

Anticorruption



A. Michael Stevens

Integrity Division

Office of the Auditor General

Why care?

- Demand for best use of public funds
- Intolerance of misused public trust
- Success of projects and sustained development

Objectives

- Understand
 - ADB's Anticorruption Policy
 - History and development
 - Objectives
 - How ADB investigates allegations
 - How and where fraud and corruption occurs in ADB-financed activities

History

- Adopted by ADB in 1998
- Clarified in 2004
- Governance and anticorruption policies review 2004-2006
- Second governance and anticorruption action plan
- Definitions updated September 2006

History

- Anticorruption Policy
 - Support competitive markets and effective public administration
 - Support explicit anticorruption efforts
 - Ensure adherence to highest ethical standards
- Clarifications
 - Terms, definitions, and scope

Anticorruption Policy

- Deter through strengthening operations
- Detect through
 - Prohibited activities defined
 - Integrity Division established
- Enforce through administrative investigations
- Promote awareness

Strengthening Operations

- Procurement guidelines
 - Section 1.14 – fraud and corruption
- Use of consultants guidelines
 - Section 1.10 – conflict of interest
 - Section 1.23 – fraud and corruption

Strengthening Operations

- Loan regulations – suspension and cancellation
 - Ordinary operations loan regulations – Article IX
 - Special operations loan and grant regulations – Article VIII

Definitions

- Corruption
 - Corrupt practice
 - Coercive practice
 - Collusive practice
- Fraud
 - Fraudulent practice
- Conflict of interest

Integrity Division

- Central point of contact
- Established 1999 (as Anticorruption Unit)
- 12 staff (director, 6 international, 5 local)
- Integrity Guidelines and Procedures
 - Training
 - Project procurement-related audits
 - **Investigate allegations/concerns**

Integrity Division

- Investigations involving
 - ADB staff
 - Borrower/executing agencies
 - Private sector participants (bidders, consultants, contractors, and suppliers)

Investigations

- ADB Staff

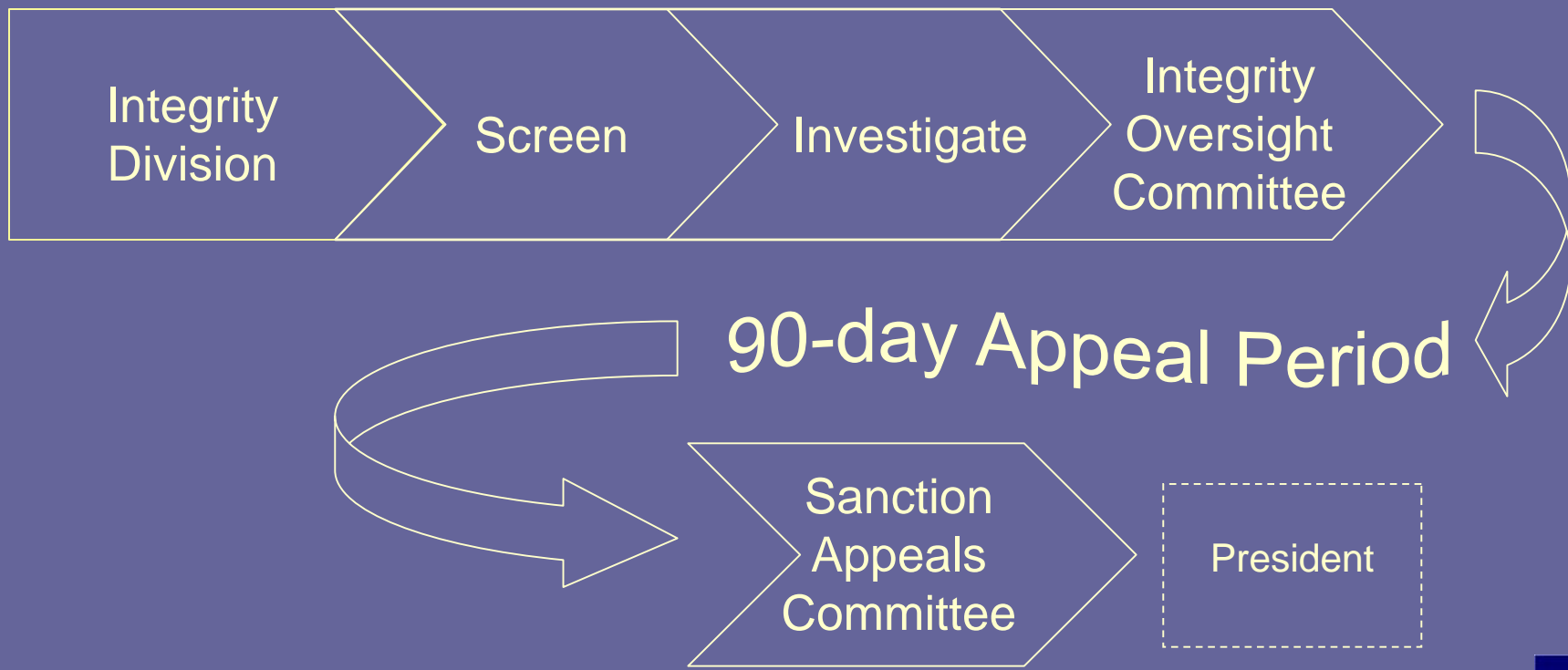


Investigations

- Borrowers
 - Sovereignty
 - Request Government action
 - Refer for investigation or prosecution
 - Coordinate with ADB operational departments
 - Suspend/cancel projects
 - Impact future assistance

Investigations

- Private sector participants (bidders, consultants, contractors, and suppliers)



Enforcement

- Remedial Actions

- Reprimand

- Considered if future violations occur

- Ineligibility

- Firms: as much as 7 years
 - Firms: Up to 10 years for subsequent violation
 - Individual: can be indefinitely

Enforcement

- Disclosure
 - Self-compliance expected
 - Names are not public, but reveal case nature
 - Operational departments advised
 - Executing Agencies may be advised
 - Information shared with other MDBs
 - Sanctions extended if violated

Enforcement (results as of 31 August 2006)

- 653 investigations opened; 567 closed
- Sanctions

	Firms	Individuals
Total Ineligible	157	161
Regained Eligibility	29	18
Currently Ineligible	128	143
Reprimanded	19	3

Challenges

- Cooperation
- “Culture”
- Language
- Risks

Definitions

- Corruption
 - Corrupt practice
 - Coercive practice
 - Collusive practice
- Fraud
 - Fraudulent practice
- Conflict of interest

Definitions

Corrupt Practice

The offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.

Definitions

Coercive Practice

Impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

Definitions

Collusive Practice

An arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

Examples: Corruption

- Corrupt financial transactions
 - Bribery
 - Kickbacks
 - Extortion

Examples: Corruption

- Bid manipulation
 - Collusion
 - Leaking of bid information
 - Rigged specifications

Definitions

Fraudulent Practice

Any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

Examples: Fraud

- Fraudulent claims
 - Consultant timesheet
 - Airfare
 - Receipts/Invoices
 - Using lower rate personnel to perform work at higher rates
 - Providing lower quality goods

Examples: Fraud

- False documents
 - Curriculum vitae
 - Bid security/bank guarantees
 - Work certificates
 - Financial statements
 - Fictitious bids/“borrowing” names of firms
- Embezzlement

Definitions

Conflict of Interest

Any situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.

Obligations

- Executing agencies and private sector participants
 - Controls
 - Due diligence
 - Accurate representations

Obligations

- ADB
 - Consider levels and risks
 - Design
 - Monitoring/supervision (due diligence)
 - Attention/resources
 - Fiduciary controls
 - Procurement
 - Payments/withdrawal applications

Building capacity

- Technical assistance
 - Operational departments
 - OAGI
- Participation in project procurement-related audits
- (Potential) Referrals to investigate or prosecute

<http://adb.org/Integrity>

- Policy
- Procedures
- Statistics
- Case summaries
- Contact information

