? • Is disbarment used as a tool to punish offenders? Is it applied transparently and fairly? • Has corruption been targeted by the judiciary as an internal problem? Have anticorruption efforts been successful? • Have there been instances of successful prosecutions of corrupt judges or senior judicial officials? • Does the judiciary inappropriately protect prosecutors/judges in cases of corruption?
Court procedures	<ul style="list-style-type: none"> • Do administrative processes follow set rules and procedures, and do mechanisms exist for ensuring that standardized procedures for handling cases are followed? • Are rules of evidence and standards for evaluating arguments applied in a predictable fashion? • Are procedural steps in court processes clearly defined, available to the public, and NOT numerous and complex? • Does disposition of cases involve excessively long time periods? • Are cases heard by multi-judge panels rather than by single judges? (Multi-judge panels are considered to reduce the opportunities for corruption.) • Do performance standards (e.g., cases decided, time limits, reversals on appeal) exist and is there compliance monitoring? Is information on performance publicly available? • Are there alternative mechanisms for dispute resolution in addition to the formal court system? • Are there specialized offices or functions (e.g., computerized databases) to

	<p>conduct the mundane activities of the court?</p> <ul style="list-style-type: none"> • Are inventories of supplies and equipment carefully maintained and audited?
External Oversight and Accountability	<ul style="list-style-type: none"> • Are judges required by law to give reasons for their decisions? If there is a law, do they comply in practice? Are judicial decisions and the reasons behind them made public? • Does the judiciary have to report to anyone by law? If there is a law, is it observed in practice? Does this result in appropriate monitoring of, or inappropriate control over, the judiciary? • Is there an independent inspectorate that regularly checks on the details of court operations and is able to publish its findings freely and widely? • Are there external reviews of judicial decisions and judicial opinions? • Is the media active in reporting events within the court system? • Are public hearings and/or proceedings required by law? If there is a law, is it observed in practice? Are there exemptions in practice? • Do complaint mechanisms, which provide a safe outlet to report on possible corruption, exist? If so, are they well-publicized?
Transparency	<ul style="list-style-type: none"> • Is it required for court records to be published and made publicly accessible? Is it done in practice? Is it done regularly? • Are court procedures transparent (“transparency” in this context means well-publicized rules for how cases will be processed, easy access to information on the status of cases, public announcement of hearings, openness of hearings to the public, and the publishing of judicial decisions)? • Is information regarding court scheduling, judicial decisions, and the basis for these decisions clear? • Are courtroom proceedings open to the public and the media by law and/or in practice?
Court accessibility and public trust in court	<ul style="list-style-type: none"> • Do citizens have easy access to justice/recourse to the courts by law? • Can citizens earning the median annual income afford to bring a legal suit or secure legal counsel? • In practice, can a typical small business afford to bring a legal suit or secure legal counsel? • In practice, does the state provide legal counsel for defendants in criminal cases who cannot afford representation? • Does the public trust in the judiciary? Are people willing to turn to the courts for resolving disputes? • Is there a process by which lawyers and the public can register complaints concerning judicial conduct?
Corruption in Court Ruling	<ul style="list-style-type: none"> • Do litigants often pay (money, gifts, services, or favors) judges for: favorable judgment, delay, destruction of damaging documents, access to privileged documents, or manipulation of procedural rules? • Do judges or other court officials often threaten plaintiffs with delays or acquittals to collect bribes? (repeat for lawyer paying bribes, and/or court administrator collecting bribes)? • Do judges often threaten defendants with harsh rulings to get bribes? • Do judges often pressure private firms to hire their friends and relatives?
Effectiveness in Prosecuting Corruption	<ul style="list-style-type: none"> • Are cases of corruption prosecuted within the legal system? • How successfully has corruption been adjudicated? • Are there specialized criminal courts for corruption cases?

	<ul style="list-style-type: none"> • Do judges receive particular training for prosecuting corruption cases? • Is there an objective method (e.g., random) for assigning cases to judges? • Are there required periods within which cases need to be processed? Are measures taken to ensure that legal resolution of cases is accomplished in a prompt and timely manner? • Does the judiciary issue verdicts against members of high officials of the ruling party or current administration? • Does the judiciary issue verdicts against high-level but not primarily against low-level officials? Or vice-versa? • Are there instances of inconsistencies in the issuance of summons, the unjustifiable refusal or granting of bail, discrepancies in prosecuting high-profile corruption suspects versus petty corruption cases, unwarranted acquittals, and general disparities in sentencing?
<p>Judicial Review of Administrative Decisions</p>	<ul style="list-style-type: none"> • Is there a law providing for judicial review of administrative decisions (such as issuance of licenses or tax assessments)? • Do civic organizations have standing to appeal an administrative decision if they have an interest in the matter? • Under the law, is the burden of proof in appeals of administrative cases on the government? • Under the law, can a court annul or reverse an administrative decision made by an administrative body that lacked legal competence or based on an incorrect application of law? • Can a court impose sanctions on an administrative agency for failure to obey a court order? • Do courts have contempt and other enforcement powers to hold public officials and agencies to account? • Are monetary damages against the government available to successful plaintiffs? • In practice, are citizens treated fairly by courts hearing administrative cases on appeal?
<p>Enforcement of Judgments.</p>	<ul style="list-style-type: none"> • Do bailiffs extort payments from losing parties in order to ignore the judgment or to create difficulties during the enforcement phase due to imprecise and confusing or even contradictory judgments? • Do police who object to the judge’s decision refuse to carry out the decision (e.g., release the innocent or incarcerate the guilty)? • Do financial institutions implement the decision when they are required by a judicial decision to levy the account of a powerful or wealthy individual?

LEGISLATURE

The legislature should be the most powerful oversight institution. An independent, resourceful, proactive and dedicated legislature can be a champion and a safeguard of a national anticorruption effort. On the other hand, legislators themselves can become facilitators of grand corruption by pursuing their own personal agendas or favoring powerful interests groups. Legislators can create space for petty corruption by setting policies allowing low-level bureaucrats to subjectively interpret any law and take advantage of citizens. Questions in the following guide are structured to examine the legislature from the point of view of its role in setting and following anticorruption policies, performing effective oversight of the executive branch, and its ability to prevent corruption in the legislature itself.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
Legislature independence and capacity	<ul style="list-style-type: none"> • Is there formal operational independence of the legislative branch? • Is the legislative branch independent in practice? • Does the ruling party have sufficient predominance of seats in the legislature to give it complete control over the legislature? • Does the legislature control its own budget? • Is the budget of key legislative committees sufficient? • Are salary and benefit levels compatible with the salary market in country? • Are there adequate training and resources available to ensure understanding of the basic functions and responsibilities of the legislative body? • Are key legislative committees, especially those tasked with oversight of other branches of government, professional and adequately staffed?
Legislative Oversight	<ul style="list-style-type: none"> • Does the legislature play an active role in the oversight of government agencies? • Has the legislature established any special committee to monitor and/or investigate allegations of misdoing within the three branches of government when necessary? • Does the legislature have investigatory and subpoena powers? • Has the legislature utilized its investigatory or subpoena powers at least a handful of times over the past 5 years? • Does the legislature have a constitutional role in approving certain political appointments? • Has the legislature rejected at least one political appointee in the past decade? • Do key legislative committees regularly hold hearings?
<i>Public funds oversight</i>	<ul style="list-style-type: none"> • Is there a legislative committee that oversees public funds? • If there is a committee, is it effective, properly staffed and funded? • Is the legislature required by law to approve the budget and amendments to the budget? If it is required by the law, does the legislature exercise this authority in practice? • Is the committee that oversees public funds protected from political interference? • Does the committee initiate independent investigations into financial irregularities when necessary? • Does the legislature oversee budget expenditure effectively? Is there a committee responsible for reviewing audit reports and assuring that remedial actions are taken? Is it effective?

	<ul style="list-style-type: none"> • In practice, has this legislative committee been effective in calling attention to financial irregularities in the government generally or in particular agencies?
<i>Rule of Law and Anticorruption oversight</i>	<ul style="list-style-type: none"> • Is there an effective committee/s that oversees rule of law and anticorruption affairs? • Are anticorruption agency reports submitted to the legislature? • Does the committee regularly or effectively conducts hearings? • Does the committee have authority (and if so, does it exercise it effectively) to call executive branch to report on the issues? • Does the committee have the right (and does it exercise it) to initiate investigations into corruption? • Has the committee initiated independent investigations into corruption by high level public officials over the past 5 years? • Are the committee investigations transparent and free from political influence?
Internal Controls <i>Financial Disclosure</i>	<ul style="list-style-type: none"> • Are there financial/asset disclosure rules for legislators? • Do legislators provide disclosure annually or at least before taking an office and after leaving office? • Are the disclosures made public? • Is there an independent register for financial disclosures that is protected from political interference? • Does the financial disclosure registrar have legal powers to enforce disclosure, have staff to investigate allegations, and ability to sanction offenders? • Has the financial disclosure registrar successfully conducted investigations in to allegations over the last 5 years?
<i>Conflict of Interest/Code of Ethics</i>	<ul style="list-style-type: none"> • Does the legislature have an effective internal integrity/ethics committee? • Are there codes of conduct/codes of ethics for legislators with effective enforcement mechanisms? • Are there conflict of interest rules that are effectively enforced? • Are there rules and registers concerning gifts and hospitality that are effectively enforced? • Are there registers of disclosed gifts and hospitality and if so, are they maintained in practice effectively? • Are there post-employment restrictions for legislators and are they effectively enforced? • Has the internal integrity/ethics committee exercised its authority to enforce code of ethics for the last 5 years? • Are legislators prevented from switching party lines mid-term and is there special oversight of this practice? • Are legislators required to (and do they in practice) record and/or disclose contact with lobbyists or similar registered interest groups?
Accountability	<ul style="list-style-type: none"> • Are there effective, and enforced in practice, laws/rules that govern oversight of the legislative branch? • Is there an active opposition in parliament that monitors the incumbent effectively? • Is there effective judicial review of the legislature's activities?

	<ul style="list-style-type: none"> • Do parliamentary members support public interests rather than the agendas of wealthy organized interests or social groups? • Are the members of parliament required to report to their constituencies? Do they do in practice and do they do it regularly? • How regularly are members of parliament voted out of office, or how often does the majority change from one party to another? • Is there a law that gives constituencies rights to remove/recall their representatives from the office? Is this law enforceable? Were there instances of successfully exercising this law for the last 5 years? • Are citizens legally and in practice able to participate in the legislative hearings and committee meetings? • Are the members of parliament prohibited from having access to off-the-books funds? • Was corruption successfully targeted by legislature as an internal problem?
Transparency	<ul style="list-style-type: none"> • Are disclosed assets made publicly accessible and is this information accessible in practice? • Is the legislative budget required to be made publicly accessible and is this information accessible in practice? • Is the accounts committee required to report publicly and do they do it in practice? • Are the legislature's sessions open to the public? • Are the legislative committees' meetings open to the public and announced in advance? • Is the legislators' voting record maintained and publicly available?
Complaints/enforcement mechanisms	<ul style="list-style-type: none"> • Are there provisions for whistleblowing on misconduct within the legislature and are these provisions implemented in practice? • Are there formal powers of sanction in place against parliamentarians and have they been invoked for last 5 years?
Immunity	<ul style="list-style-type: none"> • Are legislators immune from prosecution? • Does legislative immunity interfere with prosecution of corruption?
Demonstrated Political Will	<ul style="list-style-type: none"> • Has the legislature initiated and adopted policies or legislation to address corruption, increase transparency and accountability? • Has the legislature established milestones and measurements for effectiveness of reforms? • Were reforms effective? • Does the legislature oversee effective implementation of reforms? • Is there a consensus in legislature about policies to address corruption? • Are there champions in the legislature on addressing corruption?

PUBLIC INSTITUTIONS/CIVIL SERVICE

The following set of diagnostic questions can be used for any public institution in the executive branch of the government. It includes generic questions to examine such areas as independence of the institution, its capacity and financial viability, personnel hiring and management, internal controls, accountability, transparency mechanisms, responsiveness, and political will to address corruption.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
Institutional Independence	<ul style="list-style-type: none"> • Is there formal independence of the public sector? Is the public sector independent in practice? • What safeguards exist to prevent political interference in the public sector? Are they effective? • Are there rules requiring political independence of public servants? Are they followed?
Personnel Management	<ul style="list-style-type: none"> • Is there a law and detailed implementing regulations governing public employment? • Are political appointees clearly distinguished from career civil servants and public service employees (i.e. non civil servant status) as a matter of law and policy? • Is there a legislative framework for the civil service regulating recruitment, job security and independence? Is it followed? • Are there specific rules for transparent hiring and promotion to help avoid abuses of patronage, nepotism and favoritism and to foster the creation of an independent civil service? Are these ruled enforced? • Is there a system of competitive exams for prospective civil servants? • Are vacancies advertised publicly to ensure fair and open competition? • Does the civil service lay out clear job descriptions and qualification standards for all positions for hiring and promotion? • Are civil servants hired and promoted according to professional criteria, which are known to all employees? • Are periodic reviews of staff performance carried out and documented? • Are rewards and promotions (including compensation packages and pension funds) based upon these reviews, including any infractions? Is it documented? • Are the outcomes of personnel selection and promotion regularly reviewed? Is it documented? • Is special attention given to officials in positions particularly susceptible to corruption (e.g. areas interacting with the private sector: public procurement, customs or tax administration, etc.)? • Is competition among officials promoted via overlapping responsibilities and jurisdictions (e.g., passport agencies in various areas)? • Are task assignments of supervisors and employees periodically changed to reduce insularity (for example, every 1-2 years)? • Is training conducted regularly for civil servants, on rules and procedures governing recruitment, hiring, and promotion? • Are civil servants who are dismissed from employment on grounds of corruption or professional malfeasance barred from public service? • Is there an oversight body that reviews hiring and promotion decisions and ensures fairness and professionalism in recruitment?

Integrity mechanisms	<ul style="list-style-type: none"> • Are there codes of conduct for public servants or any other legislation regulating core values and ethics of public service? What is their legal status? Is there any evidence of their effectiveness? • Are core public service values communicated when someone joins the public service? Are they included in the employment contract/document? • Are these codes nation-wide, local, or sector-specific? • Are there rules (including registries) concerning acceptance of gifts and hospitality? • If so, are these registers kept up to date? By whom? Are they made public? • Are there rules on conflict of interest? Are they effective and implemented in practice? Are they applied nation-wide, locally, and across sectors? • Do restrictions on post-public service employment exist? Are they enforced? • Is bribery of civil servants/public sector officials an offence? If so, is such bribery governed by criminal or administrative law, or both? Is it enforced? Is it enforced fairly throughout all levels officials and civil servants?
Financial viability	<ul style="list-style-type: none"> • Is there a high degree of wage compression among civil servants (reasonable low ratio of median salary at the top level to median salary at the lowest level)? • Are key public sector institutions funded and staffed sufficiently? • To what extent is the budgetary process that governs the public sector transparent? Is information about it publicly available? • Civil servants generally do not have access to off-the-books funds? • There are no (or reasonably limited number) of other agencies that are engaged in public spending other than public institutions (e.g. quasi-governmental agencies or public private partnerships)? Who spends public money other than the public sector? • Is compensation (salary and benefits) in the civil service adequate to sustain an appropriate livelihood according to the level of the economy? How do civil service wages compare with private service wages? • Have the officials been paid regularly in the last five years? How long have any delays been?
Incentives	<ul style="list-style-type: none"> • Are there clear rules that govern tenure? Are tenure rules followed? • Are civil service wages linked to performance? • To what extent has the civil service/public sector organized its work based on/committed themselves in any extraordinary way to an agenda of integrity, transparency and good governance? What is the evidence for this? • Are employees satisfied with their jobs? Are they involved in making decisions? Are communication lines open? • Are rules and regulations disseminated promptly and discussed with employees? Are rules made as specific and as clear as possible? If discretion is allowed, is there a clear delineation of responsibilities and a corresponding system of punishments, which prevents employees from “going too far”?
Accountability	<ul style="list-style-type: none"> • Are there laws/rules that govern oversight of the civil service/public sector agencies? Are these laws/rules effective? Are there rules for audit oversight? Does such oversight take place? • Are there administrative checks and balances on decisions of individual public officials? Are these effective?

	<ul style="list-style-type: none"> • Are public sector agencies required to report to legislature, in law? Does this accountability take place in practice? • Is the public required to be consulted in the work of key public sector agencies? Does this consultation take place in practice?
Internal controls (departments or institutions within governmental agencies that provide performance and financial oversight)	<ul style="list-style-type: none"> • How does internal control support corruption prevention efforts (e.g., does it enable management to detect irregularities and identify procedural problems)? Does the institution analyze systemic failures and trends in criminal and disciplinary cases? Does the review of problems lead to specific recommendations to strengthen prevention strategies? Are the recommendations implemented? Are the recommendations made available to supervisory bodies or legislators? • Does the government identify corruption risks and develop appropriate safeguards and controls? • Are employees trained on how to manage corruption risks and rewarded for identifying responses to them?
Transparency	<ul style="list-style-type: none"> • What kinds of disclosure rules govern the civil service? • Do some civil servants have to disclose assets? Does this take place in practice? Is there an independent agency that monitors disclosure? • Is such disclosure required to be publicly accessible? Is it, in practice? • Must procedures, criteria and fees for administrative decisions be published (e.g. for granting permits, licenses, bank loans, building plots, tax assessments, etc)? Are they? • To what extent are there electronic provisions for public services, i.e. internet-based tax filing, license application, procurement processes? Have these demonstrably had an impact on opportunities for corruption?
Complaints/enforcement mechanisms	<ul style="list-style-type: none"> • What are the provisions for whistleblowing on misconduct in the civil service/public sector? Have these been exercised? • Who investigates allegations of corruption committed in the civil service? • What kind of oversight mechanisms are in place for such organizations? • What options exist for sanction against civil servants? Are they invoked with any regularity? • How successfully has corruption been targeted by this institution, as an internal problem? An external problem? • Have civil servants been investigated or prosecuted in the last five years? • What capacity is there for citizen complaints/redress? • Is there a particular right of redress regarding employment?
Demonstrated Political Will	<ul style="list-style-type: none"> • Did the government initiate any policies or reforms to address corruption, increase transparency and accountability? If so, what policies and reforms were implemented? Did the government establish milestones and measurements for effectiveness of the reforms? To what extent these reforms were effective? • Is there a consensus among branches of the government and governmental institutions about reforms? Who is a champion?

SUPREME AUDIT INSTITUTION/FISCAL RESPONSIBILITY

Most countries have a supreme audit institution (SAI), an auditor-general, or a comparable body mandated to oversee performance and financial activities of the governmental institutions. This institution can be very instrumental in detecting and preventing corruption if it is independent, has broad but clearly defined authority, has adequate capacity and resources, clear standards and procedures to conduct audits, and staffed with high level professionals that comply with strict ethical standards. Political influence, weak internal controls, poor capacity and other deficiencies can easily undermine the role and ability of this institution in the country's anticorruption effort.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC ASSESSMENT QUESTIONS
Authority and Capacity	<ul style="list-style-type: none"> • Is the supreme audit institution (SAI), auditor-general, or comparable body guaranteed constitutionally or through primary legislation? • Does the SAI's mandate extend to all government activities? If any national government accounts are not subject to audit by the SAI, are there other institutions that audit these accounts and what is the relationship of the SAI to these auditors? • Is the SAI responsible for auditing government activities, programs, operations, enterprises, which do not form part of the government accounts, but which depend on government grants, subventions and loans or other resources sanctioned by law? If the SAI does not audit such accounts, (i) what is the overall significance of the accounts? (ii) who audits such accounts? and (iii) what is the specific responsibility of the SAI with respect to those accounts, if any? • Is the SAI responsible for auditing sub-national governments, if any exist? If sub-national governments exist and the SAI is not responsible, how are their auditors appointed and what is the relationship of those auditors to the SAI? • What types of audits does the SAI conduct (financial, compliance, performance, those linked to high-risk operations, and/or others)? • Must all public expenditures be audited by the SAI annually? Is this done, in practice? • Is there evidence of the government (regularly) acting on SAI reports?
Independence	<ul style="list-style-type: none"> • Is there formal independence for the SAI? Is it independent in practice? In practice, has the SAI been protected from political interference? • Is the appointment of the head of the institution transparent and merit-based? Who appoints the head of the SAI? Are the terms of appointment of the head, including tenure and remuneration, at least commensurate with other equivalent positions such as High Court judges? • Who may dismiss the head of the SAI and under what circumstances? Is the head of the institution protected from removal without relevant justification? • Does the SAI have authority, independently of the executive, to appoint its staff and decide on their conditions of service, with due regard for the general conditions of the civil service? • Is the SAI able to allocate its budget independently in formal terms? In practice? • What is the budgetary process that governs the Supreme Audit Institution? Who approves the SAI budget, the executive or parliament? • Is the Supreme Audit Institution prohibited from having access to off-the-

	<p>books funds?</p> <ul style="list-style-type: none"> • Does the SAI have reasonable access to all information, facilities and persons without hindrance for the conduct of audits? • Other than that mandated specifically by law, does the SAI have operational independence to determine what, how and when to audit? • Does the SAI have the authority to make reports directly to the legislature and at such frequency as it deems appropriate? • Are the total resources of the SAI – funding and staffing level – adequate in comparison with the budgets of all the entities subject to audit by the SAI? • Have any SAI budget submissions been rejected and, if so, what were the reasons for such rejection?
Auditing Standards	<ul style="list-style-type: none"> • Has the SAI established any auditing standards? If such standards have been established, are they compatible with other international standards, such as the INTOSAI standards? • If the SAI has not established its own internal standards, has it adopted other international standards and does it use such standards in its operations? Do the internal policies and procedures (e.g. Audit Manuals) provide sufficient guidance for applying auditing standards and managing the audit process? If no policies or procedures have been established, how does the SAI manage itself?
Professional Competence	<ul style="list-style-type: none"> • Does the agency have a professional, full-time staff? • Has the SAI established policies and procedures to ensure that audits are planned and supervised by auditors who are competent and knowledgeable in the SAI's standards and methodologies? • Does the actual staffing profile of the SAI include the range of skills and experience required for the effective discharge of its mandate (including accountants, financial management experts, economists, technical, clerical, and others)? • Judging by its staff recruitment policies and some recent actual recruitment, is the SAI actively pursuing the goal of recruiting the type of staff that would provide it with the range of competencies that it needs? • Has the SAI established sufficient operational manuals, written guidelines and instructions concerning the conduct of audits? • If the SAI engages private sector auditors to undertake specific audit assignments or relies on the work of other auditors, have policies and procedures to review the quality and reliability of work been established, particularly to ensure that it was completed in accordance with generally accepted auditing standards?
Scope of Audit	<ul style="list-style-type: none"> • Is the policy established for types of audit and their frequency? Is this policy clear, free of political influence and strictly followed? • If the SAI does not undertake performance audits, what are the reasons for not doing so, e.g., mandate restrictions or lack of adequate trained staff? • Does the SAI evaluate the effectiveness of internal audits and internal control systems in its audits?
Planning	<ul style="list-style-type: none"> • Are appropriate strategic plans established taking into account the mandate, other statutory requirements, past performance and coverage, materiality, risk, legislative and public interest and the level of resources? • Has the SAI established adequate management information systems to

	track the use of its resources and the progress against plans, and an internal review system to address changing priorities?
Audit Execution	<ul style="list-style-type: none"> • Does the SAI ensure that each audit assignment is properly planned so that the objective and scope of the audit are clear, and the materiality and risks are properly assessed? • Is the type and quantity of relevant and competent evidential material to be obtained and evaluated clear? • Are procedures implemented to ensure that competent and relevant evidence is obtained and properly documented? • Are procedures implemented to ensure the objective evaluation of all evidence and that all findings, conclusions, opinions and recommendations are properly documented, supported and verified? • Does the audit process allow for the work of audit staff at each level and phase to be properly supervised to ensure fulfillment of the audit objectives and the maintenance of the quality of the audit work?
Reporting and Follow-Up	<ul style="list-style-type: none"> • Have policies been adopted and implemented to ensure, at the end of each audit, that the SAI prepares a written report? • Do such reports reflect the SAI's independence and are they objective, fair, constructive, and free from vagueness and ambiguity? • To whom does the SAI report? Does it submit its reports in a timely manner? • Can citizens access the reports within a reasonable time period and at a reasonable cost? • Does the government act on the findings of the agency? • Does the SAI conduct follow-up reviews to ensure that the executive is acting upon its findings and recommendations in substance and spirit, and does it report the results of such reviews to the authorities concerned? • In practice, has the government acted on the findings and recommendations of the supreme audit body/auditor general?
Quality Review and Control	<ul style="list-style-type: none"> • Is the SAI subject to periodic review through independent internal and external peer review of completed audits? • Where such review is being undertaken, are there procedures for implementing lessons learnt?
Accountability	<ul style="list-style-type: none"> • Are there laws/rules that govern oversight of the Supreme Audit Institution? Are these laws/rules effective? • Must the Supreme Audit Institution report to legislature, in law? Does this accountability take place in practice? • In practice, does the supreme audit body/auditor general make regular reports to the legislature? • Is the public required to be consulted in the work of the Supreme Audit Institution? Does this consultation take place in practice?
Integrity mechanisms	<ul style="list-style-type: none"> • Are there rules on conflict of interest within the Supreme Audit Institution? Are they followed effectively in practice? • Are there rules on gifts and hospitality? Are they followed effectively in practice? • Are there post-employment restrictions? Are these restrictions adhered to?
Transparency	<ul style="list-style-type: none"> • Must reporting on government audits be kept up to date, by law? Is this done in practice? • Must reports be submitted to a Public Accounts Committee in the

	<p>legislature and/or debated by the legislature? Is this done?</p> <ul style="list-style-type: none"> • Must all public expenditures be declared in the official budget? Are they? • Must there be public access to SAI reports? Is there? Is the form the reports are submitted easy accessed and understood by public?
Complaints/enforcement mechanisms	<ul style="list-style-type: none"> • Are there provisions for whistleblowing for misconduct within the SAI? Have these provisions ever been used, in practice? • Is the public able, in law, to redress grievances regarding budget irregularities with this body? Has this taken place?

ANTICORRUPTION AGENCIES²

Many countries tend to establish a dedicated institution to fight corruption. These institutions can be established in the form of stand-alone anticorruption commissions/committees/bureaus/agencies with functions that vary from setting national anticorruption policies only to a broader spectrum of activities that include conducting investigations and implementing preventative reforms and awareness programs. Another approach is to establish coordinating bodies to organize activities by the number of institutions that are involved in anticorruption efforts. Any approach can be successful or can easily fail if there is no real political will at the very top of the government and across institutions. A lack of resources and professionalism, a lack of public trust and support are also causes for failure. Such institutions sometimes become highly corrupt themselves when there is no accountability and transparency in its operations and political interests overshadow its mandate. The following guide contains questions that help to examine this kind of institution. Depending on the nature and the mandate, the assessment team may need to use questions from other chapters, such as:

- Public Institutions/Civil Service (Personnel Management, Integrity Mechanisms, Financial Viability, Incentives, Accountability, Internal Controls, Transparency, Complaints/Enforcement Mechanisms, Demonstrated Political Will)
- Budget and Financial Management
- Law Enforcement Institutions

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
Mandate, Capacity, and Independence	<ul style="list-style-type: none"> • Are there dedicated, government anticorruption agencies (ACAs), or is the anticorruption task divided up among multiple agencies/organizations? • Is there formal independence of the ACA? Is it independent in practice? Are there mechanisms that prevent ACA from political interference in carrying out its mandate? • Are appointments required by law to be based on merit? Are appointments based on merit in practice? • Are the appointees protected by law from removal without relevant justification? In practice? • Does the ACA manage its own budget line in formal terms? In practice? • Is the budget/staffing of the ACA or relevant agencies sufficient to carry out their mandate effectively? • Is the budgetary process that governs the ACA transparent and free from political interference? • What are the main responsibilities of the anticorruption agency (or relevant organizations): investigation; prevention; education and awareness; prosecution, or other? • If the anticorruption task divided up among multiple agencies/organizations, is coordination among these agencies established and carried on effectively in practice? • Do they cover public and private sectors? • Do they have a national and/or local remit?
Investigating Corruption	<ul style="list-style-type: none"> • If the ACA has investigatory functions, has it conducted investigations into corruption of high ranking public officials from the ruling party/administration?

² Teams may also consult the USAID Anticorruption Program Brief on Anticorruption Agencies (ACAs) (http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/anti-corruption/)

	<ul style="list-style-type: none"> • Have investigations resulted in the prosecution of high ranking government officials from ruling party/administration? From opposition? • What is the balance of proactivity (monitoring and preventative interventions) versus reactivity (responding to complaints) in the work load? • How successfully has corruption been targeted and punished by this institution? • <i>(Additional questions are in chapter LAW ENFORCEMENT INSTITUTIONS)</i>
Accountability	<ul style="list-style-type: none"> • Are there laws/rules that govern oversight of the ACA? Are these laws/rules effective? • To whom must the ACA report, in law (legislature, executive, others)? Does this accountability for its actions take place in practice? • Is the public required to be consulted in the work of ACA? Does this consultation take place in practice?
Integrity mechanisms	<ul style="list-style-type: none"> • Does the organization have an internal code of conduct? Is there any evidence of its effective enforcement in practice? • Are there rules on conflict of interest? Are they effective in practice? • Are there rules on gifts and hospitality? Are they effective in practice? • Are there post-employment restrictions? Are these restrictions adhered to?
Transparency	<ul style="list-style-type: none"> • Are anticorruption agency reports required to be published (print and/or Internet)? Are they published? • If reports are published, is the information presented clearly and at a useful level of detail? • Is the work and reports of this agency accessible to the public?

REGIONAL AND LOCAL GOVERNMENTS

“City governments are on the front lines of the delivery of critical services, and are the first level of representation and accountability in societies aspiring to democracy. They are political stepping-stones -- for better or worse -- for political and administrative officials, and are the birthplace of many social and political movements. While no one can deny the significance of "grand corruption" at the national level, for millions of citizens around the world the overall quality of local governments critically influences the services they receive -- and the corruption they experience. The provision of utilities and health care, the maintenance of order, the construction of safe housing and infrastructure, the education of children, the protection -- or repression -- of human rights and of opportunities to build and participate in social communities, are all linked to the quality of local government.

Unfortunately, these same critical responsibilities and opportunities also provide opportunities and incentives for corruption. Administrative corruption...tends to flourish in situations where officials enjoy discretion over the allocation of important goods and decisions, can create monopolies, and are not held accountable. Political corruption often takes the form of extended patron-client networks. Given the relatively close connections often found among levels of administration in local government, and between officials and business and social groups in the community, corrupt relationships and the conditions that sustain them can become deeply entrenched at the local level. Moreover, many local government activities -- law enforcement, inspections, construction, the delivery of services -- take place out in the field beyond the direct view of supervisors and the public. The result is that corrupt deals can easily be made -- and concealed. Social conditions within cities, such as competition and conflicts among social groups and neighborhoods, or the coexistence of a "consumer culture" (citation...) alongside desperate poverty, can also intensify temptations and incentives to corruption.”³

The following guide and guides from other sections will assist the assessment team to examine many aspects of sub-national and local/municipal government that either makes them instrumental in fighting corruption or on the contrary, promote corruption within the government.

Please also use questions from the following chapters:

- Public Institutions/Civil Service (Personnel Management, Integrity Mechanisms, Financial Viability, Incentives, Accountability, Internal Controls, Transparency, Complaints/enforcement mechanisms, Demonstrated Political Will)
- Electoral Commission and Election
- Legislature
- Budget and Financial Management
- Public Procurement
- Privatization

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
Authority and Capacity	<ul style="list-style-type: none"> • Is the power and authority devolved from the central government to sub-national, local and municipal units clearly stated? • Is there fiscal policy balance between the central government and locally driven priorities? • Is a hard budget constraint between tiers of government maintained through the intergovernmental and financial systems to reduce opportunities for discretion?

³ Michael Johnston, “Controlling Corruption in Local Government: Analysis, Techniques and Action,” (Washington, DC: Management Systems International, 2000)

	<ul style="list-style-type: none"> • Is the regional/local budget sufficient to provide public services effectively? • Does decentralization (to the extent that it is taking place) contain specific anticorruption elements? • Is there evidence that decentralization has facilitated anticorruption efforts at the regional or local level? • Are there key government institutions related to corruption at regional and local level? (please provide a list) • Do national agencies with a remit to deal with corruption (anticorruption agencies, ombudsmen, supreme audit institutions, and so on) work at regional or local levels and are there specific agencies with regional and local responsibilities? • Is there formal independence (vis-à-vis national government) for regional and local government institutions working on corruption-related activities? Are such regional and local government bodies independent in practice? • Are there anticorruption responsibilities designated to regional and local government? Are there carried on effectively? • To what extent have regional/local governments organized their work based on/committed themselves in any extraordinary way to an agenda of integrity, transparency and good governance? What is the evidence for this? • If some public offices at the regional and local level are appointed by the national government, is it done on a merit basis and in transparent fashion? What mechanisms are in place to ensure it? (<i>See additional questions in the chapter PUBLIC INSTITUTIONS/CIVIL SERVICE</i>) • Are elected officials elected through fair and just election? (<i>See additional questions in the chapter ELECTORAL COMMISSION and ELECTION</i>)
	<ul style="list-style-type: none"> • Are elected officials accountable to their constituency? (<i>See additional questions in the chapter LEGISLATURE</i>)
	<ul style="list-style-type: none"> • Are there financial/asset disclosure rules for local officials, code of conduct, and conflict of interest? (<i>See additional questions in the chapter LEGISLATURE</i>)
Service Delivery	<ul style="list-style-type: none"> • Are public announcement/ publicity campaigns conducted to explain the procedures, required fees, standard processing times, and the criteria for administrative decisions (granting permits, licenses, or bank loans, enrolling students, allocating healthcare, assessing taxes, etc.)? • Are there documents that establish obligations of service providers and rights of users (such as citizen’s charters)? Are these publicized to both providers and users? • Are public officials required to wear identification badges (to help facilitate identification in case of complaints due to inefficiency or corruption)? • Are alternatives for public services offered, such as contracting out or having both public and private provision of services (i.e., mail carriers or security forces)? • Are services provided at the lowest practicable level of government? • Does regional/local government evaluate the performance of public service delivery? Is this self-evaluation or independent external evaluation? Do evaluations include client surveys? Does the government act on results? Do citizens have any recourse in cases where service delivery fails?

LAW ENFORCEMENT INSTITUTIONS

The guide below suggests questions to examine law enforcement institutions that include investigative bodies (often police) and the prosecutor’s office. It helps to assess both the ability of the law enforcement to investigate and prosecute corruption but also to prevent corruption within itself. Lack of resources and professionalism in combination with a lack of commitment can undermine the ability of the law enforcement to investigate and prosecute corruption. On the other hand, law enforcement agents can easily become subjected to corruption itself. Although they have the mandate to fight corruption, the police are often under the strong political influence of the ruling administration, which can result in the selective use of entrusted power against political opponents. On the petty level, bribery, clientism and favoritism can easily determine the outcome of police investigations and the prosecution of any corruption case if there is no adequate internal control mechanisms and oversight of law enforcement.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
LAW ENFORCEMENT INSTITUTIONS (IN GENERAL)	
Legal and institutional framework	<ul style="list-style-type: none"> • What institutions are authorized by the law to conduct investigation into corruption cases in the country? • Are there legislative instruments that are used by the police (and other authorized institutions) and public prosecutors for the investigation and prosecution of cases of corruption/bribery? • Are there special units for investigating and prosecuting corruption crimes? • Is the budget/staffing of these key institutions sufficient? • Is the budgetary process that governs law enforcement agencies fair and effective? • Are there regulations that prohibit police or prosecutors from having access to off-the-books funds?
Leadership and Commitment	<ul style="list-style-type: none"> • Is there a high-level bipartisan support and political commitment to the fight against corruption in the law enforcement sector? • Have the law enforcement administration adopted a strong anticorruption policy? • Is promotion to managerial positions dependent on integrity performance? • Do senior managers and supervisors lead by example? • Are periodic surveys conducted to assess stakeholders’ perceptions of law enforcement’ commitment to integrity? • Is appropriate priority afforded to the anticorruption strategy in corporate vision, mission, values, resource allocation processes, and strategic planning documents?
Accountability	<ul style="list-style-type: none"> • How effective are the laws/rules that govern oversight of key law enforcement agencies? • Does law require law enforcement and prosecutors to report legislature or any other independent institution? Does this accountability take place in practice? • Is the public required to be consulted in the work of law enforcement agencies? Does this consultation take place in practice?
Code of Conduct	<ul style="list-style-type: none"> • Has a comprehensive code of conduct been adopted? • Are the contents of the code clear and unambiguous, and the penalties for noncompliance understood by staff?

	<ul style="list-style-type: none"> • Are all supervisors required to lead by example or is there “one rule for us and another for you?” • Are all staff required to read, understand, and endorse the code? • Is prompt and appropriate action taken to redress any breaches of the code that are identified? • Has a periodic review process been established? • Was staff consulted during the development of the code?
Integrity mechanisms	<ul style="list-style-type: none"> • Are there rules on conflict of interest for police? For prosecutors? Are they effective? • Are there rules on gifts and hospitality for police? For prosecutors? Are they effective? • Are there post employment restrictions? Are these restrictions adhered to?
Transparency	<ul style="list-style-type: none"> • Are any police officials/prosecutors required to disclose assets? Do they? Is there any lifestyle monitoring? • Who is monitored? Must any records of such assets be disclosed publicly? Are they? • What aspects of law enforcement work are required to be publicly disclosed? Does this take place?
Complaints/enforcement mechanisms	<ul style="list-style-type: none"> • Is there an independent mechanism to handle complaints of corruption against the police? • Does the public have a legal role in complaint mechanisms? To what extent is this exercised? • Is there an independent mechanism for citizen complaints about the police? Does civil society have a role in such a mechanism?
INVESTIGATIVE BODIES/POLICE	
Jurisdiction and independence	<ul style="list-style-type: none"> • Are there specialized agencies in place to investigate misconduct and corruption in the public service? • Are there different bodies for disciplinary and criminal procedures? • Does the jurisdiction of the investigative bodies cover all public institutions (e.g., the whole public service, a range of public service organizations, one public service agency or department)? • Are these bodies accountable to legislature? • Do their main responsibilities include investigation, prevention, education and awareness, and/or prosecution? • Are the investigative bodies independent? • Is the head of the investigative body protected by law from political interference? • Are appointments based on merit? • Are the appointees protected from removal without relevant justification? In practice? • In practice, is the head of the police or equivalent protected from political interference?
Institutional Capacity	<ul style="list-style-type: none"> • Are the financial and human resources of the investigative bodies adequate? • Are investigators of corruption-related cases trained to collect evidence and build a case? • Are there mechanisms in place to evaluate the effectiveness of the training?

	<ul style="list-style-type: none"> • Is the law enforcement agency (the police) effective in investigating corruption? • Are “big fish” as well as small ones investigated and prosecuted?
Remuneration and Human Resources Management	<ul style="list-style-type: none"> • Has a comprehensive and strategically focused human resources management strategy been introduced incorporating sound polices on <ul style="list-style-type: none"> • recruiting and retaining the right people • developing and improving professional competencies and skills • recognizing and supporting integrity efforts? • Is staff remuneration comparable to similar public or private sector positions and sufficient to allow a reasonable standard of living? • Have procedures been established that can identify and support staff with financial difficulties? • Are objective and merit-based selection processes employed that identify personal integrity as well as academic or technical competence? • Are procedures in place to ensure appropriate security vetting for potential staff during recruitment and for existing staff periodically? • Are selection committees impartial? • Has a staff transfer or rotation policy been implemented with clear and unambiguous rules on the regular movement of staff from high-risk positions? • Have all high-risk positions and functions been identified and systems and procedures modified to limit the exercise of official discretion? • Are appropriate informal and formal training and professional development opportunities provided to build technical competence and promote integrity? • Are the administration’s code of conduct and the individual responsibilities of officials regularly reinforced during training and professional development programs? • Has a performance appraisal system been implemented that is fair, regular, monitored, and periodically reviewed? • Are supervisors required to actively manage staff performance and performance issues? • Are supervisors held responsible for the integrity performance of officers under their control?
Accountability and Internal Controls	<ul style="list-style-type: none"> • Is there a legal mechanism for holding investigative bodies to account for complaints of police misconduct or corruption? • In practice, has this legal mechanism been used? • Are there regulation and mechanisms that ensure the officers of the investigative bodies are not immune from prosecution? • Are there mechanisms to hold law enforcement officials accountable for their actions? • Do provisions exist for whistleblowing on misconduct in law enforcement agencies? Are they used effectively in practice? • Are cases of corruption in the police identified and investigated effectively? • In the last five years, have police officers suspected of corruption been prosecuted (or seriously disciplined or dismissed)?
Transparency	<ul style="list-style-type: none"> • Are investigative reports published (other than when criminal charges are pending)? • Do investigators report publicly to the legislature on the general scope of

	their work?
PROSECUTORY	
Jurisdiction and Independence	<ul style="list-style-type: none"> • Are there institutions in place to prosecute misconduct and corruption in the public service? • Does their jurisdiction cover all public institutions (e.g., the whole public service, a range of public service organizations, one public service agency or department)? • Is the criminal system based on the principle of discretionary prosecution or the principle of mandatory prosecution or a mixed system? • Are there other possibilities (actio popularis, actions brought by victims or taxpayers) that can be used in corruption cases? • What control mechanisms have been established to ensure that prosecution is not discontinued as a result of undue pressure or undue considerations? • Are prosecuting bodies empowered to bring suspected cases of corruption directly to court? • Are public prosecutors independent? • Is the public prosecutor or equivalent protected by law from political interference? In practice? • Are they accountable to legislature? • Are appointments based on merit? • Are they protected from removal without relevant justification? In practice?
Institutional Capacity	<ul style="list-style-type: none"> • Are the financial and human resources of the prosecuting bodies adequate to carry out their mandate effectively? • Is there a special unit of the prosecutor's office dedicated to investigating and prosecuting corruption and fraud by public and private entities? • Has there been active enforcement of laws against fraud and corruption by prosecutors?
Internal Controls	<ul style="list-style-type: none"> • Is there a legal mechanism for holding prosecutorial, personnel accountable for prosecutorial misconduct or corruption? In practice, has this legal mechanism has used? • Are prosecutors immune from prosecution? (they should not be) • For the last 3 years, have there been any cases of corruption within the prosecuting agencies? Have they been prosecuted?
PROSECUTING CORRUPTION	<ul style="list-style-type: none"> • How many prosecutions for corruption have been undertaken in the past years? How many have been successful? If the number is low, why? • Are there the rules regarding confidentiality of investigations (notably, relations between investigators, defense lawyers and lawyers of parties claiming damages, regarding access to the file, disclosure or transmission of elements from the file, the need for a judicial authorization, and applicable sanctions; relations between the investigators and the public; and restrictions imposed on the press—e.g., prohibition from publishing certain procedural documents relating to a criminal case before it is read in public hearing)? • Does the system protect vulnerable targets in cases of corruption (victims, collaborators of justice, witnesses, judges and prosecutors)? Are protective measures taken before, during, and following the proceedings? Which

	<p>protective measures are used? Are individuals who are closely related or connected to the person directly concerned also protected?</p> <ul style="list-style-type: none"> • Can privileges or arrangements be proposed to suspects or to sentenced persons who agree to cooperate with the police and the judiciary in corruption cases (e.g. plea bargaining, reduced sentences, special protection)?
<i>Corruption Within the Criminal Process.</i>	<ul style="list-style-type: none"> • In the investigation of criminal conduct, do police have wide discretionary powers, much of which goes unchecked? • Do prosecutors have broad discretion in investigation and prosecution of cases, managing of caseloads and prioritizing investigations? • Can government ministries exert substantial pressure on the public prosecutor to stop prosecution?
<i>Corruption Within the Civil Process.</i>	<ul style="list-style-type: none"> • In the filing of a civil lawsuit, are citizens typically faced with a daunting array of court procedures, many of which are complex and arcane?

ELECTORAL COMMISSION and ELECTION PROCESS

Elections are highly prone to corruption. Buying votes, tampering with ballots, threatening voters, manipulating the media, illegal donations – these are just several examples of abuses that can occur in the election process. A lack of transparency in election systems is one of the most important sources of corruption. Electoral commissions can become vulnerable to corruption if they lack independence, capacity and authority and if there is no public oversight over the Commission. Sufficient and non-partisan election legislation and its effective enforcement is essential in safeguarding elections from being hijacked by corruption.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
Electoral Commission Independence	<ul style="list-style-type: none"> • Is there formal independence for the Electoral Commission (or equivalent body)? • Is the Electoral Commission (or equivalent body) independent in practice? • If not, what arrangements for monitoring elections are in place? Is this arrangement widely regarded as being non-partisan? • Is the appointment of the head of the Commission free from political pressure from ruling party/administration? • To what extent has the Electoral Commission (or equivalent body) organized its work based on/committed itself in any significant way to an agenda of integrity, transparency and good governance? What is the evidence for this? • When necessary, does the agency impose penalties on offenders?
Institutional Capacity	<ul style="list-style-type: none"> • Is the budget/staffing capacity of the Electoral Commission adequate to perform its functions affectively? • Is the budgetary process that governs the Electoral Commission free from political pressure from ruling party/administration? • Is the tenure of the head of the commission sufficient to impartially fulfill his/her duty? • The Electoral Commission does not have access to off-the-books funds, does it?
Accountability	<ul style="list-style-type: none"> • Are there laws/rules that govern oversight of the Electoral Commission? Are these laws/rules effective? • Is it required by law for the Electoral Commission report to Legislature? Does this accountability for its actions take place in practice? • Is the public required to be consulted in the work of the Electoral Commission? Does this consultation take place in practice?
Integrity mechanisms	<ul style="list-style-type: none"> • Are there rules for the Electoral Commission on conflict of interest? Are they effective? • Are there rules on gifts and hospitality? Are they effective? • Are there post employment restrictions? Are these restrictions adhered to?
	<ul style="list-style-type: none"> • Are there rules limiting public servants' involvement in campaigning and the use of public resources for campaigns? Are these rules adhered to?
Transparency	<ul style="list-style-type: none"> • Is information (budgets, reports, decisions, etc.) produced by the Electoral Commission required to be put into the public domain? Is

	<p>this done in practice? If yes, is it done via mass media, Commission's publications and websites, other forms (please specify)? To what extent are these forms usable?</p> <ul style="list-style-type: none"> • Is it required by law for the Electoral Commission to disclose party financial affairs? What aspects must be disclosed by the Electoral Commission? Is this carried out, in practice?
Complaints/enforcement mechanisms	<ul style="list-style-type: none"> • Are there any provisions for whistleblowing for misconduct within the Electoral Commission? Have these provisions been utilized? • Is the Electoral Commission empowered by law to start investigations on its own initiative? Does it do so in practice? • Is the Electoral Commission empowered by law to impose sanctions? Does it impose sanctions in practice? If not, how are sanctions enacted? • How successfully has corruption been targeted and punished by this institution? • To what extent is there a problem of vote-buying in elections? • What legal means do the public have for redressing concerns about electoral transparency? Have these rights been exercised? With what kinds of outcomes?
Election fairness	<ul style="list-style-type: none"> • Is universal and equal adult suffrage guaranteed to all citizens? • Do all citizens exercise their right to vote freely and fairly? • Are there precedents of pressure from the government or ruling party to influence elections (buying votes, threatening voters, etc.)? To what extent it is widespread and had an impact on election? • Are elections held according to a regular schedule? • To what extent does the government (President or legislature) have power to change the schedule? How often is this exercised? Was it done on justifiable grounds? • Is there evidence of election competitors using public resources (government vehicles, buildings, funds, other resources) in campaigns?
	<ul style="list-style-type: none"> • During the most recent election, did political parties receive media coverage roughly proportional to their popular support? Was there an unfair advantage given to ruling party candidates by government-owned media?

POLITICAL PARTIES

Political party corruption is especially problematic in developing and transitional countries where political and economic institutions are not yet stable. In the long run, party corruption can undermine public trust and threaten the viability of democracy. Political parties are known to abuse their position by extorting bribes, engaging in nepotism, diverting public resources into the pockets of party leaders, members, and supporters, and shaping political and economic institutions for the benefit of affiliated interest groups.⁴ Political party financing is one of the most acute problems. The ways that parties get access to money can influence the outcome of elections, skew policy outcomes, and undermine the representative relationship between elected leaders and constituents.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
Regulatory framework	<ul style="list-style-type: none"> • Is there clear and consistent legislation and rules governing political parties? Party registration? Candidates? • To what extent does the regulatory framework make it possible to form opposition parties? For opposition parties to compete fairly with established parties? • Is there formal operational independence of political parties? Are political parties independent in practice? • Are there strong, established party organizations rather than parties that are fundamentally created around personalities or clans? • To what extent have any political parties organized their work based on/committed themselves in any significant way to an agenda of integrity, transparency and good governance? What is the evidence for this? • To what extent are there ‘anticorruption’ parties? To what extent is there a state party only? • Is the political system truly competitive? • Is there an active opposition in parliament? Does it monitor the incumbent effectively? Are political parties monitored by an active opposition? Are there informed voters?
Election	<ul style="list-style-type: none"> • Have the last two election cycles reflected strong political contestation? • Have coalition governments during the last two election cycles reflected strong political contestation within the coalitions? • Does the political system allow for re-election or are most political positions limited to one term only?
Political party financing	<ul style="list-style-type: none"> • Are there rules that govern the funding of political parties? What is the nature of these rules? Are these rules exercised in practice? Are there regulations governing contributions to political parties? • Are there limits on individual donations to candidates and political parties? Are there limits on corporate donations to candidates and political parties? • What is the balance between private and public funding of parties? Is this balance adhered to in practice? • Are there significant lobby groups/think tanks affiliated with the party, subject to different funding rules? • Are there donation limits for individuals? Corporations? Are these limits adhered to, in practice?

⁴ Adapted from Bertram I. Spector, editor, *Fighting Corruption in Developing Countries: Strategies and Analysis*. (Bloomfield, CT: Kumarian Press, Inc., 2005, p. 27)

	<ul style="list-style-type: none"> • Must (substantial) donations and their sources be made public? Is this done in practice? • Are there rules on political party expenditures? Are these adhered to? Monitored? If so, by whom? Does the monitoring agency impose penalties on offenders? What sanctions exist for violation of funding regulations? Who appoints the head of this agency? • Do any of the above rules related to political finance vary significantly during election periods? • Are party leaders typically willing to accept payoffs or illegal donations to ease the financial pressures of campaigning, often in return for future favors? • Is payment often demanded from an elected official as a contribution in return for party support? • Do politicians often exceed official campaign spending limits? • Do politicians have private foundations? If so, are private businesses encouraged to contribute? • Are donations expected/demanded from individual parliamentarians and candidates for positions? Or to ensure that their names stay on the party proportional list? • Do voters expect gifts prior to elections? • Is there an agency that monitors political party finances and independently initiates investigations? Does the agency impose penalties on offenders? What sanctions exist for violation of funding regulations? Who appoints the head of the institution? • Are political party accounts published? Can citizens access the financial records of political parties within a reasonable time period and at a reasonable cost?
Accountability	<ul style="list-style-type: none"> • What kind of laws/rules govern oversight of political parties? Are these laws/rules effective? • To whom must political parties report, in law? Does this accountability for its actions take place in practice? • Is the public required to be consulted in the work of political parties? Does this consultation take place in practice? • Do party leaders often suppress criticisms of the party?
Integrity	<ul style="list-style-type: none"> • Is there regulation regarding internal party governance? Is this regulation effective? • Is the liability for financial irregularity in party affairs attached to individual officials, to the party, or both? • Do the main political parties have codes of conduct for their members? • Can ‘unethical’ candidates (ie those undergoing investigation/convicted of crimes) stand for election? • Are there rules on conflict of interest? Are they effective? • Are there rules on gifts and hospitality? Are they effective? • Are party members usually pressured by party leaders to vote/support their agendas? • Do party leaders often support the agendas of wealthy organized interests or social groups?
Transparency	<ul style="list-style-type: none"> • Are there rules on disclosure of party funding? Party expenditure? Are these rules followed in practice? How is this information published?

	<ul style="list-style-type: none"> • Can citizen access the financial records of political parties within a reasonable time period and at a reasonable cost? • Who is in charge of keeping such records, and are they adequately resourced for this task? • To what extent is information (accounts/budgets/assets) on political parties required to be put into the public domain? Is this done in practice? If yes, what form does such disclosure take? To what extent are these forms usable?
Complaints/enforcement mechanisms	<ul style="list-style-type: none"> • Are there any provisions for whistleblowing on misconduct within political parties? Are these made use of in practice? • Have powers of sanction ever been invoked? If so, with what outcome? • Are accounts audited or otherwise checked by an independent institution? Are they submitted to the legislature? • Does the public have the right to redress? • How successfully has corruption been targeted by this institution, as an internal problem? An external problem?
Party Control Over State Resources and Redistribution	<ul style="list-style-type: none"> • Do political parties have a large amount of control over state institutions and society? • Is there weak party competition? • In multiparty systems, do major parties try to politicize society and control important sectors of business and public life? • Do current or former high-ranking party members often use their connections to rig privatization bids, secure cheap government loans, and acquire resources for themselves and their associates? • Are continuing loyalties to state bureaucrats impeding the formation of new state institutions? The free market? • In former monopoly-party states, do members of the former ruling party control the available public resources? • Do organized crime syndicates typically act as business partners to party members by paying bribes to high-ranking politicians and bureaucrats to facilitate illegal activities? Do crime syndicates act as ‘substitutes’ for state and party institutions, taking over formerly party-controlled functions? • Are patronage and clientelism common?
Demonstrated Political Will	<ul style="list-style-type: none"> • Are there parties that run on anticorruption platforms or promote anticorruption reforms? To what extent is it sincere effort but not rhetoric? Please provide specific examples of this.

TAXATION SYSTEM

Corruption in the taxation system can occur when formulating tax legislation and in tax administration. Influence by improper lobbying of legislators and the tax authority can establish taxation policy that favors particular industries, regions or interest groups. Tax administration can also be subject to corruption at different stages and processes: the identification and registration of taxpayers, the assessment and collection of taxes due, the monitoring of incoming payments, the assessment of surcharges or refunds, or investigation by the tax authorities. Lack of clarity and consistency in taxation regulatory framework, poor internal controls, lack of transparency and weak oversight over tax administration opens the opportunity for corruption in the taxation system.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
Incentives to corrupt behavior	<ul style="list-style-type: none"> • Are tax regulations and procedures clear and consistent? • Is the tax regime easy to understand? Does it have uniform tax rates? Are there major exemptions and special regulations? If so, are they clear and easy to understand? • Does the tax system impose unrealistically high burdens on enterprises? • How large is the percentage of enterprises that operate in the informal economy (unregistered and non-tax-paying)? • Are tax liabilities negotiated between large enterprises and local (or, for the largest firms, even national) governments? Are the results of these negotiations made public? • Are there frequent barter arrangements between enterprises and local governments (the energy provider pays no taxes but provides free electricity to public housing, etc.)? Are these arrangements made public? • Are public utilities priced competitively and/or subsidized? (If the latter, the way is open to barter arrangements that lower tax liabilities for these enterprises.) • Do tax officials make impartial and fair decisions, e.g. when granting tax incentives, assessing taxes owed, selecting individuals for tax audits, initiating proceedings etc? • Do tax payers bribe officials in the tax office, in exchange for recording a lower tax liability, or for registering a legitimate tax payment made? • Are high tax rates combined with marked tax rate differentials, which normally increase willingness to engage in corrupt activities due to the greater potential benefit? • Are the tax laws and forms so difficult to understand that, in order to apply them, taxpayers require help from tax officials and are forced to deal with those officials personally? • Do a large number of seemingly arbitrary exemptions and special rules exist? • Is there the existence of certain types of tax and taxable items that are particularly susceptible to corruption? • Are taxes paid by impersonal means — checks or transfers from bank accounts — or they are paid in person at tax offices or through visits from tax authorities to businesses or other payers? (The latter arrangement is more conducive to bribery.) • Are the selection systems for tax audits clear and well monitored? • Is the system for collecting tax arrears well monitored?

	<ul style="list-style-type: none"> • Are there adequate sanctioning systems (fines and interest)? • Are enforcement procedures timely and manageable? • Is there an independent court of appeal? • Do tax officials who are recruited or paid at the local level receive subsidized housing or other payments in kind from the local government that can jeopardize their impartiality? • Is the tax system computerized? Is there a computerized national register of taxpayers (of enterprises and individuals)? Is there a computerized taxpayer register at the local tax office?
Signs of possible corruption in Administration	<ul style="list-style-type: none"> • Are corrupt actions by tax officials noticed and detected? If reported, are tax officials punished? • Is there frequent personal interaction between taxpayers and civil service officials or tax officials, especially where taxes are being assessed and collected?
Identification and Registration of Taxpayers	<ul style="list-style-type: none"> • Are there instances of deletion or removal of taxpayer records from the registers, files and accounting systems of the tax authorities? • Are tax numbers and tax cards allocated to fictitious taxpayers? • Are there a large number of cases where the taxpayers are incorrectly identified? • Is tax payer registration required? • Are there multiple registrations of taxpayers in different tax districts (or jurisdictions)?
Assessment and Collection of Taxes Due	<ul style="list-style-type: none"> • Are tax laws enforced evenly and without discrimination? Is there evidence that different taxpayers situated in similar circumstances are treated differently without adequate justification? • Are there instances of political interference or exercise of discretionary authority by revenue authorities on subjective considerations? • Are tax audits of individuals and enterprises, and audits of local tax offices, carried out on a regular basis? Is there a pattern of such audits avoiding individuals and enterprises specially favored by the local (or national) government? • Is the tax collection carried out efficiently? What is the total cost of collection compared to revenue raised? • Are tax exemptions notices issued to the proper individuals, i.e., they are entitled to the exemption? • Are tax debts written off with precise explanations? • Are deferments of taxes warranted?
Monitoring of Incoming Payments and Enforcement of Payments	<ul style="list-style-type: none"> • Is there adequate supervision and control over the collection of taxes? • Are correctly assessed taxes submitted in writing? • Are correct receipts issued? • Are taxpayers supported in their efforts to delay the payment of tax arrears, for instance by tax officials being supposedly unable to locate the taxpayers or withholding the case files and failing to pass them on to enforcement agencies? • Are taxpayers charged a fee for reimbursements that should be free of charge? • Is confidential information passed from the tax declaration to the taxpayer's business competitors?

Tax Audits	<ul style="list-style-type: none"> • Is the selection criterion for taxpayers to be audited transparent? • When tax audits are completed, are adjustments made and/or fines for tax evasion imposed? • Is the selection of cases for audit transparent? Are there patterns to who is selected? • Are taxpayers informed of their rights and duties? • Are removals of taxpayers from the list of individuals to be audited justified? • In appeal proceedings concerning audit results, are fair and just decisions made? • Are there threats of unwarranted investigation for suspected tax offences by the investigation service? • If tax evasion is detected, are the perpetrators prosecuted?
Legal Remedy Procedures	<ul style="list-style-type: none"> • Are legal remedy procedures timely and manageable? • Are competences of tax authorities clearly defined by law? • Do decision-making bodies have the necessary capacity?
Amnesties and Special Procedures to Cancel Taxes Due	<ul style="list-style-type: none"> • Are the amnesties and special procedures to cancel taxes due clearly defined and transparent? • Are taxes cancelled or waived frequently?
Tax administration decentralization	<ul style="list-style-type: none"> • Are tax bases decentralized? • How clear are the taxing responsibilities of sub-national governments? • Is all taxation power assigned to subnational governments with upward revenue sharing? Or is all taxation power assigned to the central government with downward transfers to local government? (either approach can potentially lead to vertically organized corruption)
Demonstrated Political Will	<ul style="list-style-type: none"> • Did the Tax Administration initiate any policies or reforms to address corruption, increase transparency and accountability? If so, what policies and reforms were implemented? Did these reforms reach all levels? Did the Tax Administration establish milestones and measurements for effectiveness of the reforms? To what extent these reforms were effective? • Is there a consensus within the Tax Administration about reforms? Who is a champion?

CUSTOMS

Corruption in customs occurs in legislation, in customs procedures, in the administration of freight clearance and customs enforcement. Customs legislation that is very complex, confusing and open to multiple interpretations will ultimately fertilize the ground for corruption. Lack of information on legislation and regulations make clients dependent on customs bureaucrats' rulings. In addition, formulation of the legislation itself can be influenced by bribery and other illegal incentives and as a result it can selectively favor certain interests and industries. Corruption in freight clearance can occur in a number of procedures, including: the processing of cargo manifests and customs declarations, the classification of goods, valuation and assessment, the payment of duties, the handling of goods in transit, the release of goods and the clearance of exports. Customs enforcement that includes such measures as: risk analysis, freight inspections, inspections after customs clearance, measures to control smuggling, the sale or destruction of confiscated goods, the collection of payments in arrears and the monitoring of bonded warehouses – is also often subjected to corruption. Though the scale of corruption in customs is viewed as petty and mid-level, in reality it can be worth millions of dollars in its impact.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
<p>Leadership and Commitment</p>	<ul style="list-style-type: none"> • Has high-level bipartisan support and political commitment to the fight against corruption been obtained at the customs authorities? • Has the customs administration adopted a strong anticorruption policy? • Are clear responsibilities, obligations, and accountability for all customs managers, supervisors, and staff established and understood? • Is promotion to managerial positions dependent on integrity performance? • Do senior managers and supervisors lead by example? • Are periodic surveys conducted to assess stakeholders' perceptions of customs' commitment to integrity? • Does customs lead or participate in wider all-of-government integrity initiatives? • Is appropriate priority afforded to the anticorruption strategy in corporate vision, mission, values, resource allocation processes, and strategic planning documents? • Has the use of an official amnesty been considered? (Amnesty can be a tool for getting buy-in for 'starting over' with new anticorruption standards.)
<p>Regulatory Framework</p>	<ul style="list-style-type: none"> • Have customs laws, regulations, administrative guidelines, and procedures been reviewed, harmonized, and simplified to reduce unnecessary duplication and red tape? • Has a process of continuous review and improvement of systems and procedures been introduced? • Have tariff rates been moderated and the number of different rates of duty rationalized? • Has a formal process for the review and rationalization of exemptions and concessions been introduced? • Has a program of consultation and cooperation with other government agencies been established to examine means of rationalizing regulatory requirements? • Have internationally agreed-upon conventions, instruments, and accepted standards, including the Revised Kyoto Convention, the WCO HS Convention, the WTO Valuation Agreement, the ATA Carnet Convention, and the WTO TRIPS Agreement, been implemented?

	<ul style="list-style-type: none"> • Do regional customs unions and economic groups adopt internationally agreed on standards and work toward regional harmonization of systems and procedures? • Does the administration actively participate in international benchmarking and information sharing initiatives?
Transparency	<ul style="list-style-type: none"> • Have customs laws, regulations, procedures, and administrative guidelines been made public and are they easily accessible? • Has the basis upon which customs officials are entitled to exercise their discretionary power been defined and are variations recorded for later review and monitoring? • Have administrative and judicial appeal mechanisms been established that allow customs decisions to be challenged? • Have advance tariff and valuation rulings systems been implemented? • Have Customs Service Charters and performance targets been established that are challenging but realistic and is the administration's performance reported to the public? • Does the administration use a range of media to publicize information, including brochures, posters, Web site, and the mass media? • Are all fees and charges publicized? • Have help desks been established to assist clients in complying with customs requirements?
Automation	<ul style="list-style-type: none"> • Have automated systems for declaration processing and cargo reporting been introduced based on the IT guidelines contained in the Revised Kyoto Convention and the WCO Data Model? • Have the systems been designed to do the following: <ul style="list-style-type: none"> ○ incorporate appropriate risk assessment and selectivity capabilities ○ minimize the need for officials to exercise discretionary authority ○ minimize face-to-face contact between customs officials and traders ○ record any variations or exercise of discretionary powers for later review and audit ○ accommodate automated payment or electronic funds transfer systems? • Is the IT infrastructure appropriately managed and has adequate provision been made for ongoing hardware and software maintenance and replacement? • Have appropriate provisions been made to secure the systems from internal or external manipulation? • Have appropriate provisions been made to ensure the effective integration of manual and automated systems?
Modernization of Customs	<ul style="list-style-type: none"> • Is customs regarded by the government and the business sector as a key national asset and tool for trade facilitation, revenue collection, community protection, and national security? • Is customs ranked high on the list of government priorities for international donor assistance? • Has a comprehensive and long-term reform and modernization program been established that is <ul style="list-style-type: none"> ○ adequately resourced, with roles and responsibilities clearly defined

	<ul style="list-style-type: none"> ○ based on an accurate diagnosis of needs ○ focused on simplifying and harmonizing systems and procedures ○ well supported by all stakeholders including staff ○ effectively coordinated and managed at the local level ○ based on sound performance data and objective performance measures?
Audit and Investigation	<ul style="list-style-type: none"> • Have effective monitoring and control mechanisms been established, including internal audit functions and internal check responsibilities? • Is the administration subject to regular and professional external audits? • Does the administration develop and maintain a strategic audit plan that identifies priorities and ensures that audit findings and recommendations are implemented? • Are staff working in audit and investigation areas appropriately qualified to undertake their tasks? • Has an internal investigation or internal affairs unit been established to promptly investigate allegations of corruption? • Has a detailed risk map of the administration been developed to identify particular vulnerabilities and devise appropriate corrective strategies? • Does the administration make use of the appropriate independent anticorruption authorities to deal with large-scale cases or allegations against senior officials?
Code of Conduct	<ul style="list-style-type: none"> • Has a comprehensive code of conduct compatible with the WCO model been adopted? • Are the contents of the code clear and unambiguous and the penalties for noncompliance understood by staff? • Are all managers and supervisors required to lead by example or is there “one rule for us and another for you?” • Are all staff required to read, understand, and endorse the code? • Is understanding of and adherence to the code reinforced through periodic training and refresher sessions? • Is prompt and appropriate action taken to redress any breaches of the code that are identified? • Has a periodic review process been established? • Were staff and clients consulted during the development of the code?
Remuneration and Human Resources Management	<ul style="list-style-type: none"> • Has a comprehensive and strategically focused human resource management strategy been introduced incorporating sound policies on <ul style="list-style-type: none"> • recruiting and retaining the right people • developing and improving professional competencies and skills • recognizing and supporting integrity efforts? • Is staff remuneration comparable to similar public or private sector positions and sufficient to allow a reasonable standard of living? • Have procedures been established that can identify and support staff with financial difficulties? • Are objective and merit-based selection processes employed that identify personal integrity as well as academic or technical competence? • Are procedures in place to ensure appropriate security vetting for potential staff during recruitment, and for existing staff periodically? • Are selection committees impartial and made up of officials from different work areas? • Has a staff transfer or rotation policy been implemented with clear and

	<p>unambiguous rules on the regular movement of staff from high-risk positions?</p> <ul style="list-style-type: none"> • Have all high-risk positions and functions been identified and systems and procedures modified to limit the exercise of official discretion? • Is staff remuneration comparable to similar public or private sector positions and sufficient to allow a reasonable standard of living? • Have procedures been established that can identify and support staff with financial difficulties? • Are appropriate informal and formal training and professional development opportunities provided to build technical competence and promote integrity? • Are individual responsibilities of officials regularly reinforced during training and professional development programs? • Has a performance appraisal system been implemented that is fair, regular, monitored, and periodically reviewed? • Are managers and supervisors required to actively manage staff performance and performance issues? • Are managers and supervisors held responsible for the integrity performance of officers under their control?
<p>Morale and Organizational Culture</p>	<ul style="list-style-type: none"> • Are staff encouraged to participate in project teams to identify high-risk areas and suggest changes to existing systems and work practices? • Are staff satisfaction surveys conducted? Are the results analyzed and acted upon? • Are all breaches of integrity dealt with promptly and investigation results made available to staff and the public? • Is the administration willing to undertake a process of self-assessment and participate in international integrity activities and initiatives? • Is customs regarded as a good employer? • Do customs officials take pride in working for customs? • Has effective whistle blower legislation been introduced to protect officials who report corrupt behavior?
<p>Relationship with the Private Sector</p>	<ul style="list-style-type: none"> • Has a client service charter incorporating objective performance standards been established? • Have formal cooperative agreements and practical consultative mechanisms been established to foster open, transparent, productive relationships with the private sector? • Has a joint customs–business task force been established to address integrity issues and identify practical solutions? • Has a communication strategy been developed that supports the prompt provision of information and promotes the achievements of customs? • Are private sector operators encouraged to report incidences of corruption? If allegations are made, are the sources protected?

HEALTH CARE

The health sector is particularly vulnerable to grand and petty corruption in many developing and transition countries and occurs in variety of processes. Procurement of drugs and expensive equipment may include bribery, kickbacks and fraud. Budget allocation to medical facilities can be influenced by favoritism and bribery, resulting in embezzlement and misapplication. Extortion, bribery and fraud are often widespread within the provider-patient relationship. Another area where corruption occurs is between healthcare providers, on one hand and insurance or government entities, on the other. Problems in this arena include: falsification of insurance documents, illegal billing of insurance companies or the government, and falsification of invoice records. In pharmaceutical supply chains, “products can be diverted or stolen at various points in the distribution system; officials may demand ‘fees’ for approving products or facilities for clearing customs procedures or for setting prices; violations of industry marketing code practices may distort medical professionals’ prescribing practices; demands for favours may be placed on suppliers as a condition for prescribing medicines; and counterfeit or other forms of sub-standard medicines may be allowed to circulate.”⁵ The following guide examines various dimensions of the health care system. The assessment team should also use questions from other chapters if necessary: PUBLIC PROCUREMENT, EDUCATION, and PUBLIC INSTITUTIONS/CIVIL SERVICE.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
Provision of Services by Front-Line Health Workers	<ul style="list-style-type: none"> • Are healthcare providers paid wages that are linked to number of patients served and quality of service provided? • Is exceptional performance of healthcare staff rewarded? Is poor performance penalized? • Are wages in the healthcare sector comparable with wages in other sectors? • Is there legislation that regulates separation of public and private practices for healthcare providers? Is it effectively enforced? • Do financial ties to pharmaceutical companies influence doctors to serve the commercial objectives of these companies, thereby compromising the ethical obligations of doctors to their patients? • Do patients have (or have limited) rights to choose their healthcare provider? • Do doctors provide patients with options for treatment/services to choose from? • Is complete and uninterrupted treatment common? (treatment that requires multiple steps can lead to more instances of corruption). • Are health clinics and hospitals properly staffed (no shortage of doctors and other medical staff)? • Are health clinics and hospitals well equipped with medical supplies, equipment, medicine, etc? • Is the theft/diversion of drugs/supplies common at storage and distribution points? • Do health care workers often sell public stock of drugs for private gain? • Are there clear, standardized procedures for signing up for doctor appointments at clinics? Do patients often pay the nurse/administrator to get an appointment? • Is there a clear and transparent distinction between services provided for free and services provided for a fee? • Are the fees for services clearly established and made available for patients?

⁵ See Global Corruption Report 2006 (special focus on Corruption and Health), Transparency International, 2006. p. xviii

	<ul style="list-style-type: none"> • Are patients charged for drugs or medical supplies that should be free under government provided health care systems or health insurance policy? • Do doctors or clinics perform services that are not necessary in order to make a profit? • Are patients often forced to pay the doctor to get prescriptions or referrals? • Are there instances when doctors and other medical personnel insist on informal payments before providing treatments/drugs/surgery to deal with life-threatening medical emergencies? • Are public health care facilities often used to see private patients? • Do patients often receive unnecessary referrals to private practice or privately owned ancillary services? • Are there frequent instances when healthcare workers do not show up to work? • Are patients provided with effective complaint mechanisms?
Healthcare fraud	<ul style="list-style-type: none"> • Are patients billed only for services rendered? • Are patients billed for more expensive services than were rendered? (A doctor performs one service on the patient, but bills for a similar more expensive treatment). • Are patients billed for the supplies or drugs that were actually provided? (For example, a doctor may collude with pharmacist, by prescribing a brand name drug, but having the pharmacist supply the patient with a generic. The insurance is then billed for the brand name drug). • Do drug companies often pay doctors to prescribe their medicines?
Procurement and Management of Equipment and Supplies, Including Drugs.	<ul style="list-style-type: none"> • Does the government often buy high-cost, inappropriate drugs and equipment? • Does the government have adequate capacity for managing procurement processes for health commodities? • Do bribes, kickbacks, and political considerations often influence the contracting process? • Does the country have an essential drug list (EDL) and is this list justified? (having an EDL reduces discretion in drug prescriptions) • Is true need considered in equipment procurement and distribution? • Is the quality of drugs and equipment standard? • Are there adequate funds allocated to provide for all needs? • Do bribes, kickbacks, and political considerations often influence specifications and winners of bids? • Is the procurement process transparent? Is collusion or bid rigging typical? • Are there incentives to choose low cost and high quality suppliers? • Is there an unethical drug promotion by suppliers or government? • Are suppliers typically held accountable if they fail to deliver? • Are counterfeit drugs readily available? • Is the regulatory process for approval and licensing of drugs transparent? • Are drug inspectors well paid? Are inspections clearly regulated? Are findings made public? • Are there mechanisms in place to ensure drugs and supplies are delivered? • <i>(for additional questions see Chapter on PUBLIC PROCUREMENT)</i>
Regulation of Quality in Products, Services, Facilities, and Professionals.	<ul style="list-style-type: none"> • Are fake drugs often sold on the market? • Is the process for drug approval or registration transparent? • Are there sanitary regulations and are they enforced for restaurants or food production?

Education of Health Professionals	<ul style="list-style-type: none"> • Is the application process to medical schools transparent and standardized? • Is the process for selecting candidates for medical training opportunities transparent? • Do medical students often bribe doctors/professors to get qualified? • Are health care professionals competent? • <i>For additional questions see Chapter on EDUCATION</i>
Hiring and Promotion	<ul style="list-style-type: none"> • <i>For additional questions see Chapter on PUBLIC INSTITUTIONS/CIVIL SERVICE</i>

EDUCATION

Corruption in the education sector happens at every level from the ministry down to the classroom. “At the central ministry levels, much of the corruption involves the diversion of funds associated with procurement, construction, and of the funds intended for allocation to lower levels of the system. At intermediate levels of the education bureaucracy, the corruption tends to center on procurement, diversion of money and supplies on their way to the schools, and bribes from educators lower in the system seeking to secure opportunity or avoid punishment. At the school level, corruption tends to center on bribes from parents to ensure student access, good grades, grade progression, and graduation. However, it also takes the form of teacher absenteeism—teachers collect salaries but the intended instruction does not occur. Educators at the school level also can divert funds, school supplies, and sometimes food that the schools received from community or government sources. Headmasters and teachers are also in a position to assess unauthorized fees for real or imaginary services (e.g., paper fees in order to take an exam), create the need for private tutoring, or take salaries for work not actually done.”⁶ The guide below discusses most of these issues though additional questions related to procurement and personnel management can be found in the sections: PUBLIC PROCUREMENT and PUBLIC INSTITUTIONS/CIVIL SERVICE.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
School Level	
<i>Quality and Quantity of Education and Certification of Examination Results</i>	<ul style="list-style-type: none"> • To what extent is the grading system standardized? Is it subject to wide interpretation and discretion? • Does the teaching staff often sell examination questions, marks, report cards/certificates? • Do teachers often change grades for fees? • Does the teaching staff sell front-row seat in large classes, or accord privileges, such as preferential access to technical equipment, the school library, etc., to students in return for payments or other favors? • Are students forced to buy standard materials or additional materials? Are they forced to take private lessons or to provide special payments or services? • Does the teaching staff teach only part of the curriculum during regular classes, and the rest in the form of private lessons, which must be paid for by students? • Are teachers’ salaries unreasonably low? • Are salaries linked to performance? • Are teachers paid on time? • Is absenteeism common among teachers? • Are teachers often absent because of other income-producing work?
<i>Budget and Financial Management</i>	<ul style="list-style-type: none"> • Do budget funds reach the intended school or are they often diverted? • Are schools provided with enough budget funds to support its functions? • Are administrative procedures easy to understand and transparent? Are budgets and financial transactions easily manipulated? • Are clear records kept of school finances? • Does the administration have adequate reporting and documentation requirements? Do auditing facilities exist? Are local community

⁶ See Bertram I. Spector, editor, *Fighting Corruption in Developing Countries: Strategies and Analysis*. (Bloomfield, CT: Kumarian Press, 2005, pp. 69-70)

	<p>parliaments and the general public able to exercise control over the financial management of the schools?</p> <ul style="list-style-type: none"> • Who is involved in the process of financial planning and fund allocation? Is the teaching staff involved? Are students and parents, as well as other representatives of communities and civil society? Is enough comprehensible information about the budget and fund allocation given to such parties? • Are external financial watchdogs independent? • Are school enrollment numbers inflated? • Are school fees used for their intended purpose or often diverted? • Is there a diversion of monies in revolving textbook funds? • Are school supplies and textbooks siphoned off to the local market?
<i>Extra-budgetary funds</i>	<ul style="list-style-type: none"> • Do schools collect funds from parents for school needs in a transparent manner, i.e., providing parents with information on needs and expenditures? Do parents participate in managing extra-budgetary funds? • Are contributions to schools through fundraising transparent? Are contributions open for parents' oversight? Are contributions often diverted? • Are unauthorized fees imposed on students?
School/University Admission	<ul style="list-style-type: none"> • Is the admission and selection process at the schools/universities/colleges transparent and subject to systematic (internal/external) control? Are the decision makers accountable to the public or other reviewers? • Are there adequate information and documentation requirements with regard to selection criteria and concrete decision-making processes? • What is the decision on admission to a school or university, or on whether a student is admitted to the next grade or year of studies, based on? If it is based on examinations, how many examinations are required? If it is one, the importance of this examination disproportionately raises the power of those who can influence the outcome. This includes all those who have access to the questions set (administrative staff, invigilators, messengers, printers, etc. in addition to those responsible for setting the questions and marking papers). • Is there a way of contesting decisions or having them reviewed?
Region/District level School Administration	<ul style="list-style-type: none"> • Do inspectors typically overlook school violations for a fee/favor? • Do school supplies or other resources reach their intended destination or they are diverted? • Can recommendations for higher education entrance be bought? Do teachers often sell recommendations?
Public Procurement	<ul style="list-style-type: none"> • Is the construction of new school/services in areas of need or does it often benefit someone in the ministry? • Are the rules and regulations on construction and supply contracts transparent? • Are schools required to purchase materials in order to create a market for certain items? • Are the textbooks and supplies procured for schools of sufficient quality to meet education criteria? • <i>For additional questions see Chapter on PUBLIC PROCUREMENT</i>
Personnel Hiring and Promotion	<ul style="list-style-type: none"> • <i>For additional questions see Chapter on PUBLIC INSTITUTIONS/CIVIL SERVICE</i>

PRIVATE SECTOR

A complex, confusing, contradicting, outdated and unreasonably strict regulatory environment for businesses in combination with broad authority and lack of accountability for bureaucrats interpreting the law makes it almost impossible for businesses to operate without being subjected to corruption. When it takes months just to open a business after visiting dozens of government agencies, it seems easier to slip envelopes with small bribes to speed up the process. It is often easier and cheaper to deal the same way with dozens of inspectors that are happy to supplement their low salary with rent collected from businesses. Though it is just petty corruption, it is often widespread, placing thousands of businesses in the shadow economy and millions of dollars in private pockets. Grand corruption in the private sector occurs through buying legislation that favors particular businesses or industries, creates monopolies, and establishes a procurement, tax, customs or privatization regime to please powerful business moguls. The following guide will assist the assessment team in identifying vulnerabilities for corruption in the private sector and to assess corruption prevention measures taken by the business sector itself. Please also use questions from chapters: TAX ADMINISTRATION, PUBLIC PROCUREMENT, CUSTOMS, and PRIVATIZATION

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
Sector Overview	<ul style="list-style-type: none"> • To what extent is the economy dominated by one industry or a very limited number of major companies? What are these sectors/companies? • What is the percentage of private sector v. state-owned enterprise in the economy? • Is there state ownership of key industries? • What is the ownership structure of the business sector? How widely spread is it, to what extent is it controlled by the state, oligarchs, etc.? • What kind of relationship is there between business leaders and politicians? • Do business people typically pay bribes to influence policy and the legal environment? • Do businesses typically buy decisions from politicians? • Do public officials often sell their influence to the highest bidder? • Do business owners often pay fees to public officials to keep their businesses running? • To what extent is the business sector organized into (sectoral or professional) lobbies? Is there a chamber of commerce and/or industry associations? • Are businesses focused on day-to-day survival due to weak institutions, an uncertain rule of law, and insecure property rights? • Is there formal independence for business to operate in the country? Is the business sector independent in practice? • How well does the government respond to legitimate business concerns?

	<ul style="list-style-type: none"> • How well do tax authorities and customs cooperate/coordinate with the legitimate business sector? • How well do other governmental and inspecting agencies cooperate/coordinate with the legitimate business sector?
Private Sector Regulations	<ul style="list-style-type: none"> • Is there a rational set of laws governing the operations of private business (formation, continuing operations, insolvency, winding up), the protection of property rights, and the enforcement of contracts? Are these laws effective? • Are business rules and regulations clear, reasonable, and not ambiguous? • Are there anti-monopoly policies and procedures to enforce them? • What kind of competition and anti-trust laws govern the business sector? Is it effective in practice? • What kind of banking regulations are in place? Are there anti-money laundering rules? Is money laundering effectively contained in practice? • Is there a reasonable rate of taxation on private businesses? • Is there an efficient system of patents and protection for intellectual property? • What is the extent of privatization activities? (See the section on PRIVATIZATION) • To what extent are newly privatized businesses free from government control in law? In practice? • To what extent is the general public vested in the stock market? How active are shareholders in the country's companies? Other stakeholders? • Is there an efficient and stable set of regulations governing licensing, inspections and audits on business? • Is there an efficient judiciary (and alternative dispute resolution mechanisms) for sorting out contract disputes? • Which aspects of the law cover private sector corruption? Are these regulations applicable under the civil and/or penal code? Are they effective in practice? • Have facilitation payments (payments made to "grease the skids" often made via third parties) been eliminated from business practice? Are facilitation payments illegal? Is this enforced? • Are there any (new) draft laws being considered to address the issues raised by high-profile corporate failings or similar scandals? • Are there laws and enforcement mechanisms that ensure accountability of private firms to their shareholders and capital markets? • Are there disclosure laws that compel those in public office to disclose private financial interests? • Are there any significant voluntary anticorruption initiatives related to the business sector?
Economic Policy and Regulations	<ul style="list-style-type: none"> • Are property rights protected? Does the government expropriate property without appropriate compensation? Are legal contracts honored? • Are business licenses available to all citizens? Is there a complaint mechanism if a business license request is denied? Can citizens obtain any necessary business license (i.e. for a small import business) within a reasonable time period and at a reasonable cost? • Do tariffs, quotas, and exchange rate restrictions comply with World

	<p>Trade Organization guidelines or do they restrict competition and create opportunities for corruption? Are there price controls? Do they create opportunities for corruption?</p> <ul style="list-style-type: none"> • Are there overlapping, ambiguous or excessive regulations that burden business? Are there efforts to simplify regulations? Does the government consult with business to identify and reduce administrative barriers to business development? • Are transparent methods used to sell government assets? Can citizens access the terms and conditions of privatization bids within a reasonable time period and at a reasonable cost? Are all businesses eligible to compete for privatized state assets? Are there conflict of interest regulations for government officials involved in privatization? Are these regulations enforced?
Accountability	<ul style="list-style-type: none"> • What kind of laws/rules govern oversight of the business sector? Are these laws/rules effective? • Is there a registrar of all companies? Who oversees/audits such a registrar? • To whom must the business sector report, in law? Does this accountability for its actions take place in practice? Is the public required to be consulted in the work of business in any way? Does this consultation take place in practice? • What role does the media play in keeping the business sector transparent and clean? • Does the chamber of commerce ever serve as arbiter? Is there another type of special ombudsman for the business sector?
Transparency	<ul style="list-style-type: none"> • Is general data on registered companies available to the public? • What kinds of disclosure rules pertain to corporate boards? • Are there particular transparency requirements related to stock exchange listing? • How transparent is the ownership of business? Investments? • What is the standard of Corporate Social Responsibility reporting among the business sector? • What about disclosure of company financial records more generally? • What do companies disclose/report relating to countering corruption? • Is there any third party/external verification of such reporting? • Are such reports made available to the public? • To what extent are bribery and corruption cases reported publicly? Who does such reporting?
Complaints/enforcement mechanisms	<ul style="list-style-type: none"> • What kind of whistleblower protection exists in the business sector? • Does whistleblowing occur in practice? To what extent do companies provide advice or hotlines or other channels for whistleblowing, in practice? Does the law succeed in protecting those who blow the whistle? • What significant accusations of corruption have been made against companies in recent years, whether local companies or international companies operating in the country? • Is there a stock market oversight body (e.g., SEC, FSA) responsible for publicly listed companies? Is it independent? Does it explicitly address

	<p>bribery and corruption? Can it investigate or sanction those who infringe the rules?</p> <ul style="list-style-type: none"> • To what extent have regulators successfully targeted and punished business sector corruption? • Are business lobbies in any way accessible to the general public? • To what extent are the public as stakeholders regularly consulted in developing/improving companies' anticorruption policies and practice? Is the subject of business sector corruption part of public debate? Is the public engaged in any way in reform of the sector? • What is the ability of the business sector to redress concerns in courts of law, regarding decisions by public agencies or for non-fulfillment of contract? Overall, to what extent does law enforcement assist in keeping the business sector transparent and clean?
Corporate Governance	
<i>Corporate Ethics</i>	<ul style="list-style-type: none"> • Do business and professional associations promote ethical standards of conduct? Do they impose sanctions on their members for breach of ethical standards? • Have companies adopted codes of conduct or signed integrity pacts? Have companies vowed not to use secret bank accounts? Is there a register of corrupt firms? • How widely are codes of conduct used? Is there evidence that they are effective? • To what extent do companies have anti-bribery and/or anticorruption provisions in their codes of conduct? • To what extent is the business sector free from conflicts of interest? cronyism? • Do these provisions generally extend to Boards (or the owner, in the case of family-owned companies)? • Do these provisions generally extend to subcontractors all the way down the supply chain? Are these provisions actively communicated to such subcontractors? • How actively are companies training their employees to take a no-bribery stance, including training in the above codes? • To what extent is there concern with integrity of the private sector? From within the sector? From outside the sector? • Does anticorruption figure in the corporate social responsibility agenda? In the corporate governance agenda? • Are any companies identified/verified as having (adequate/strong) anticorruption policies? • Do any sectors or business associations have mandatory anticorruption rules? • Are there any sectoral anticorruption initiatives? • To what extent is there compliance in the sector with corporate governance recommendations, such as the OECD standards (on corporate governance and MNEs)? • Have any companies subscribed to the UN Global Compact? If so, how many/which ones?
<i>Oversight of Public Companies</i>	<ul style="list-style-type: none"> • Is there a financial regulatory agency overseeing publicly listed companies? Is the financial regulatory agency protected from political

	<p>interference? Does the agency have a professional, full-time staff and receive regular funding? When necessary, does the financial regulatory agency independently initiate investigations and impose penalties on offenders?</p> <ul style="list-style-type: none"> • Can citizens access the financial records of publicly listed companies? Are the financial records of publicly listed companies regularly updated and audited according to international accounting standards? Can citizens access the records of disciplinary decisions involving publicly listed companies within a reasonable time period and at a reasonable cost? • What measures are in place to ensure financial transparency (e.g., restrictions on corporate entities to hold interests in another corporate entity, restrictions on the number of accounts a company can hold, etc)?
<p><i>Accounting/Auditing Profession</i></p>	<ul style="list-style-type: none"> • Are there statutory rules or codes of conduct that accountants and auditors must observe? Are accountants and auditors obliged to report suspicions of offences to law enforcement authorities? How are allegations against members of the profession investigated? • Does the government involve accountants and auditors in the development of policies aimed at detecting/reporting corruption? • What associations of accountants/auditors exist in the country and what legal status and government recognition do they have? Is there a preeminent association or institute of accountants? If so, how and when was it established? • What is the association membership, distinguishing between members with different types of accreditation (trainees, technician-level members, full professional members, members authorized to undertake audits), residence (in the country, abroad) and occupation (in public practice, working in the public sector, working in industry/commerce, working in the education sector, self-employed, retired, etc)? • Is the association authorized to self-regulate the profession? Does the association conduct its own examination system? If so, at what levels? Is it authorized to grant certificates of accreditation? What accountancy qualifications are necessary for membership? Is the right to audit limited to members of the association? • Does the association of accountants have an Executive Committee? What are its terms of reference, frequency of meetings, and number of members? How are members of the Executive Committee selected? Is the government represented on the Executive Committee? How frequently are elections held or nominations made? • Does the association publish a journal/newsletter? If so, how frequently is it published? • Does the association produce a Members' Handbook? If so, what is included in it? How frequently is it updated? • How is its income derived (subscriptions, government, students, donors etc)? How many full-time/part-time staff, analyzed by functional activity, does the association employ?
<p><i>Accounting and Auditing Standards</i></p>	<ul style="list-style-type: none"> • Who or what institution is responsible for setting national accounting and auditing standards in commercial organizations? • What is the composition of the standard-setting body? What are the expected qualifications of its members? Is the government represented

on the standard-setting body (e.g., by the finance secretary or Accountant General)?

- How is the independence of the standard-setting body guaranteed? To whom is the standard setting body responsible? Who evaluates its effectiveness?
- What accounting and auditing standards has the standard-setting body promulgated or does the accountancy profession recommend? Are the standards compatible with international standards (such as generally accepted accounting principles, IASC pronouncements, IFAC pronouncements, standards set by the INTOSAI)? Are the standards modified to suit the local environment? Are there any inconsistencies or omissions? In what form are the standards available (e.g. handbook, regulations, government gazette etc)? Is there any legislative backing for standards promulgated?
- If accounting and auditing standards are being used, to what entities do they apply? Do exemptions or separate standards apply for some entities, such as small firms or foundations? Are accounting and reporting standards mandatory or voluntary? Is compliance with accounting standards enforced? If so, by whom?
- Is it criminal to falsify or provide incomplete information on accounting documents? Is the destruction or hiding of accounting records subject to sanctions?

CIVIL SOCIETY

Civil society organizations can play an important role in anticorruption efforts by serving as watchdogs of executive, legislative and judicial institutions, advocating for anticorruption reforms, educating the public about the impacts of corruption, and mobilizing citizens to stand up for their rights. The following guide will assist the team in assessing vulnerabilities to corruption within civil society organizations *and* the capacity and readiness of civil society organizations to contribute to anticorruption efforts.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
Legal Environment	<ul style="list-style-type: none"> • What rules/laws govern the formation of civil society organizations (CSOs)? • Are there any rule/laws that prohibit or preclude CSOs from working in anticorruption or good governance areas? • In practice, does the government impose any barriers on organizations working in the anticorruption/good governance area?
Sector Overview	<ul style="list-style-type: none"> • Are CSOs independent of government influence under law? Are civil society organizations independent in practice? • How extensive and active are CSOs? • What is the budget/staffing of the key governance/anticorruption CSOs? Who funds these CSOs? • Do public authorities generally cooperate with civil society groups? • Do CSOs have public support? • Do CSOs represent the interests of the people and/or segments of society? • Do CSOs have the support of the mass media?
Sector Involvement	<ul style="list-style-type: none"> • To what extent are CSOs concerned with governance, accountability, transparency or anticorruption issues? • Are there trade unions engaged in anticorruption activities? • Are there business and professional associations engaged in anticorruption activities? • To what extent are CSOs united around anticorruption campaigns? • Are anticorruption/good governance CSOs actively engaged in the policymaking process? Do citizen groups regularly make submissions to the legislature on proposed legislation? • How effective are CSOs in anticorruption advocacy activities? • Are there civil society actors monitoring the government's performance in areas of service delivery, budget formulation, public procurement, etc.?
Accountability	<ul style="list-style-type: none"> • Are there laws or rules that oversee the operation of CSOs themselves? Are these laws/rules effective? • To what extent are CSOs, trade unions or business groups accountable to their constituencies? How are they required to demonstrate this? • Do most CSOs have memberships? • Are CSOs required to disclose their sources of funding?
Transparency and Integrity	<ul style="list-style-type: none"> • Are there rules on conflicts of interest for CSOs? Are they effective? Are there rules on gifts and hospitality for CSOs? Are they effective? • How transparent are CSOs? What are they required to publish? Do they do this? • Do CSOs promote ethical standards of conduct for their members and/or

	<p>others? Do they impose sanctions on their members for breach of ethical standards?</p> <ul style="list-style-type: none"> • Have CSOs adopted codes of conduct or signed integrity pacts? How widely are codes of conduct used? Is there evidence that they are effective?
Complaints/enforcement mechanisms	<ul style="list-style-type: none"> • Have there been prosecutions of any CSOs on corruption charges for the last two years? • Have members of CSOs been threatened or harmed for advocating against corruption for the last two years? Are they protected by the government?

MEDIA AND ACCESS TO INFORMATION

A free and independent media is one of the principal vehicles to inform the public about corrupt activity. By investigating and reporting on corruption, the media provides the knowledge necessary to enable citizens to hold both public and private institutions to account. A functioning, independent media can also promote effective civil society action against corruption. The impact of civil society is dependent not only on reliable information, but also on the existence of the means to disseminate its opinions and raise issues of public concern. Thus, the media plays a dual role in countering corruption: it can put the spotlight directly on corrupt practices through reporting and investigation, and it can disseminate information about the anticorruption efforts of other actors. The following guide will assist the team to identify corruption vulnerabilities with the media and assess the capacity and readiness of the media to conduct anticorruption efforts.

The guide also includes questions about broader access to information, which is essential for effective media efforts to publicize and combat corruption, but is also the foundation for transparency, a fundamental requirement for all anticorruption efforts.⁷

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
<p>Legal Environment</p>	<ul style="list-style-type: none"> • Is there a law guaranteeing freedom of speech and freedom of the press? • Is there a freedom of information law and access to information law? • Does the access to information law require proactive action by government to make certain types of information public, or does it only require government to respond to requests? • Are these laws used by the news media or others? • To what extent are media freedom/access to information laws impacted by other laws, such as those relating to national security? • Do media licensing authorities use transparent, independent and competitive criteria and procedures? • What rules cover political advertising in the news media? Are the rules followed?
<p>Access to Information</p>	<ul style="list-style-type: none"> • Are there government agencies or offices mandated to implement access to information laws? Are they effective? • Does government provide any information (e.g., budget allocations, expenditures, procurement information) proactively? Is the information provided in a format that is comprehensible and useable? • Are the procedures for requesting government information publicly known? Are they simple and clear enough for journalists, civil society groups, and/or average citizens to make use of them without undue burden? • Are the costs associated with freedom of information requests reasonable and conducive to promoting public access to information?

⁷ Teams may want to consult the USAID Anticorruption Program Brief on Access to Information (http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/anti-corruption/)

Sector Overview	<ul style="list-style-type: none"> • What are the key media and media oversight bodies in the country (please provide a list)? • What is the size of the media sector (percentage of GDP)? Are journalist salaries competitive with other similar professions? • Is there a spread/diversity of media ownership? How much media ownership is public/private? • Is there political control/ownership of the media? Is censorship common? • Is the practice of self-censorship common in the media? If so, what are the incentives for self-censorship?
Sector Involvement	<ul style="list-style-type: none"> • Is there formal independence of the media? Is the media independent in practice? To what extent is there censorship of the media? • Do the media carry articles on corruption? How is scandal covered? Are both political and corporate scandal covered? • To what extent have news media organizations or journalist associations committed themselves in any extraordinary way to an agenda of integrity, transparency and good governance? What is the evidence for this? • To what extent is there a tradition of investigative journalism in the media? • Do any publicly-owned media outlets regularly cover the views of government critics? • Do all parties/candidates receive a minimum of free coverage or an amount proportional to their size in the legislature? Is this the case in practice? • To what extent is the media a key part of this country's anticorruption effort?
Accountability	<ul style="list-style-type: none"> • What kind of laws/rules govern oversight of the media? Are these laws/rules effective? • What kind of accountability exists for the media?
Transparency and Integrity	<ul style="list-style-type: none"> • Are in-kind donations/reduced rates by media organizations to political interests required to be disclosed? Are they disclosed? • Do journalists and editors adhere to strict, professional practices in their reporting? • Is there a law that requires media companies to publicly disclose their ownership? • Are there codes of conduct for journalists? Are they effective? • Are there professional organizations governing media ethics? • Are there rules on conflict of interest for journalists? Are they effective?
Complaints/enforcement mechanisms	<ul style="list-style-type: none"> • Have journalists investigating cases of corruption been physically harmed in the last five years? • Are libel laws or other sanctions (e.g. withdrawing of state advertising) used to restrict reporting of corruption? Who has used them recently? • Is the media able to withhold disclosure of sources by law? Does this take place in practice? • Are there cases of the government prosecuting the media for withholding sources?

BUDGET AND FINANCIAL MANAGEMENT

Public finance and in particular the public budget is an essential area that should be safeguarded from corruption. At all stages of the budgeting process - starting from setting budgeting policies to formulation, approving, amending, and implementing - opportunities for corruption can arise if mechanisms to prevent it are not embedded and strictly followed. At the budget preparation phase, favoritism, nepotism and bribery can divert public funds from public priority areas to lucrative interests of wealthy and influential groups and individuals. Poor control over spending can lead to large scale embezzlement, funds misappropriation, and fraud. The guide below will take the assessment team through analysis of corruption vulnerabilities at different phases of the budgeting process and assessment of the existing corruption prevention measures.⁸

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
Budget Clarity	<ul style="list-style-type: none"> • Is the budget system clear and straightforward (not very complex)? Is it transparent? • Is there a clear and comprehensive definition of public money? • Are there budgetary principles, financial regulations and administrative regulations? • Are budget accounting classifications coherent and common to all levels of government? • Is appropriation and spending authority clearly defined? • If secondary budgets exist, are they regulated effectively? • Does the government’s official budget cover all of the government’s fiscal operations? • Is earmarking used reasonably and not excessively? • Are there a reasonable and not excessive number, scope and allocation of subsidies? • Are the main summary indicators of the government’s financial position in the annual budget presentation clear? • Are assumptions underlying budget forecasts included in budget documentation justifiable? • Are estimates for budget expenditure and revenue clear and accurate? • Are explanations for variances between estimates and actual expenditures and revenues published? • Does the budgeting process give preference to maintenance projects and projects in the social sectors rather than to inappropriate and extensive investment projects? • Is there a systematic preference for certain ministries in the allocation of budget funds? Is it explainable by economic need and the public interest? • Are extra-budgetary activities included in the budget documentation but they are not extensive? • Are unallocated funds, i.e. funds retained at the center for possible contingencies or for allocation in the event that projected revenues are realized, used for national priorities and with top-level approval? • Are fiscal transfers to sub-national governments for general and special

⁸ The Open Budget Index is another useful tool for evaluating budget and financial management performance. (www.openbudgetindex.org)

	<p>purposes clearly defined?</p> <ul style="list-style-type: none"> • Have basic principles of supervision, intervention and audit responsibilities of intergovernmental fiscal relations been established? • Are the authorities and responsibilities for issuing and reporting on government guarantees clearly defined? • Is the consultation process and decision-making procedures for funds allocated to individual ministries transparent? • Is the budget preparation and monitoring process computerized?
Use of Funds	<ul style="list-style-type: none"> • Is there a limit and are there defined authorities at each level of the administration for transferring funds within the approved budget? • Are there measures that prevent transfers between personnel costs and other subheads of the budget? • Are there rules that specify how unspent budget funds at the end of the fiscal year should be treated? • Are sanctions for overspending established, clear, and enforced universally? • Are persons responsible for spending money legally required to implement management control practices? • Are the dates of outgoing payments for the purchase of goods and services and transfers (e.g. Pension payments) manipulated? Does the issue of payment instructions reflect an unofficial schedule for the payment of arrears? • Are payments made through the banking system? • Are all goods and services ordered approved in the budget? Is there a process for reviewing expenditures against budget allocations before expenditure is approved? • There are no instances of payments to be made to fictitious staff members, goods and services? • Does the government reconcile and justify to the legislature deviations between budget allocations and actual spending?
Accountability - Reporting	<ul style="list-style-type: none"> • Are financial reports (including extra-budgetary funds) required by law from all agencies/funds? • Is the creation and spending of extra-budgetary funds included in the overall fiscal position reported by government? • Are external financial reports required by law to be made available to the legislature, major creditors and the general public? • If external financial reports are required by law to be made available (to the legislature, major creditors and the general public) is the law enforced and are reports submitted on a timely basis, e.g. annual reports within six months of year-end, and within-year reports within one month of period-end? • Do external reports show in sufficient detail whether resources were obtained and used in accordance with the authorized budget, and in accordance with legal and contractual requirements, including financial limits established by appropriate legislative authorities? • Do external reports provide comprehensive information about the sources, allocation and uses of financial resources? • There are no instances that significant categories of public expenditure fall outside the state budget?

	<ul style="list-style-type: none"> • Are internal financial reports made on a regular basis (at least monthly) by all spending agencies/funds to the finance ministry? • Do budget managers receive regular periodic reports on their expenditure and their unexpended balances within a reasonable time after the end of each period? • Are performance reports (on physical progress, outputs or outcomes) required for all agencies/funds? • Are performance reports made available to managers on a timely basis, e.g. annual reports within 6 months of year-end, and within-year reports within 1 month of period-end? • Are performance reports integrated with financial reports?
Accountability – Financial Management	<ul style="list-style-type: none"> • Are the principal accounts of the government (such as cash books, investment records, public debt) maintained with computerized system rather than with manual or mechanized systems? • Is there a sufficient integrated national financial management system to provide reliable information for public decision-making? • Do government entities follow clear procedures for accounts receivable, accounts payable, and for the payment of grants, subsidies, reimbursements, and loans to other government entities, quasi-government enterprises and sub-national governments? • Is there a comprehensive register listing all locations where cash handling occurs? • Are the final accounts produced, audited and tabled in parliament shortly after the end of the fiscal year? • Does the system provide for recording commitments (obligations) as well as cash transactions? • Are the accounting staffing levels, both quantitatively and qualitatively, adequate and are salary levels sufficient? • Is there adequate skills training for middle and senior management? • Are the reviews of accountants and auditors in public practice sufficient?
Financial Control and Oversight	<ul style="list-style-type: none"> • Is the legal basis for management (internal) control and internal audit well established? • Is there a clear division of competences and coordination between existing internal and external monitoring bodies? <p style="text-align: center;"><i>Internal Audit</i></p> <ul style="list-style-type: none"> • Is there an internal audit or inspection unit in line ministries and/or agency? • Do ministries regularly perform audits of their own budgets? • Is the mandate for internal audit or inspection units complete (financial audit, system audit, procurement audit process, or review of management internal control arrangements)? <p style="text-align: center;"><i>External Audit</i></p> <ul style="list-style-type: none"> • Is there a sufficient number of politically and operationally independent external monitoring bodies? • Is there a strong mandate and adequate competencies of the monitoring bodies to detect corruption (especially rights of inspection and information), to identify systemic weak points for corruption, to put forward and monitor recommendations on how to eliminate those weak points, to introduce sanctions, and with respect to cooperation with judicial authorities, possibly local parliaments/parliamentary commissions, and access to the public?

	<ul style="list-style-type: none"> • Does the external auditor have authority to audit/clear all public and statutory funds and resources? • Does the audit competence of the monitoring bodies extend to all activities of the state (including parastatal enterprises and recipients of public subsidies)? • Is the capacity and expertise of monitoring bodies sufficient in the development and application of monitoring techniques and procedures to detect corruption, including the monitoring of actual expenditure and results (ex post evaluations) and systemic monitoring? • Are there sufficient reporting duties, and/or complete, systematic, and timely provisions of financial data by administrations to monitoring bodies, Parliaments and the public? • Are there precautions against corruption within the monitoring bodies themselves? • Are off-budget costs of government programs accounted for and reported by the Ministry of Finance or equivalent? • Is there regular, complete accounting of the existence and ownership of the value of all assets and liabilities of particular agencies?
<p><i>Accounting and Auditing Standards</i></p>	<ul style="list-style-type: none"> • Is there an institution responsible for setting national accounting and auditing standards in government? • Are the composition and qualification of the staff of the standard-setting body sufficient? Is the government represented on the standard-setting body (e.g., by the finance secretary or Accountant General)? • Is the independence of the standard-setting body guaranteed? Is the standard setting body responsible to the legislature? Is there an independent body that evaluates its effectiveness? • Are the standards compatible with international standards (such as generally accepted accounting principles, IASC pronouncements, IFAC pronouncements, standards set by the INTOSAI)? Are the standards modified to suit the local environment? How consistent and comprehensive these standards? Are the standards publicly available in convenient format (e.g. handbook, regulations, government gazette etc)? Is there any legislative backing for standards promulgated? • If accounting and auditing standards are being used, are they applied to all (or majority) entities evenly? If there are exemptions or separate standards that are applied for some entities, such as small firms or foundations, are their defined clearly and applied fairly? Is compliance with accounting standards enforced? If so, by whom? • Is it criminal to falsify or provide incomplete information on accounting documents? Is the destruction or hiding of accounting records subject to sanctions? • Are there sufficient educational and professional standards required for entry into the accountancy profession?
<p>Public Transparency of the Budgeting Process</p>	<ul style="list-style-type: none"> • In practice, is the national budgetary process conducted in a transparent manner allowing for public debate by the legislature as well as input at budget hearings? • Are budget assumptions and drafts publicly available? Are they easy to access? • Is the budget publicly available and in a format that is understandable by

the public? Is the level of detail clear enough to see fund allocation? Can citizens access information about specific budget allocations?

- Are there pre-budget consultations about budgetary priorities between government and the civil society (the business community, public interest groups, NGOs, labor unions, and farmers' associations)?
- At the start of budget preparation, is there a review of budget priorities by the legislature or a legislative committee?
- Does the legislature undertake independent analyses of the budget?
- Does the legislature hold public hearings on budget priorities?
- Are citizens or civic groups able to participate in budget hearings and present their views and information?
- Does civil society undertake independent analyses of the budget?
- Does the government regularly publish periodic budget execution reports?

PUBLIC PROCUREMENT

Public procurement, like the public budget, presents numerous opportunities for corruption. Large and small amounts of public funds can end up in private pockets through kickbacks, bribery, favoritism, nepotism, and other forms of corruption. Procurement regulations can be created under the strong influence of powerful forces to favor a particular segment of the private sector or industry. Requirements and criteria for selecting bidders can be tailored to a specific vendor. Poor implementation of the contracts can be overlooked by a bureaucrat in exchange for a favor or bribe. The following guide suggests a set of questions to examine major aspects of procurement policies and practices that can be prone to corruption.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
<p>Procurement regulatory framework</p>	<ul style="list-style-type: none"> • Is there one prevalent law that governs procurement? If yes, are they based on any international model such as the UNCITRAL Model Law? If not, what are the key regulations that govern procurement in the country? • Do the above rules for public procurement require open bidding as a general rule? What proportion of total procurement is subject to open competitive bidding? Do strict formal requirements limit the extent of sole sourcing? • If open bidding is the general rule, are the exceptions regulated in the law? In practice, are the exceptions abused? If it is not, what rules apply in what cases? • Does the law provide rules (weighting evaluation criteria, use of price lists, certified quality standards, awards set by committees, etc.) to ensure objectivity in the contractor selection process? How well do these rules operate in practice? • Does the law provide criteria regarding when contracts can be awarded, such as would govern a competition being closed without awarding a contract? Are such criteria followed in practice? • If there is a local industry protection policy explicit in the contracting rules is it used reasonably and fairly? • Does the law provide for the use of standard bidding documents? Are these used in practice? • Does the law require clarifications and amendments during the bidding process to be shared among all bidders? Does this take place in practice? • Does the law require criteria concerning the modification of awarded/ongoing contracts? Are these criteria followed in practice? • Is there formal operational independence of the public contracting system? • Is the public contracting system independent in practice? • What kind of tender board is in place? Are the tender board members selected on a merit basis? • Is it mandatory to subject contracting processes to the budget and plans of government? Is this done? • Does the law on public contracting include oversight mechanisms (via congress/parliament) to monitor public contracting?
<p>Procurement Practices/Structure</p>	<ul style="list-style-type: none"> • To what degree are procurement regulations properly followed in practice? • To what extent is procurement centralized/decentralized? Is this arrangement consistent with the administrative design of the country? • Is there a central procurement agency? Are its main functions, such as

	<p>regulation, supervision, etc. defined clearly?</p> <ul style="list-style-type: none"> • If there is a central procurement agency, is it funded sufficiently? • If there is no central procurement agency, do agencies that have their own procurement regulations comply with nationally established standards and procedures? • Is there an e-procurement system operating in the country? If yes, what areas does it cover? • Are procurement responsibilities distributed differently in the cases of privatization processes? • Is parliamentary lobbying for the inclusion/exclusion of projects in plans, programs and budgets legally regulated? Is it regulated in practice? • Are technical specifications clear and non-discriminatory between suppliers? • Do instructions to bidders include all the information necessary to prepare responsive bids, such as eligibility requirements, basis of bid, language and currency of bid, the source and date of the exchange rate to be used? • Do invitations to bid state the deadline and place for the receipt of bids and the opening of bids? • Do instructions to bidders clearly explain evaluation criteria? • Is sufficient time allowed to obtain documents and prepare and submit bids? Are requests for clarification answered promptly in writing and sent to all prospective bidders? Are bidders allowed sufficient time to revise their bids following any revision of the documents? • Are evaluations done by committees of appropriately qualified persons? Are bids evaluated solely on the basis of the criteria stated in the documents? Are contracts awarded to the responsive and qualified bidder that meets established criteria? Are contracts awarded without further negotiation? Are procurement decisions made public?
Accountability	<ul style="list-style-type: none"> • If there is a central procurement agency, does it report to legislature? • Is there a periodical contracting plan made publicly available? Or are there other ways that the government informs the public in advance about its procurement plans? • Is the use of public hearings mandatory (or a practice) in contracting process? Do they actually take place in practice? If yes, at what stage of the process do they take place? Is there any evidence of their impact? • Are there laws requiring the creation and maintenance of records of procurement? Are change and variation orders, invoices and payments, progress reports, certificates of inspection, acceptance and completion, and records of claims and disputes and their outcome properly maintained? • Is there an institution that is responsible for supervising adherence to procurement regulations? What powers does it have and how effective is it in practice? • Are there appropriate procedures to monitor delivery of goods and services and verify quantity, quality and timeliness? Are contracts generally completed on schedule and within the originally approved contract price, or are time and cost overruns frequent? How often are contracts extended or amended? Are contract changes and variations handled promptly in writing and in accordance with contract conditions? Is there an early warning system for over-expenditures?
Integrity mechanisms	<ul style="list-style-type: none"> • Does the law require staff involved in (different stages of) contracting to

	<p>have special qualifications, related to their tasks? Are these requirements followed in practice?</p> <ul style="list-style-type: none"> • Does the law provide for procurement staff rotation? How does this operate in practice? • Does the procurement law regulate that the staff in charge of offer evaluations must be different from the staff responsible for elaboration of the terms of reference/bidding documents? Does the law regulate that both of the above staffs must also differ from those undertaking any control activities? Are these rules followed in practice? • Do the bidding/contracting documents contain special anticorruption clauses? If yes, how do these operate in practice? • Does the law/regulation require bidders to have codes of conduct in place and the corresponding compliance mechanisms? Are these requirements followed in practice? • How is integrity upheld in the tender board? • Does the procurement law regulate conflict of interest situations with regard to preparation of the terms of reference and bidding documents, and that apply to bid/offer evaluators? If yes, are these rules followed in practice? • Are there any formal restrictions or criteria for acceptance of gifts by public officials? Are these restrictions/criteria followed in practice? • Are public employees who participate in procurement processes prevented from privately contracting or being employed afterwards with the individuals/companies that participate in such processes? If yes, is this rule followed? • Are there regulations and mechanisms in place that prevent high-level public officials from having influence over the scope and magnitude of public investment projects?
Transparency	<ul style="list-style-type: none"> • Are public officials in charge of procurement obliged to make periodical affidavits on their assets and income before and after being in office? Are assets, incomes and lifestyles of public procurement officers monitored in practice? • Is there an agency that is in charge of keeping such records, and is it adequately resourced for this task and independent? • Are procurement rules laid down in documents publicly accessible? • Does the procurement law establish unrestricted dissemination of invitations to tender and terms of reference in all public contracting processes? Are they disseminated without restriction in practice? • Are procurement award decisions made public? Are the justifications included? • Does the procurement law require the maintenance of registers and statistics on contracts (irrespective of the contracting method)? Are these registers kept? Are they accessible? • Are all relevant contracting process documents accessible to the public? • Does the procurement law require the publication of decisions on changes and adjustments of contracts in execution? Are these decisions published? • Does the procurement law require the publication of the contract implementation monitoring results? Are these results published?

	<ul style="list-style-type: none"> • Are all bids kept unopened until the official opening? Where are bids kept and who has access? Do opening or evaluation procedures differ for goods, works and consultancy services? Are bid openings conducted immediately after the deadline for submission? Can bidders (or their representatives) attend? Are bids read aloud, and are they recorded at the time? Are late bids rejected?
Complaints/enforcement mechanisms	<ul style="list-style-type: none"> • Are there provisions for whistleblowing on misconduct in contracting procedures? Have these provisions proved effective? • Does the law establish which control bodies are responsible for the supervision of activities related to public contracting? Are these bodies an internal or external control? Are these bodies professional and independent in practice? • Do special control mechanisms govern contracts awarded under exceptional procedures? • Is there a procedure to request review of procurement decisions? Is the entity or office in charge of the review independent? Has this procedure been used in practice? • Can an unfavorable decision be reviewed in a court of law? Is this done in practice? • Are companies proved to have bribed in a procurement process excluded from future procurement processes? Is a list of such companies made publicly available? Are there administrative sanctions (e.g. prohibition to hold public office) for criminal offences against the public administration in connection with contracting? Have these sanctions been enforced? • Are actions detrimental to public resources in public contracting qualified as criminal offences? Are there actual cases of prosecution? • Does the law consider civil or social control mechanisms to monitor the control processes of public contracting? What happens in practice? • How successfully has corruption been targeted by the contracting system, as an internal problem? An external problem? • Are there regulations and procedures to settle contractual disputes? Can unsuccessful bidders instigate an official review of procurement decisions and challenge procurement decisions in the courts? Do appeal procedures work in practice? Are companies guilty of major violations of procurement regulations (e.g., bribery) blacklisted and prohibited from participating in future procurement bids?

PRIVATIZATION

The vulnerability of the privatization process to corruption is a product of the legal environment and implementation practices. In most developing and transition countries that undergo privatization - whether it is privatization of a multimillion oil production enterprise or lucrative piece of public property or just a tiny apartment – the process is vulnerable to corruption ranging from grand to petty levels. Bribery, favoritism, nepotism, and kickbacks are the most common forms of corruption in privatization processes. Like in public procurement, corruption can occur in any phase of privatization, starting from setting overall policies to earmarking objects for privatization, selecting privatization methods, establishing criteria and requirements for bidders, and selecting bidders. The following Guide will take assessment team through examining different stages and aspects of privatization process helping to pinpoint the most vulnerable to corruption processes.

DIAGNOSTIC AREA	CORRUPTION DIAGNOSTIC QUESTIONS
Privatization Policies and Institutions	
General	<ul style="list-style-type: none"> • Are there laws and effective mechanisms to prevent the legislature or executive branch from being influenced by private interests during privatization processes? Does it work in practice? • Is there transparency in public administration in general? Does the government usually make public and transparent decisions? • Does the public at large (including in particular the civil society) have adequate information about government programs, processes and decisions? Are there opportunities for public discussion of government programs and decision making? Are there opportunities for the public and the civil society to participate in the development of privatization strategy and policy, and of the privatization law, institutions and program? • Is there an effective control system (by the parliament, the administration and/or external, independent institutions) for the privatization program? • Are there accountability systems and controls for the politicians and officials involved in the privatization program? • Are there opportunities for the public or for officials to register suspicion of corruption in privatization confidentially or anonymously? • Are there criminal, civil and disciplinary processes against politicians and officials who have become implicated in previous cases or have become otherwise suspect of corrupt behavior during privatization? • Are there effective criminal sanctions instruments and institutions as well as effective enforcement of existing sanctions instruments to investigate and prosecute corruption in privatization? • Are there national rules for the public disclosure of assets, income and potential conflict of interest by politicians and public officials involved in privatization decisions AND are these rules properly enforced? • Is there continued service of politicians and officials in critical positions despite obvious conflict of interest (possibly even despite accusations and/or convictions under previous corruption offences)?
Privatization Policy	<ul style="list-style-type: none"> • Is there a general privatization strategy and policy? • Was the determination of the privatization policy public and transparent (e.g. adopted or approved by the parliament/legislature)? • Does the privatization policy have the common good as its principal objective rather than a favor to certain domestic or foreign interested parties?

	<ul style="list-style-type: none"> • Is the privatization policy publicly supported, as indicated by the media, polling, or other measures? • Are the goals and criteria for the privatization program clear, precise and not easily manipulated?
Privatization Law	<ul style="list-style-type: none"> • Is the preparation of the privatization law public and transparent? • Is the privatization law clear, consistent, and not open to discretion of the officials administering it? • Does the privatization law appear to have the common good as its principal objective? Or does it appear to favor certain domestic or foreign interested parties?
Privatization Institutions	<ul style="list-style-type: none"> • Is the Privatization Agency set up and staffed in a public manner? • Is the leadership and senior staff of the Privatization Agency professionally competent and experienced experts in their field? • Are the tasks, powers and authority of the Privatization Agency clear and independent of government? Are the privatization decisions free from politicians influence or pressure? • Is there an adequate internal and external audit? Is there adequate political accountability and control of the Privatization Agency and/or of their officials?
Individual Enterprise Privatization	
	<ul style="list-style-type: none"> • Are necessary planning and feasibility studies conducted that address regional, sectoral and macro-economic conditions for individual enterprise privatization as well as adequately researched conditions surrounding the placement of the enterprise, which do not allow for subsequent manipulated “modifications”? • Are objective strategic decisions sufficiently supported/justified, including adequately explained (documented) selection of the privatization method? • Are advantages/privileges for national or international bidders (except for those based on legal provisions) adequately explained? • Are the legitimate concerns of employees and managers of the enterprise to be privatized handled responsibly and transparently? • Are there opportunities for the public/civil society to monitor/control the decision to privatize a specific enterprise?
Preparation for Privatization	
	<ul style="list-style-type: none"> • Can procedures and decision making be monitored and controlled by the public? Are decisions on privatizing a specific enterprise made with the necessary planning and feasibility studies on macro-economic, sectoral and regional aspects? Are decisions on privatizing a specific enterprise made at the political level with adequate transparency and accountability? Are the decisions in compliance with laws and privatization rules and regulations? • Is there an adequate justification of proposed investments or physical changes prior to the privatization (which are appropriate): <ul style="list-style-type: none"> ○ any financial strengthening of the enterprise before privatization (by new credit or write-off of old debt) ○ proposed changes in management structure or personnel reduction • Is there inadequate or missing justification for the decision to relieve the enterprise of any old environmental obligations (“old environmental debt”) at the expense of the public?

	<ul style="list-style-type: none"> • Are demands on the buyer explained and justified regarding: <ul style="list-style-type: none"> ○ Financial investments, ○ Labor protection measures, ○ Social protection programs, ○ The handling/removal of environmental burdens, ○ Continued production and quality of product, ○ Limitation (minimum time) on the subsequent sale or closure of the enterprise • Are decisions about personnel reduction made with the appropriate involvement and protection of the labor force (the degree of affordable protection for the labor force depends of course on the general economic situation in the country)? • Are there adequately explained and justified decisions for one of the several privatization methods or selection of one privatization method even though another one appears superior or more appropriate? • Is there a clear, transparent formulation of the tendering and negotiating conditions? Or does it allow too much room for subsequent interpretation as well as making compliance uncontrollable? • Is the value of the enterprise transparent, explained and market-based? Is there a detailed time plan with interim deadlines and a realistic, enforceable time plan? • In case of Employee or Management Buy-Out: Is there adequate provisioning for the protection against financial, operational and/or management-problems? • Does a conflict of interest exist among one or several of the politicians and officials involved in the process? • Is there sufficient responsiveness to indications of suspicion and violations and to complaints or warnings from the relevant control and audit institutions? • Is the process for selecting Consultants and/or Investment Banks to assist with privatization based on an open, objective and competitive process? Are contracts 'sole-sourced'? • Do financial institutions selected to offer assistance to the privatization process or the newly private enterprise try to influence substantive decisions in an undue manner, such as trying to steer the selection decision to a bidder favored by it?
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Marketing Phase	
	<ul style="list-style-type: none"> • Are decisions and justification clear, fully documented and transparent for selection of: <ul style="list-style-type: none"> • the “Strategic Investor” (the corporate or individual investors that add value to investments they make through industry and personal ties that can assist companies in raising additional capital as well as provide assistance in the marketing and sales process). • the choice of “controlled” rather than the “open” method of tendering, • bidders who are invited to the “controlled” tendering procedure • enterprises to be addressed during the roadshow (where, when, how publicized etc) • Is there adequate publication of the invitation to tender? Is the invitation to tender in more than publication? Is the text of the invitation to tender clear and informative?

	<ul style="list-style-type: none"> • Does the consultant/investment bank managing the privatization make major efforts to maximize the number of companies participating in the tendering? • Are there realistic deadlines for the participation in the tendering or the auction? Are there conditionalities attached (large cash down-payments, unusual security requirements for the remainder)? • Is there a transparent, clear system for the distribution or sale of vouchers, including clear rules about the rights of the voucher holders – on how to exercise the voucher and how to sell it – as well as a market for the trading in of vouchers? • Is there a clear, unequivocal statement about the financial, operational, economic, and management risks of the Employee-Management Buy-Out method? (This is a restructuring initiative that involves both managerial and non-managerial employees buying out a firm in order to concentrate ownership into a small group from a widely dispersed group of shareholders.)
Evaluation of Tenders, Negotiations and Concluding the Contract	
<i>General</i>	<ul style="list-style-type: none"> • Are bidders successful because of their financial and technical competence? • Are officials/politicians who have previously been suspected of corruption or with a conflict of interest in the transaction, involved in the privatization process? • Are there convincing parliamentary or judicial reactions and corrections to previous accusations of corruption and other abuses of power? • Are apparent violations of the laws and other rules and regulations adequately sanctioned by the judiciary, the government and/or public? • Are time limits and deadlines realistic and easily complied with by the interested parties? Are delays in the process explained and documented? • Do officials comply with the rules of the process, or do they allow delayed bids or waive security requirements that favor some but not all of the bidders? • Is there a regulatory institution (regarding the privatization of public services enterprises with monopoly character such as water and sewerage, power supply, telecommunications or transport services)?
Strategic Investor (this is the corporate or individual investor that adds value to investments they make through industry and personal ties that can assist companies in raising additional capital as well as provide assistance in the marketing and sales process).	<ul style="list-style-type: none"> • Is the selection process for the Strategic Investor adequately justified and documented? Are the negotiations for the final contract transparent? • Is the selected Strategic Investor competent, financially, technically and operationally strong, and the most advantageous buyer that the interests of the state would call for? • Are there appropriate financial, operational and social demands upon the Strategic Investor which the value of the enterprise, and its significance for the country’s development, would suggest? • Are there adequately dated commitments, security, insurance etc, protecting the compliance by the Strategic Investor with his obligations? • Are there adequate, effective sanctions that enforce timely compliance by the Strategic Investor with his commitments (fulfillment of obligations, contract penalties, liability for damages etc)?
Open or Controlled Tendering	<ul style="list-style-type: none"> • Is the selection/evaluation done in a transparent, adequately justifiable and documented fashion for: <ul style="list-style-type: none"> ○ the “controlled” over the “open” tendering method; ○ bidders which are invited to the “controlled” tendering;

	<ul style="list-style-type: none"> ○ the competing bids (separately for the quantitative and qualitative elements); and selection of the “most advantageous” or “best” offer? ● Are evaluations of bidders’ offers unfounded-positive or superficial? ● Is the financing plan of the bidder for his acquisition transparent, adequately documented and secure? ● Is non-transparent, unjustified favoring of one of the bidders a common/frequent outcome of the evaluation?
Auction	<ul style="list-style-type: none"> ● Is the assessment of compliance with pre-qualification requirements before the auction transparent, adequately justified and documented? ● Is the auction process transparent and adequately documented? Does the system assure equal and fair treatment for all bidders?
Voucher System	<ul style="list-style-type: none"> ● Is the voucher system transparent, clear and easy to understand? ● Are there control and sanction opportunities to assure the desired broad distribution of vouchers and preclude manipulated/corrupt assignment of vouchers? ● Is block-building (and thus potential control over the enterprise by mafia-type powers and networks) allowed?
Monitoring of Privatization Process	
	<ul style="list-style-type: none"> ● Is there an adequate and reliable control system in place? ● Is there parliamentary control and oversight? Is it enforced? ● Is there follow-up to suspicion or accusations of corruption? ● Is the state or public interested in identifiable or anonymous accusations of corruption? ● Does the public and/or civil society have access to documents and information held by the control and audit institutions, and to their proceedings? ● Are whistleblowers encouraged and protection systems and procedures in place for whistleblowers? ● Are there audit requirements? Is an audit system in place? Are audits performed on a timely basis and are there consequences for poor performance? ● Is the audit report adequate and published in a timely manner? ● Does a critical audit report make an impact (i.e. reaction by the legislature, the country’s Court of Audit, the judicial authorities and/or the administration)?

NOTES

¹ The following sources were used to develop Diagnostic Probe Guides:

1. Corruption in the healthcare sector, CORIS Website at <http://www.corisweb.org/article/articlestatic/41/1/283/>
2. Customs Modernization Handbook, Luc De Wulf and Jose B. Sokol, eds., The World Bank, 2005.
3. Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ). – Avoiding Corruption in Privatization: A Practical Guide, Eschborn 2005.
4. Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ). - Preventing Corruption in Public Finance Management: A Practical Guide, Eschborn 2005.
5. Global Corruption Report 2006 (special focus on Corruption and Health), Transparency International, 2006. http://www.transparency.org/publications/gcr/download_gcr

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6. Bertram I. Spector, editor, *Fighting Corruption in Developing Countries: Strategies and Analysis*. (Bloomfield, CT: Kumarian Press, 2005)
 7. Judicial Transparency Checklist: Key Transparency Issues and Indicators to Promote Judicial Independence and Accountability Reforms, Keith Henderson, Violaine Autheman, Sandra Elena, Luis Ramirez-Daza and Carlos Hinojosa, IFES, 2003.
 8. Managing Government Expenditure, Salvatore Schiavo-Campo and Daniel Tommasi, 1999
 9. National Integrity System Country Studies: Questionnaire Guidelines, Robin Hodess and Marie Wolkers, Transparency International, 2005.
 10. Tools for Assessing Corruption & Integrity Institutions: A Handbook, Dr. Anthony Lanyi and Dr. Omar Azfar, The IRIS Center (under contract with USAID), 2005.
 11. Transparency International Global Priorities. - http://www.transparency.org/global_priorities
 12. U4 Anticorruption Resource Center at <http://www.u4.no/themes/health/main.cfm>