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(second draft –Poland)

Enhancing Good Governance for Public Assets

Guiding principles for implementation

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1. Introduction

Good governance is a precondition for sustainable development of societies and regions. It means competent management of a country's resources and public tasks in a manner that is right, transparent, accountable, equitable and responsive to people's needs. Thereby, implementation of good governance establishes an environment that does not favor or enable corruption, money laundering and other types of wrongdoing. Although governments have a major responsibility for creating such an environment, governance issues vary from country to country, and solutions to governance problems must be tailored individually, while each SAI has a key role to play as an advocate of good governance.

Task 1: Why SAI should enhance good governance for public assets?

The INTOSAI Working Group on the Fight Against Corruption and Money Laundering (WGFACML) recognizes a strong need for preparing guidelines related to the role of SAIs in enhancing integrity, transparency, accountability and good governance for public assets.

Drawing from international experience, INTOSAI WG FACML has identified some broad guiding principles for implementing SAIs' activities.

The aim of the Guidelines is to assist SAIs that seek to implement the INTOSAI Strategic Plan by identifying basic requirements, issues arising from these requirements and various options available to SAIs as they develop and implement their audit approach, which helps to assess strengths and weaknesses of the current governance practice, and to improve it.

The Guidelines are a result of the joint effort of the members of the INTOSAI Working Group on the Fight Against Corruption and Money Laundering. The preliminary guidelines were prepared by the SAIs ofand Poland.

While the scope of the Guidelines is wide, they do not seek to duplicate the codes and guidance that already exist for some specific types of organizations.

The Guidelines were developed on the basis of the following international conventions, laws, regulations and good practices:

- UN Convention Against Corruption, United Nations, New York 2004
- INTOSAI Standards



- INTOSAI GOV 9100: Guidelines for Internal Control Standards for the Public Sector
- ISSAI 20 Principles of transparency and accountability
- ISSAI 21 Principles of transparency and accountability. Principles and Good Practices
- IPSAS 1 Presentation of Financial Statements
- IPSAS 2 Cash Flow Statements
- IPSAS 3 Accounting Policies Changes in Accounting Estimates and Errors
- IPSAS 24 Presentation of Budget Information in Financial Statements
- IIA Guidance on Fraud
- European Governance. A White Paper, Commission of the European Communities, Brussels 2001
- Checklists for use in Financial and Compliance Audit of Public Procurement, The Contact Committee of the Supreme Audit Institution of the European Union
- Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing
- FATF Forty Recommendations, Financial Action Task Force, 2003
- The Good Governance Standard for Public Services, The Independent Commission on Good Governance in Public Services, Office for Public Management Ltd., The Chartered Institute of Public Finance and Accountancy, London, UK 2004
- The conclusions of the Visegrad Group's Workshop "The role of the auditor in detecting and preventing fraud and corruption", Ljubljana, Slovenia 2011
- Best practices of the Polish SAI¹.
- OLACEFS – Declaration of Principles of Accountability, presented at the 19th OLACEFS General Assembly in Asunción, Paraguay.

The Guidelines should be viewed as a living document, which over time will need to be further developed and refined to embrace the impact of new achievements.

¹ The result of reviewing the Polish SAI's post-audit statements sent to auditees, pronouncements on audit results submitted to the Parliament and other authorized state bodies, annual reports on the activity of the SAI of Poland, and cross-sectional studies concerning the corruption hazard in the light of the Polish SAI's audits, presented to the Parliament and public opinion.



In conclusion, it should be clearly stated that this document includes guidelines for standards. The Guidelines do not provide detailed policies, procedures and practices for enhancing integrity, transparency, accountability and good governance for public assets.

In the first chapter of this document, the concept of good governance is defined and its scope is delineated. The document ends with a chapter on the roles and responsibilities in enhancing integrity, transparency, accountability and other principles of good governance for public assets.



2. Basic Terms

In many countries, public expenditure has been increasing continually and exceeding billions in national currency. The way this money is spent and the quality of services it provides is an important issue to all of us, as users of public services and simultaneously as taxpayers. Users of public services, unlike clients in the private sector, usually have little or no option to go elsewhere for services, or to refuse to pay for bad quality services. Simultaneously, providers of public services have fewer direct financial incentives than private firms to improve consumer satisfaction. Because of that, we all need governance for public services to meet high standards.

Accountability can be considered as the concept that individuals, agencies and organizations (public, private and civil society) are held responsible for executing their powers properly. In theory, according to *The Anti-Corruption Plain Language Guide*, developed by Transparency International 2009, there are three forms of accountability: diagonal, horizontal and vertical. The following examples apply to the public sector. Diagonal accountability is when citizens use government institutions to elicit better oversight of the state's actions, and in the process engage in policy-making, budgeting, expenditure tracking and other activities. Horizontal accountability subjects public officials to restraint and oversight, or 'checks and balances' by other government agencies (i.e. supreme audit institutions, courts, ombudsman, central banks) that can call into question, and eventually punish, an official for improper conduct. Vertical accountability holds a public official accountable to the electorate or citizenry through elections, a free press, an active civil society and other similar channels². While Guillermo O'Donnell³ distinguishes two forms of

² *The Anti-Corruption Plain Language Guide*, Transparency International 2009. See also National Endowment for Democracy, Institutionalizing Horizontal Accountability: How democracies can fight corruption and the abuse of power. Online. Accessed 15 July 2009. www.ned.org/forum/reports/accountability/report.html; Nordic Latin America Research Network (NOLAN), 'Latin American Futures' workshop, 4th NOLAN Conference, Bergen, Norway. 10-12 September 2008. www.nolan2008.uib.no/workshops/workshop8/index.html; Transparency International (TI), *Combating Corruption in Judicial Systems* (Berlin: TI, 2007). www.transparency.org/content/download/27437/413264/file/Judiciary_Advocacy_ToolKit.pdf; U4 Corruption Glossary. Website. www.u4.no/document/glossary.cfm; M. O'Brien and R. Stapenhurst, 'Accountability in Governance', Policy Note (Washington, DC: World Bank, 2006) <http://siteresources.worldbank.org/PUBLICSECTORANDGOVERNANCE/Resources/AccountabilityGovernance.pdf>; TI and United Nations Human Settlements Programme (UN-HABITAT), *Tools to Support Transparency in Local Governance* (Kenya and Berlin: TI and UN-HABITAT, 2004); UNDP,



accountability: horizontal and vertical. On one hand, vertical accountability indicates activities of an external auditor (a civil society, the press or electorate) directed to the state, and on the other hand – horizontal impact of state agencies and actors whose mission is to supervise other state bodies. Supreme Audit Institutions (SAIs) constitute a key mechanism in the horizontal system, oriented to auditing of the legality of activities of public officials and institutions. Accountability is also defined as⁴:

- The process whereby public service bodies and the individuals within them are held responsible for their decisions and actions, including their stewardship of public funds and all aspects of performance.
- Duty imposed on an audited person or entity to show that he/it has administered or controlled the funds entrusted to him/it in accordance with the terms on which the funds were provided.

Public accountability is defined as the obligations of persons or entities, including public enterprises and corporations, entrusted with public resources to be answerable for the fiscal, managerial and program responsibilities that have been conferred on them, and to report to those that have conferred these responsibilities on them⁵.

Assets – to be elaborated by Mr Jacek Kościelniak (Polish SAI)

Governance is the role of public organizations is today's world and their involvement in the implementation of the public interest is significant. Public administration, whose activities are financed by tax payers, is an important complement to the constitutional authorities, holding to the auxiliary functions of these bodies, providing services for them, and taking part of their executive powers, and the regulatory and solving problems. Public assessment of government activities is not only focused on socio-economic program which was offered to citizens, but also of how public authorities carry out their tasks⁶. Public administration must

Human Development Report 2002 – Deeping Democracy in a Fragmented World (New York: Oxford University Press, 2002); D. Brinkerhoff and A. Goldsmith, 'Clientelism, Patrimonialism and Democratic Governance: An Overview and Framework for Assessment and Programming', Abt Associates prepared for USAID (Bethesda, MD: Abt Associates, 2002).force the

³ Guillermo O'Donnell is quoted on page 10 of the OLACEFS Declaration of Principles of Accountability. A paper developed for a technical meeting of the OLACEFS Commission of Accountability in Argentina, August 2008.

⁴ INTOSAI GOV 9100: *Guidelines for Internal Control Standards for the Public Sector*, INTOSAI.

⁵ INTOSAI GOV 9100: *Guidelines for Internal Control Standards for the Public Sector*, INTOSAI.

⁶ Z. Dobrowolski, *Naczelne organy kontroli państwowej w krajach członkowskich Unii Europejskiej. Ciągłość i zmiana. Studium porównawcze*, Wydawnictwo Uniwersytetu Zielonogórskiego, Zielona Góra 2008, p. 2-15



therefore be efficient in their operation, and that means, among other the ability to effectively solve specific social problems. This efficiency can be achieved by moving away from the imperative approach to problem solving and the integration of different stakeholders in the process of initiating and carrying out the tasks and the process of assessing their effects. Moving away from treating citizens as voters and consumers only public services and treatment of citizens as co-makers, co-creators of the public interest is the essence of governance⁷. Other words, a concept of governance goes beyond the traditional notion of government to focus on the relationships between leaders, public institutions and citizens, including the processes by which they make and implement decisions. The term can also be applied to companies and NGOs⁸. Governance can be defined as the exercise of power or authority – political, economic, administrative or otherwise – to manage a country's resources and affairs. It comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences⁹. The characteristic of governance is interactive approach to solving different problems. It is characterized by the following paradigm: the public sector, especially public administration is an important part of society and is in interaction with the actors of the society through appropriate participatory process with stakeholders. This approach is characterized by the involvement of stakeholders, disclosure and transparency, equality, non-discrimination in the use of public services and accountability of decision-makers. Governance can be used in several contexts such as corporate governance, international governance, national governance and local governance. **Good governance** is characterized as being participatory, accountable, transparent, efficient, responsive and inclusive, respecting the rule of law and minimizing opportunities for corruption¹⁰. Good governance means competent management of a country's resources and affairs in a manner that is open, transparent, accountable, equitable and responsive to people's needs¹¹. Good governance leads to good management, good performance, good stewardship of public money, good public engagement and, ultimately, good outcomes¹².

⁷ H.C. Boyte, *Reframing Democracy: Governance, Civic Agency and Politics*, Public Administration Review no 5, American Society for Public Administration 2005

⁸ *The Anti-Corruption Plain Language Guide*, Transparency International 2009.

⁹ *Good governance. Guiding principles for implementation*, Commonwealth of Australia 2000.

¹⁰ *The Anti-Corruption Plain Language Guide*, Transparency International 2009.

¹¹ *Good governance. Guiding principles for implementation*, Commonwealth of Australia 2000.

¹² *The Good Governance Standard for Public Services*, The Independent Commission on Good Governance in Public Services, Office for Public Management Ltd., The Chartered Institute of Public Finance and Accountancy, London, UK 2004.



Integrity can be defined as behaviors and actions consistent with a set of moral or ethical principles and standards, embraced by individuals as well as institutions, that create a barrier to corruption¹³. It may be also defined as the quality or state of being of sound moral principle; uprightness, honesty and sincerity; the desire to do the right thing, to profess and live up to a set of values and expectations¹⁴.

Stake holder – is any person who is or will be directly affected by the decision. *to be elaborated by Mr Zbysław Dobrowolski (Polish SAI)*

Transparency can be defined as characteristic of governments, companies, organizations and individuals of being open in the clear disclosure of information, rules, plans, processes and actions. As a principle, public officials, civil servants, the managers and directors of companies and organizations, and board trustees have a duty to act visibly, predictably and understandably to promote participation and accountability¹⁵.

In the European Union, the key principles of good governance are the following: openness, participation, accountability, efficiency and coherence¹⁶.

Accountability – responsibilities of individual institutions for conducting public policies, which allow for well-established and effective democratic mechanisms and for making an objective assessment of the effectiveness, efficiency and economy. It also means ensuring a clear division of competence in the performance of their tasks.

Coherence – integration management of various public policies, as well as among the different levels of public authorities (in the framework of the multilevel system of governance), the consistency of their risk, requiring the construction of coordination mechanisms.

Efficiency – improvement of administrative capacity (state capacity) for smooth implementation of the objectives of public policies. The criterion of good governance includes two additional rules: (1) the principle of proportionality, which assumes that the implementation of public policies should be proportional to the objectives, and therefore carried out in an optimal manner; (2) the principle of subsidiarity, whereby the operation of

¹³ *The Anti-Corruption Plain Language Guide*, Transparency International 2009.

¹⁴ INTOSAI GOV 9100: *Guidelines for Internal Control Standards for the Public Sector*, INTOSAI.

¹⁵ *The Anti-Corruption Plain Language Guide*, Transparency International 2009.

¹⁶ *European Governance. A White paper*, Commission of the European Communities, Brussels 2001.



the higher levels of the administration is only secondary to activities carried out at lower management levels.

Openness – public administration institutions should be transparent, which means that the public should have the widest access possible to information on their performance.

Participation – participation of the public in the works of public administration authorities at all levels (multilevel partnership), and at all major stages of the realization of public policies (i.e. in the course of programming, implementation and monitoring). The Commission stresses, among others, the importance of the participation of non-governmental organizations (the so-called civic dialogue) and representatives of employers and trade unions (social dialogue).

Other principles of good governance are:

Consensus oriented - There are several actors and as many view points in a given society. Good governance requires mediation of the different interests in society to reach a broad consensus in society on what is in the best interest of the whole community and how this can be achieved. It also requires a broad and long-term perspective on what is needed for sustainable human development and how to achieve the goals of such development. This can only result from an understanding of the historical, cultural and social contexts of a given society or community.

Efficiency - Good governance means that processes and institutions produce results that meet the needs of society while making the best use of resources at their disposal. The concept of efficiency in the context of good governance also covers the sustainable use of natural resources and the protection of the environment. In other regions, key elements of good governance are defined similarly¹⁷.

Equity and inclusiveness - A society's wellbeing depends on ensuring that all its members feel that they have a stake in it and do not feel excluded from the mainstream of society. This requires all groups, but particularly the most vulnerable, have opportunities to improve or maintain their wellbeing. The concept of equality of government and stakeholders in realization of the public interests needs to be clarified. Normative acts differentiated

¹⁷ See: *Good governance. Guiding principles for implementation*, Commonwealth of Australia 2000.



responsibility for the performance of public duties. Public organizations are required to carry out such tasks for all citizens. Tasks realized by other stakeholders, such as non-governmental organizations may be addressed to specific groups and are not mandatory. Public organizations are responsible to support the activities of the stakeholders in the delivery of public services as well as monitoring and evaluating the implementation of these tasks.

Responsiveness - good governance requires that institutions and processes try to serve all stakeholders within a reasonable timeframe.

Rule of law - good governance requires fair legal frameworks that are enforced impartially. Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force.

From the perspective of individual public organization the principles of good governance include:

- Focusing on the organization's goals and outcomes.
- Performing efficiently in clearly defined functions and roles.
- Promoting and putting the values of good governance for whole organization into practice.
- Having and using good quality information, objective advice and support, assuring a transparent decision process and an effective risk management system in operation.
- Making sure that top management¹⁸ have the skills, knowledge and experience they need to perform well.
- Assuring an appraisal and performance review of individual top management and as a group, and making accountability real.

¹⁸ Top management means: governor – member of the governing body, whether elected or appointed, or executives.

3. Roles and Responsibilities of Stakeholders in Enhancing Good Governance for Public Assets

All members of the personnel of a public organization, while performing public tasks, are obliged to be participatory, accountable, transparent, efficient, responsive and inclusive, to respect the rule of law and to combat corruption, money laundering and other types of wrongdoing.

Since governance is the process of decision-making and the process by which decisions are implemented, an analysis of governance focuses on the formal and informal actors involved in decision-making and implementing the decisions made and the formal and informal structures that have been set in place to arrive at and implement the decision.

Government is one of the actors in governance. Other actors involved in governance vary depending on the level of government that is under discussion. All actors other than government and the military are grouped together as part of the "civil society."

Managers are directly responsible for all activities of a public organization, including designing, implementing, supervising the proper functioning of, maintaining and documenting the realization of public tasks in accordance with the principles of good governance.

Their responsibilities vary depending on their function in the organization and the organization's characteristics.

Internal auditors examine and contribute to the ongoing effectiveness of the internal control system through their evaluations and recommendations, and therefore play a significant role in effective internal control. However, they do not have the management's primary responsibility for designing, implementing, maintaining and documenting internal control. An internal control system should assure integrity, transparency, accountability and other principles of good governance for public assets.

Staff members contribute to internal control as well. Internal control is an explicit or implicit element of each staff member's duties. All staff members play a role in effecting control and should be responsible for reporting problems with operations, non-compliance with the code



of conduct, or violations of policy which result in a lack of integrity, transparency, accountability and other principles of good governance for public assets.

External parties also play an important role in the process of enhancing integrity, transparency, accountability and other principles of good governance for public assets. They can contribute to achieving the organization's objectives, or provide information which can be useful in effecting decisions. However, they are not responsible for designing, implementing, proper functioning, maintaining or documenting the organization's operations.

Supreme Audit Institutions encourage and support performance of public tasks in accordance with the principles of good governance. The assessment of the organization's operations is made during SAIs' compliance, financial and performance audits. SAIs communicate their findings and recommendations to interested stakeholders. Through their daily work, SAIs help build integrity, transparency and accountability of public life.

External auditors audit certain government organizations in some countries. They and their professional bodies should provide advice and recommendations on the organization's operations.

Legislators and regulators establish rules and directives regarding the organization's operations. They should contribute to the realization of public tasks in accordance with the principles of good governance, through assuring the quality of legislation.

Other parties interact with the organization (beneficiaries, suppliers, etc.) and provide information regarding achievement of its objectives.

4. Assessment of the standards of good governance.

Risk assessment and risk analysis

Human activity is carried out in conditions of a high degree of variability in ambient progressive changes in the economy – quickly and economics and changing laws that cause the risk of not achieving the desired objectives.

The idea of good governance is the ability of the State to the implementation of the objectives of the public.

Therefore the State should:

- 1.To act in the interests of society as a whole, and not in the interest of the currently governing politicians (**the risk of rent-seeking**),
- 2.Should ensure the long-term implications of the implementation of its policy, (**the risk of shortterminism**),
3. Should avoid over-regulation (**the risk of red tape**),
4. The Government should create an appropriate structure of incentives for market operators (**the risk of actions of dissuasion, the risk of disincentive effects**) and,
- 5.The State should be resistant to lobby and other pressures interest groups (**the risk of electoral pressure**).

Therefore, good governance means the use of such institutional solutions, which reduce the irregularities in the functioning of the market (market failure) and, on the other hand restrict the inadequacies of the State (government failures).

Risk management is a continuous process, concerning the activities of the entire unit, which should be included in the strategy of action. Its implementation must be engaged in the management and its employees. This process should take into account all the risks connected with the outside of the body, its activities in current and future reporting periods.



The objective of risk management is to identify the potential risks, which may have had an impact on the activities of the unit, keeping the risk of fixed limits and reasonable to ensure the implementation of the objectives of the unit.

Risk management planning is undertaken at the stage of planning the venture/project and aims primarily to establish a coherent strategy and methodology of action against emerging threats.

In the process the risk assessment management should focus on the following elements:

- identification of risk – a form of descriptive using acquired knowledge and experience and the results of the expert analysis,
- analysis of the quality of the risks is to chain the according impact on mileage and achieved the objectives of the project,
- quantitative analysis of risks – in order to determine the likelihood of the occurrence of risks
- planning a response to the prevailing risk-selection strategy and taking action to minimize/increase the chance
- monitoring and control of the risks.

Internal auditing

Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.¹⁹

Internal auditing is conducted in diverse legal and cultural environments; within organizations that vary in purpose, size, complexity, and structure; and by persons within or outside the organization. While differences may affect the practice of internal auditing in each environment, conformance with The IIA's International Standards for the Professional Practice of Internal Auditing (Standards) is essential in meeting the responsibilities of internal auditors and the internal audit activity.

¹⁹ The Institute of Internal Auditors



If the Standards are used in conjunction with standards issued by other authoritative bodies, audit communications may also cite the use of other standards, as appropriate. In such a case, if inconsistencies exist between the Standards and other standards, internal auditors and the internal audit activity must conform with the Standards, and may conform with the other standards if they are more restrictive.

All the Auditors must pay attention to the possibility of the suspicious transactions related to money laundering, and, in this connection, the possibility of accounting fraud and other illegal activities. In the framework of the preparatory operations, the Auditors should estimate the risk of this type of irregularities and the rules of conduct while performing the audit using for this purpose, inter alia, the standard "IIA Guidance on Fraud". Because fraud and other types of wrong doing negatively impacts organizations in many ways — financially, reputational, and through psychological and social implications — it is important for organizations to have a strong fraud program that includes awareness, prevention, and detection programs, as well as a fraud risk assessment process to identify risks within the organization

In particular, attention should be paid to the following elements²⁰

- Fraud awareness (e.g., reasons and examples for fraud and potential fraud indicators).
- Fraud roles and responsibilities.
- Internal audit responsibilities during audit engagements (e.g., execution responsibilities and communicating with the board).
- Fraud risk assessment (e.g., identifying relevant fraud risk factors and mapping existing controls to potential fraud schemes and identifying gaps).
- Fraud prevention and detection.
- Fraud investigation.
- Forming an opinion on internal controls related to fraud.

The guide also includes reference material, questions to consider, and a fraud risk assessment template.

Activity reports

²⁰ Managing the Business Risk of Fraud: A Practical Guide (The Institute of Internal Auditors, AICPA, ACFE)



The SAI should attach great importance to its informational role. Through timely and public disclosure of its audit findings, the SAI heightens public awareness of public threat. It helps to foster accountability.

One of the main elements of national audit bodies, is an annual summary of their activities and draw up an annual report. The report, such as the compendium of knowledge about the activities of the independent national authority control should be presented before the highest legislative body in the country, should be analyzed, discussed and then published for the public.

This document should contain information on the annual activity of the audit body, the major findings, the results of the examinations, analysis, suggestions, the effects of the financial results and also, legislative proposals arising from the implementation after audit conclusions.

One of the important elements of this reports should be a chapter dedicated to the activity of the SAIs in the fight against fraud, corruption, money laundering and other types of wrongdoing. This chapter describes what actions the audit authority takes, what has made the findings, describes information about financial losses, conclusions after audit/ inspection and what remedial action has been taken by the controlled entities.

It should also describes the methodology used to determine areas of anti-corruption activities, risk exposure and present an overview of the results of the audit/inspection, which revealed the threat.

Particular attention should be devoted to the issue of individual criminal liability for resulting from irregularities.

For the legislative authority (Parliament), on the basis of the findings of the checks carried out, SAI should develop a risk corruption and fraud analysis which potentially can occur in different areas of activity of the State.

Website and newsletter of public information



In the dominant model of the information society website now is an essential element of communication with citizens. Net surfers brings information of the institution, its organization and activities. Is the business card of the Office led to the citizens.

Every SAI, using the internet should reach to the public opinion information about the functioning of the State, including the irregularities, findings and conclusions.

Complaints and applications

SAI regularly should keep records of complaints and applications – from citizens, central offices and other persons exercising public authorities.

Collected material should be subjected to analysis, and then, on the basis of it, the SAIs should decide whether or not to take action.

Accepted way of classifying issues should allow the separation of the areas in which the signals of irregularities are particularly intense. How to check complaints and applications to be helpful in targeting the control activity on the matter of the most important from the point of view of existing threats.

Therefore, threads, which was considered important as are confirmed in other sources of information may be qualified to perform the checks – eg. ad hoc inspection. When the scale of the phenomenon is significant, it may be eligible to examine, in the framework of the control of the planning system.

5. The Role of the Supreme Audit Institution in Enhancing Good governance for Public Assets

The important role SAs play in promoting good governance typically results from their special position in relation to the government. For example, in many countries, the SA is the supreme body of state audit, and is independent in relation to the executive and judicial branches of government and is subordinate to legislative branch. Having broad audit authorities, SAs evaluate the functioning of whole government system of combating wrongdoing, including money laundering. From such a broad perspective they can advise how to strengthen public institutions²¹.

The implementation of good governance requires an environment that does not favor or enable corruption, money laundering and other types of wrongdoing. Although the negative economic effects of money laundering on economic development are difficult to quantify, it is clear that such activity damages the financial-sector institutions that are critical to economic growth. Money laundering impairs the development of financial institutions for two reasons. First, money laundering erodes financial institutions themselves. Within these institutions, there is often a correlation between money laundering and fraudulent activities undertaken by employees. Second, money laundering erodes customer trust in financial institutions not only in developing countries but worldwide. Customer trust is fundamental to the growth and stability of sound financial institutions, and the perceived risk to depositors and investors from institutional fraud and corruption is an obstacle to such trust. Aside from money laundering's negative effect on economic growth through its erosion of countries' financial sectors, money laundering has a more direct negative effect on economic growth in the real sector by diverting resources to less-productive activity, and by facilitating domestic corruption and crime, which in turn depresses economic growth²².

²¹ Z. Dobrowolski, *Promoting Security and Stability through Good Governance. The activity of Polish Supreme Audit Office as an example of interagency co-operation in the fight against corruption, money laundering and other types of wrongdoing*, 20th OSCE Economic and Environmental Forum, Organization for Security and Co-operation in Europe, Prague 2012, p. 1-4

²² Ibidem; B.L. Bartlett, *The Negative Effects of Money Laundering on Economic Development*, International Economics Group Dewey B Ballantine LLP, 2002, p. 1



Corruption, which facilitates money laundering and vice versa, also generates some categories of costs:

- (1) costs caused by the loss of revenues from taxes, customs duties, privatization, and costs generated by corruption in public procurement;
- (2) reduced productivity of investments and economic growth, including through abuse of regulatory powers;
- (3) burden for the society, including through excessive taxation, low quality of services; and
- (4) loss of trust for public institutions, which may undermine the respect for public order and security, and even the idea of the State²³.

In order for an SAI to successfully realize its tasks in the area of enhancing good governance, the following are required:

1. The SAI should create a comprehensive strategy of combating corruption, money laundering, and other types of wrongdoing. One of the most important elements of the SAI program of combating wrongdoing is the work it does in strengthening public institutions, which are the elements of the national integrity system. Each public institution, within its statutory powers, supports this national integrity system like pillars that support the roof of the building. Sound governance in such a system is based on integrity, transparency and accountability²⁴.

It is worth mentioning that public sector governance aims to ensure that the public organization achieves its overall outcomes in such a way as to enhance confidence in the organization, its decisions and its actions. Good governance therefore means that the organization's leadership, its staff, the Government, the Parliament and the population can rely on the organization to do its work well and with full probity and accountability.

Good governance generally focuses on two main requirements of organizations:

²³ Z. Dobrowolski, *Korupcja w państwie. Przyczyny, skutki, kierunki przeciwdziałania*, PWSZ Sulechów 2005, p. 22

²⁴ Z. Dobrowolski, *Promoting Security and Stability through Good Governance. The activity of Polish Supreme Audit Office as an example of interagency co-operation in the fight against corruption, money laundering and other types of wrongdoing*, 20th OSCE Economic and Environmental Forum, Organization for Security and Co-operation in Europe, Prague 2012, p. 1-4



- performance, whereby the organization uses its governance arrangements to contribute to its overall performance and the delivery of its goods, services or programs; and
- conformance, whereby the organization uses its governance arrangements to ensure it meets the requirements of the law, regulations, published standards and community expectations of probity, accountability and openness.

Risk management should underpin the organization's approaches to achieving both performance and conformance objectives.

SAI should evaluate whether an integrated risk management system develops the control environment, which provides reasonable assurance that the organization will achieve its objectives with an acceptable degree of risk.

2. An SAI's efforts to enhancing good governance should be multifaceted. It includes but is not limited to:

- 1) incorporating good governance issues in an SAI's routine audit work;
- 2) heightening public awareness of significance of ongoing integrity, transparency and accountability within the government;
- 3) improving methods and tools of combating wrongdoings;
- 4) providing a means for whistleblowers to report instances of wrongdoing;
- 5) cooperating with other institutions in the fight against corruption and other wrongdoings and enhancing the principles of good governance.

3. During the planning and execution of audits, an SAI should take into account international agreements, INTOSAI standards, its own rules and regulations, the best auditing methods, and the criteria of good governance, which helps to assess the strengths and weaknesses of an auditee's activity during the audit, and to improve this activity.

4. An evaluation of an auditee's activity performed by the SAI should go far beyond traditional aspects of certified financial audits that provide opinions on such matters as financial statements and internal control over financial matters.

An SAI should conduct assessment of whether the auditee provides value for money, based on the tripartite principle of spending less (economy), spending well (efficiency) and spending wisely (effectiveness).

The SAI should also take into account other principles of good governance.

4.1. The principle of equality means equal treatment by public citizens settling of uniform, objective criteria. It also means an opportunity for stakeholders presents their views, arguments, as well as opportunity to assess the activity of the public administration. The above-mentioned principle applies in the public debate, which is necessary to ensure openness and transparency of the public administration, accountability of decision-makers, stakeholders involved in the implementation of public tasks.

Public debate, which is understood as the process of selecting and interpreting the most important issues of public interest, is necessary in public governance. The quality of public debate depends on the reliability of information and clarity of communication. Public debate is a tool for structuring stakeholder preferences and ratings. This in turn is a prerequisite for rational expectations about the behavior of others. It is a tool to generate common knowledge, (knowledge about the knowledge of others). Clear and accessible rules is the basis for the legitimacy of actions taken by public bodies.

An equal access to reliable information is necessary in public discourse. The information should be understandable to citizens. Only then it is possible to formulate in a responsible way, not only requests to the public authority proposal to solve specific problems, but also how to make accurate assessments of public tasks²⁵. SAI should therefore not only review and evaluate the accuracy of the information, but also evaluate whether the information provided by the public is understandable. SAI should also evaluate whether public organization develop civic involvement in public tasks.

Participation of the media in the communication between stakeholders can be a positive factor in the shape of public debate. Media facilitate citizens' contacts with public organizations, as well as detect irregularities in the activities of these organizations. They can report about ongoing anti-corruption efforts and unveil cases of corruption. Media in addition to these also act as the interpreter of reality, not only creating a picture of the debate, but also by making their selection. There is therefore a danger to structure the public debate, especially by organized entities associated with lobby groups.

Ensuring media independence (through legislation and ownership structures likewise) and the protection of their sources is important to their work and should be ensured by governments. Civil society organizations do also need to enjoy independence and freedom to

²⁵ Z. Dobrowolski, *Kontrola współpracy instytucji publicznych z organizacjami pozarządowymi na przykładzie Najwyższej Izby Kontroli* [w:] J. Babiak, W. Sługocki (red.), *Rola organizacji pozarządowych w kształtowaniu społeczeństwa obywatelskiego. Doświadczenia i wyzwania*, Instytut Konsultantów Europejskich, Warszawa-Kalisz 2009, s. 78-99



engage in their activities. SAI should evaluate whether the government policy related to issues mentioned above is properly realized.

Use of the Internet is changing the way communication between stakeholders. It creates the opportunity for direct contact with the citizens of public organizations without the media, as a subject of public debate structuring space. Creates a new supra-regional or even transnational space in which debate can take place any time or territorial restrictions.

However, in addition to the undoubted benefits of the use of IT tools in the communication between the stakeholders it is necessary to identify possible threats. One of them is the ability to manipulate the public opinion of interest groups via social networks or incomprehensible information transfer. Another threat is the theft of data from public organizations IT resources, which could undermine public confidence in the organization. These potential risks generate new tasks for the SAI. Among these tasks include review and evaluation of actions taken by public authorities to protect virtual information resources to prevent intentional destruction or distortion.

4.2. SAI should help build a civic consensus regarding the importance of public sector integrity. Public sector integrity has to be part of broader societal and legal norms. The compliance of public officials with behavioral standards and rules greatly depends on the broader – normative and procedural framework. Behavioral standards for public officials, such as codes of conduct, need time to be assimilated and to become part of daily bureaucratic routine. Increasing the awareness of public officials regarding the importance of their integrity not only adequate public service delivery, but above all for enhancing citizens' trust in public institutions is therefore crucial. In this context, SAI should evaluate the activity of public organizations related to training and other efforts aimed to prevent ethical collapse in public organizations. SAI should take steps to encourage public organizations to develop and update codes of conduct for public officials.

Monitoring mechanisms of public sector integrity need to constantly strengthened. This is particularly true for conflict of interest and asset declaration regimes.

4.3. Transparency in public sector procedures should consequently be fostered by SAIs.

Transparency is of utmost importance for the efficiency and effectiveness of public institutions. Introducing a high degree of transparency in public sector procedures reduces the individual's margin of discretion and reduces the risk of undue influence.



It is worth mentioning about the following feedback. Under conditions of uncertainty proper implementation of public tasks resulting from the complexity of decision-making, public employees that implement the decisions receive a discretionary power, which in turn may increase the uncertainty indicated above.

4.4. SAI should evaluate whether the human resources management in public organizations is merit-based.

Merit-based human resources management is a key element in enhancing good governance. To prevent the undue influence of the public sector human resources management processes selection and promotion criteria and procedures need to be fair, predefined and clearly documented, so that the margin of discretion and arbitration is limited. Appeals structures and mechanisms do also need to be in place to ensure effective means of remedy to candidates.

5. The SAI should constantly work in a systematic manner to improve its methodology, to identify and combat wrongdoing and enhance integrity, transparency, accountability and other principles of good governance for public assets.

6. The SAI should increasingly turn its focus on the training of its staff, knowing that the success of the fight against wrongdoing depends not only on its audit procedures and tools, but also on its having staff with appropriate skills, knowledge and abilities to identify and assess potential wrongdoings.

7. The SAI should strive to create a commitment to individual integrity not only in and through its own staff. The SAI should be an institution to which whistleblowers from other institutions can provide information about suspected or actual wrongdoing in the workplace. Individuals should submit allegations of corruption, fraud, waste, abuse, or mismanagement of public funds and other types of wrongdoing by sending written information to the SAI, contacting representatives of the SAI in person, or making contact through the SAI's ComplaintNET. All information gathered by the SAI's ComplaintNET should be transmitted over a secure connection, and the SAI should safeguard all information provided by whistleblowers against unauthorized disclosure. Complaints obtained by the SAI are a valuable source of information on the socio-economic situation of the country and can be used to review and



evaluate the activity of auditees. The number of complaints received from the citizens may be considered as an indicator of the degree of public trust to the SAI²⁶.

8. SAIs should assess, detect and propose changes in the binding regulations in their countries, having identified mechanisms that increase the risk of corruption and other types of wrongdoing due to unclear regulations or legal loopholes.

The SAI should attach great importance to the quality of legislation. In conducting audits in specific subject areas, SAI should frequently identify loopholes in regulations, lack of administrative rules, and unclear regulations that contribute to irregularities. If needed the SAI should propose the rectification of legislative shortcomings. The SAI should continuously follow up the implementation of its proposals.

9. SAIs should attempt to implement internal control systems (COSO) in the public sector since incorporation of these standards constitutes an effective measure for enhancing accountability.

10. SAIs should strive to assess the existence of principles for setting mechanisms aimed at prevention of conflicts of interest, unlawful benefits, misuse of confidential information, such as ignoring bans and in compliance in performance of public functions.

11. SAI should determine mechanisms that create conditions which encourage wrongdoings. These mechanisms include, among others, the following:

11.1. Irregularities in the law-making process

SAIs should attach great importance to the quality of legislation, knowing that loopholes in regulations, lack of administrative rules, and unclear regulations are the reasons for occurrence of irregularities. Incompleteness, inadequate precision of formulation and incongruity of legislation lead to discretion in the interpretation of the binding regulations and in the behavior of public officials.

²⁶ Z. Dobrowolski, *Promoting Security and Stability through Good Governance. The activity of Polish Supreme Audit Office as an example of interagency co-operation in the fight against corruption, money laundering and other types of wrongdoing*, 20th OSCE Economic and Environmental Forum, Organization for Security and Co-operation in Europe, Prague 2012, p. 1-8

11.2. Excessive discretion of public officials and conflict of interest

One of acceptable solutions in administrative procedures is leaving a margin of discretion in decision making for cases where the actual solution depends on a given civil servant's approach and recognition of the situation. The problem arises whenever discretion turns into excessive freedom, with servants handling a case not by relying on verifiable criteria, but by following their own discretion.

This mechanism consists in the lack of transparent criteria for handling matters, as a result of which officials can issue decisions in spite of a negative opinion of the consulting authorities; it stems from the opacity and inaccuracy of the law and its too frequent changes.

In conclusion, in order to reduce the risk of corruption and the phenomenon of money laundering in the activities of public bodies, newly introduced provisions, especially those governing the procedure for taking decisions on behalf of the public interest, must be sufficiently precise and clear, so that to prevent their different interpretation. SAIs should especially strive to define conditions that must be met by the decision-making person, what documents must be submitted, the deadline for the decision and what is the justification for the decision, whether negative or positive, especially when there are competing entities.

There is the need for continuous review of current procedures for taking decisions and for proposing their amendments, wherever the criteria are not quite accurate and provide scope for discretion. In addition, an essential instrument to prevent excessive discretion of executive authorities and existence of conflict of interest is the application of the so-called "rule of many eyes", which means that persons taking decisions related to public assets do not work on their own, but share powers with others.

An effective means for eliminating administrative discretion in the public assets management are wider publicity and transparency of proceedings. First of all, the principle of equal access to information about the possibility of obtaining benefits within the framework of public expenditures should be complied with. This applies not only to procurement, but also to privatization, sales and leases of assets, grants, loans, etc. Each procedure regarding acquisition of public funds should be organized in such a way that all those potentially interested can be easily informed that such a procedure exists.

During audits, SAIs focus their attention on the organization of work in the auditee's office, the system for verification of the decision-making process, and responsibilities at different posts.

Difficulties concerning the complexity of the decision-making process in the administration should be taken into account.

SAIs should carefully examine adverse effects of administrative decisions, both from the standpoint of the effective management of public assets (financial implications) and of a conflict of interest between the official and the other party.

11.3. Failure to apply the principle of transparency of decision-making procedures and public procurement

The failure to apply the principle of transparency of decision-making procedures and public procurement particularly concerns the right to full access to public information. Offices responsible for handling particular matters do not always provide proper information to all those interested in existing possibilities. In this way, only those aware of the existence of such possibilities can apply for them. This leads to inequality in access to goods, services and public procurement, and, consequently, violates the principle of equal treatment of citizens and entrepreneurs by public officials.

During audits, SAIs should focus attention on whether auditees have established procedures in their activity that guarantee equal access to information about their operations to all parties concerned.

In some countries, governments use public aid as an economic tool for supporting entrepreneurs. If such government activities take place, SAIs should evaluate whether public aid procedures are transparent and accountable, whether entrepreneurs are treated equally in accordance with the binding laws and regulations, and whether the principle of competition is not violated through favoring certain economic activities, products or services.

Public procurement by its nature constitutes an area threatened with corruption. Winning an advantageous contract for delivery of goods or services paid with public resources, whose value is sometimes very high, can be, and frequently is, connected with a chance of making high profits by the supplier.

The scope of public procurement is broad and incorporates a wide range of activities, including acquisition of goods, works and services at an appropriate quality and quantity, outsourcing services and establishing partnerships with suppliers. In all cases, a public body has to choose a supplier and pay for the goods delivered or services provided.

Due to differences in audit mandates and activities of individual SAIs, they can examine public procurement from various perspectives. For example, SAIs can examine the

procurement function within an audit of the accounts of a public authority. Alternatively, SAIs can be interested in examining specific areas or procedures, and in considering efficiency, competition, fraud and corruption, regularity, compliance with objectives or value added. Some SAIs can strive to recommend good practices, while others concentrate on matters of compliance and actions taken in response to identified irregularities. Regardless of these differences, SAIs should evaluate the public procurement process with regard to integrity, transparency and accountability, and promote other principles of good governance in the entire procurement cycle, from needs assessment to contracting management and realization of the bid protest procedure by competent entities.

11.4. Lack of accountability or its inadequate application

Another factor that encourages wrongdoing is non-application of the principle of accountability, which stems from the lack of effective implementation of the internal control system and, consequently, in poor execution of personal responsibility of public officials for public funds administering.

Accountability should comprise at least three aspects:

- 1) It should be external, being a control measure on the part of the person who is not a member of the controlled body or institution.
- 2) Interaction at two levels at least, related to the demand to answer questions, an answer and potentially a disclaimer.
- 3) It should constitute a right of a higher instance to demand an answer, together with rights to obtain information and potentially to impose sanctions.

Accountability is diminished if it is understood as the principle of governmental transparency, applied only in transmitting and receiving information, without indicating results of the interaction of the provided information which should be assessed by SAIs²⁷.

The principle of responsibility makes it necessary to apply specific standards of conduct, including no tolerance for conflict of interest in the activity of public officials and avoidance of excessive powers in the hands of a single public official.

SAIs should evaluate the effectiveness of the execution of personal accountability vis-à-vis public officials and functionaries who can be blamed for having committed irregularities in their offices.

²⁷ A paper developed for a technical meeting of the OLACEFS Commission of Accountability in Argentina, August 2008.

11.5. Weakness of internal controls and supervision

An efficient internal control system and supervision, which are important components of good governance, make other key instruments for preventing corruption and other types of wrongdoing in public organizations.

The management of a public organization is responsible for ensuring that operations are carried out in a way that permits the objectives of the public organization to be achieved. This is done by the organization's management through introducing and maintaining internal control of operations.

SAls should examine and evaluate an auditee's internal control, knowing that it is an integral process effected by the management and personnel, designed to address risks and to provide reasonable assurance in carrying out the entity's mission.

SAls should evaluate whether the following general objectives of the auditee's internal control are being achieved:

- executing orderly, ethical, economical, efficient and effective operations;
- fulfilling accountability obligations;
- complying with applicable laws and regulations;
- safeguarding resources against loss, misuse and damage.

Weak commitment to identify and correct problems, and to prevent future occurrences by supervisors, should be considered by SAls as a potential indicator of wrongdoing.

11.6. Weakness of the accounting system

Strengthening the auditee's accounting system by actively seeking to provide ongoing integrity, transparency and accountability within the entity, and further within the government, will create a preventive environment that does not favor fraud and corruption. An effective accounting system imposes accountability by preparing and presenting complete and accurate information in a timely manner, thus limiting the opportunities for irregularities, including fraud and corruption.



SAs should examine the functioning of the accounting system and focus their attention, among others, on accepted methods of valuation of inventory and reserves, liabilities and receivables, fixed assets depreciation method, the management of capital and financial flows.

The most important source of information on the activities of the entity are financial statements. Through the procedure of vetting and approving financial statements are a reliable source of information for policy makers, the public and the various organs of the State. Taking into consideration the chronology, financial statements are a secondary in relation to entries in the accounts unit. In addition, remember that they contain aggregated data on the State of the property, finance, and as a result of the activities carried out by the unit.

Financial statements are an important source of information for investors and policy makers both in the private sector, and the public. Indeed, contain the data necessary to make rational decisions. The purpose of carrying out the fraud is the intentional deception of customers and users of financial statements by providing material and financial situation of the subject in a way different from the facts.

The purpose of the financial statements will determine whether the financial statements are consistent with those applied accounting policies and that fairly and clearly presents the situation of the assets and financial units as well as its financial result. The Auditors should, in particular, determine whether the examined the financial report:

- has been drawn up on the basis of a properly conducted of accounts;
- has been drawn up in accordance with the specific provisions of the law;
- presents fairly and clearly, all relevant to the assessment of business information.

The Auditors should examine and determine whether the entity has no legitimate methods and techniques of preparation of financial statements, and various methods of creative accounting.

In the area of the unit should be investigated, inter alia:

- recognition of expenses and costs of the business units in the respective periods of reporting,
- the rules for fixing and calculating the depreciation of fixed assets
- creating impairment inventory and receivables
- creating a balance sheet reserves,



- managing the purchase and accounting recognition for being improved or fixed assets (this includes upgrading and repair of fixed assets)
- accounting recognition of purchase of leasing services

Under the revenue (income) from the sale must be focused on the following areas:

- way to keep the records of sales, with particular regard to the accelerated invoicing
- a postponement by the sale of goods using the method of "round robin" tax (includes phishing tax goods and services in trade cross)
- accounting recognition of "fictitious" sale
- resolving unjustified reserves.

These actions will allow, or at least will help determine whether there is, or whether there is corruption in this area, and whether we are dealing with a suspicion of money laundering.

11.7. Non-application of the principle of documenting and reporting

Files are considered incomplete when decisions are based on incomplete and incorrect motions lodged by the individuals concerned. The requirements related to documenting and reporting can be treated as unnecessary bureaucracy, while in fact documenting and reporting frequently constitute the best guarantee of transparency in administrative procedures or in transactions where public property is involved. It is necessary to establish the principle that correct documenting and reporting of all activities is necessary in public organizations.

In this area, SAIs should focus on the fulfillment of reporting obligations by audited entities. SAIs should also verify the accuracy of financial statements, review the books of the audited entities and eliminate cases of manipulating with financial results and "creative accounting". External experts should make an in-depth analysis, when necessary.

11.8. Excessive use of subcontracting and intermediaries

Excessive use of subcontracting and intermediaries takes place when a public institution hires external consultancy and expert companies to perform its basic duties, also within property management or supervision, which allows for obtaining private benefits.



SAIs should evaluate whether there is no excessive dependence of the public administration on external companies, whether external entities do not carry out the tasks that an entity could perform on its own, and whether such a system does not result in excessive influence on the entity's management.

11.9. Failure to take specific anti-corruption steps through enhancing integrity, transparency, accountability and other principles of good governance for public assets

One might expect that each public organization should develop a program of systemic activities designed to eliminate or at least seriously reduce the risk of corruption. The issue of counteracting corruption and other types of wrongdoing, through enhancing integrity, transparency, accountability and other principles of good governance for public assets, should be subject of internal discussions and training courses.

Weak commitment to designing, implementing, supervising the proper functioning of, maintaining, and documenting the anticorruption steps, adjusted to the organization's needs, should be considered by SAIs as a potential indicator of wrongdoing.

12. SAI should assess the effectiveness of the application of sanctions for administrative responsibility by public officials.

13. The SAI should closely cooperate with other state institutions in the process of enhancing good governance.

It is well known that an organization's ability to effectively cooperate implies that it possesses a combination of features that are essential to the achievement of its organizational goals and its overall success. One of the important components related to cooperation is having mutual understanding of the objectives and methods of operation among organizations that work together. Being aware that the effectiveness of SAI's fight against different types of wrongdoing depends on the activity of other stakeholders, the SAI should closely cooperate with other institutions. If needed the SAI should reach agreements with state institutions that facilitate pursuing an effective and efficient strategy of enhancing the principles of good governance²⁸.

²⁸ Z. Dobrowolski, *Promoting Security and Stability through Good Governance. The activity of Polish Supreme Audit Office as an example of interagency co-operation in the fight against corruption, money*



14. The Role of SAI in Enhancing Good Governance through Individual Officers

Good governance is enacted through the behaviors and actions of staff at all levels as they contribute to the efficient, effective and ethical delivery of their organization's goals. The leadership provided by public organization heads and other senior officers plays a critical role in determining how effective an public organization will be in encouraging the behaviors that support good governance throughout the organization.

Each and every officer needs to understand the legislation and performance standards relevant to the exercise of his or her duties. Each needs to understand how his or her personal contribution promotes good governance and, ultimately, the achievement of corporate goals.

Organizations should engage their staff and managers in the development, evaluation, monitoring and receipt of the following key documents, and their effective implementation:

- a clear statement of the values, practices and behaviors expected of the organization's employees,
- a clear statement of the organization's human resource policy, including the rights and obligations it places upon supervisors and subordinates,
- concise, up-to-date and consistent information on the organization's governance arrangements, including the applicable legislative and policy framework, boards and committees, their charters, membership and relationships with other governance bodies, audit and fraud control arrangements, and whistleblower protection,
- a clear statement of the organization's corporate goals, key performance indicators and business plans, and
- the organization's risk management approach, including methodology, scope and review parameters.

Public organization leaders should provide to their staff and managers:

- a clear set of personal duties, delegations and performance targets related to the organization's corporate strategies and business plans,



- regular information on the deliberations and decisions of the key board(s) or committee(s) governing the organization,
- regular reports on the organization's performance against its key indicators and/or targets, with analysis that will assist the organization to learn from experience,
- encouragement at all levels to contribute to good governance, including exemplary leadership from senior management.

The SAI should review and evaluate whether organization realizes its good governance policy and evaluate how effective is an public organization in encouraging the behaviors that support good governance throughout the organization.

5. The role of SAI in promoting good governance in public procurement *To be excluded.*

The public administration is funded from the State budget, and is sustained by government procurement of goods and services, which – in addition to government transfers and repayment of public debt – constitute State expenditures. Government procurement of goods and services applies not only to the expenditures on administration, but also on national defence, protection of public order, health care, culture and science/research. The State invests in infrastructure development. Public agencies are therefore important collective purchasers of goods and services in the market and there are many businesses for which the sale of goods and services to the government is a significant or the sole source of income. This gives rise to temptation to win a public contract by dishonest means, including by corrupting officials or by fraudulent practices.

The Public Procurement Law lays down the rules and procedures for awarding public contracts, legal protection measures, control of the award of public contracts, and the competent authorities with respect to the matters addressed in that Act. The awarding entity is required to prepare and conduct the contract award procedure in a manner ensuring fair competition and equal treatment of the bidders. Bidders also have to meet certain conditions to compete for public contracts. Despite legal safeguards, unfair practices in course of the contract award procedure can not be ruled out.

The incentives and techniques for such fraud in contract award procedures are many. The perpetrator need not necessarily use fraudulent practices on the stage of competing for the contract, but later on, following the execution of the agreement. During the performance of the contract, there can be instances of theft, use of substitutes, inflated costs of task completion, accelerated invoicing.

The implementation of the idea of good governance in public procurement means that public procurement process should take into account the principles of good governance, including openness, accountability, efficiency, transparency, equity. The SAI should review and evaluate the public procurement system having regard to the above principles.

The role of SAI in enhancing the public procurement system is the following:

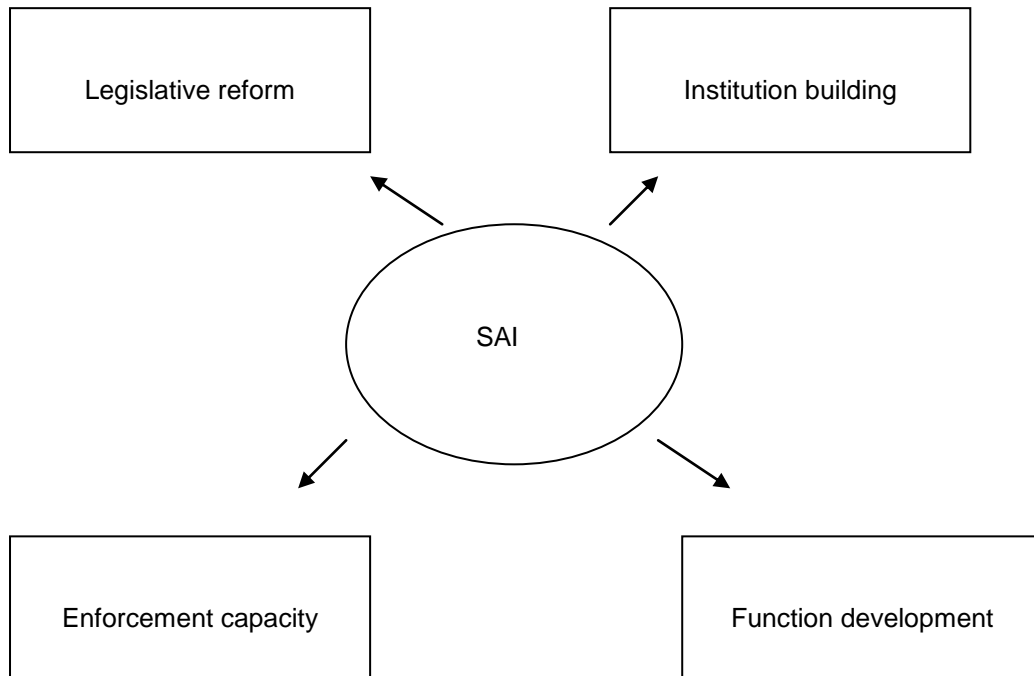


Fig. 1 The role of SAI in promoting good governance in public government

The SAI should enhancing state's regulatory framework through:

- support in drafting legislation,
- support drafting guidelines / manuals for procurement officers

The SAI should enhance institutional framework through:

- promoting unrestricted and free access to information on procurement opportunities,
- promoting e-Government and e-Procurement,
- promoting use of standard terms of reference and technical specifications

The SAI should enhance enforcement capacity through:

- supporting national procurement regulatory authorities

The SAI should strengthen employees capacities:



- promoting professionalism of the procurement officers

SAI, in particular, should attach great importance to the quality of legislation and propose the rectification (reformation) of legislative shortcomings to strengthen public procurement system.

Reviewing the procurement process SAI should take into account the risk of occurrence of irregularities. Such approach helps focus SAI efforts on main issues related to procurement.

Irregularity symptoms that can suggest a risk of corrupt or fraudulent practices in the public contract award process, in addition to universal ones, i.e., that relate not only to public contract award procedures, such as ignoring the complaints received, ignoring reporting, arbitrary acting, or low ethical standard among staff members, include:

- Symptoms of irregularities on the stage of stating the requirement for products, services, works
- Symptoms of irregularities on the stage of contract preparation, including the specification of essential terms of contract (SETC)
- Symptoms of irregularities on the stage of bid selection
- Symptoms of irregularities on the stage of contract performance

In analysing the above-mentioned symptoms, it should be borne in mind that the mere fact that they exist does not necessarily mean that corruption or fraud is involved each time. This is only a hint that a specific activity should be carefully examined. It should be also borne in mind that isolated cases should not be treated as typical ones. On the other hand, relatively minor irregularities should not be downplayed.

SAI should develop the guidance on how to review and evaluate the public procurement process.



Selected references and further information

Appendix 1

Roles and responsibilities of the Teamwork tasked with preparing the Guidelines

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The general framework for the Guidelines preparation, which include a schedule for every stage and roles of the Teamwork members, is presented below.