

ADB/OECD Anti-Corruption Initiative for Asia and the Pacific

Anti Corruption Reform under the Action Plan's 2nd Implementation Cycle (2005-2006):
Reform projects and implementation assessment

Philippines

Anti-Corruption Plan and Investment Program for the Office of the Ombudsman

1 Project Summary

Project Title:

Formulation of the Office of the Ombudsman's Medium-Term Anti-Corruption Plan and Investment Program for 2004-2009

Priority Area for Reform:

Pillar 2 – Office of the Ombudsman & Integrity Institutions

Implementing Institution:

Office of the Ombudsman & CPRM Consultants, Inc.

Contact Person:

Hon. Tanodbayan Simeon V. Marcelo

Beginning and End of the Project:

Beginning: May 2004

End: August 2004

2 Project Context

Which deficiencies and/or problems that allow corruption to proliferate does the project address and aim to resolve? Please outline the related current legal or institutional framework and its weaknesses or the exact circumstances that require improvement:

The basic deficiency or problem sought to be addressed by the formulation of the OMB Medium Term Anti-Corruption Plan and Investment Program (the "Plan") is the OMB's disabling lack of resources that are needed to effectively discharge its constitutional mandate. As such, there is also the problem of a lack of concentrated, focused and unified array of projects and programs aimed at addressing specific and strategic targets in the efforts to curb graft and corruption. The Plan would, thus, provide the general direction for such efforts and constitute an investment program for the government and the other sectors of society.

The Plan intends to present a focused, related and unified front of efforts and initiatives that are intended to effectively curb graft and corruption. The Plan contains not only the programs and projects aimed at curbing corruption but also the resource of the Office of the Ombudsman that are required to successfully achieve the projects' desired results. This aims to address the government's lack of priority (in terms of resource allocation) given to the Office of the Ombudsman and its programs. To properly formulate this Plan, a general assessment will be made of the context and incidence of graft and corruption in the Philippines, as well as the general capacity and vulnerabilities of the Office of the Ombudsman. The "diagnostics" herein involved will cover the following components:

- Review of the corruption situation in the Philippines and the Philippine public sector
- Review of anti-corruption legal and institutional framework
- Capacity assessment of the Office of the Ombudsman
- Review of the international experience

- Implications for anti-corruption and integrity development

The diagnostics (assessment) process intends to generate specific projects that tend to address vulnerabilities and weaknesses in the efforts against graft and corruption, including an emphasis on the following areas and institutions:

- Office of the Ombudsman

- mandate, functions and programs; formal structure and internal function configuration; operating system / rules of procedures (prosecution, investigation, public assistance, research); human resources development systems (staffing, personnel management, training, career development, remuneration); technology and information and communications systems; financial and physical resources; external linkages and collaboration

- Governance Areas To Be Covered

- administrative governance; political governance; sectoral governance; policy governance

- Agencies To Be Covered/Addressed

- the 3 branches of government; local government units; corporate sector agencies

- Societal Components To Be Addressed

- civil society; business sector; general public; vulnerable sectors; the media; international community etc.

- Public Sector/Agency Systems To Be Covered

- mission critical systems (focusing on corruption vulnerable systems such as public services, regulation, legislation, law enforcement and conflict resolution/legal remedies)
- administrative systems (focusing on corruption vulnerable systems such as budgeting, revenue management and financial management, procurement, recruitment, appointment and dismissal)
- accountability, transparency and integrity systems
- performance monitoring, public reporting/education, and internal controls
- other systems that have strong integrity implications.

3 Expected Outcome of the Project

In relation to the above mentioned deficiencies and/or problems, which concrete improvements are expected to be achieved through the project? In which way does the project help to curb corruption?

The Plan will pursue the following development goals:

a) To facilitate the Philippines' transformation to a high integrity society

The OMB will play a pivotal role both in the short-term enforcement of laws and in the long-term evolution of integrity values that will permeate the public sector and Philippine society as a whole. The medium-term anti-corruption plan and public investment program will provide the process through which this goal will be achieved.

b) To improve the reality and the perception of governance with integrity

The medium-term anti-corruption plan and investment program will provide a set of seamlessly integrated and mutually reinforcing interventions within the OMB, in integrity development institutions, in the public sector and in society at large towards the realization of a graft-intolerant society and a government with integrity. The plan for implementation by the OMB will involve a mix of punitive and promotive interventions that will be properly sequenced and synchronized over a defined timeframe (2004-2009). The results of these interventions are expected to establish governance with integrity that is perceived as such.

To this end, the project will identify and define clearly implementable programs that will strengthen the various components that make up the societal and governmental integrity infrastructure: culture and values, structures and systems, policies, societal accountability mechanisms, and other related components.

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Given the same extent of the problem of corruption today, the implementation of the Plan will require much stronger institutional capacities in the Office of the Ombudsman. Thus, the project will identify improvements in the formal institutional structure and functions, mandate, operating systems, competencies and technologies in the Office of the Ombudsman that are required to match its capacity with the requirements of the plan.

Key Project Outputs

The project will deliver two major outputs: (a) the medium-term the OMB anti-corruption plan and investment program for 2004-2009; and (b) the documentation of the planning and public investment programming process. Among the reform areas where concrete improvements are sought through the plan are:

Reform Area	Punitive Measure	Promotive Measure
OFFICE OF the OMBUDSMAN	Strengthening investigation and prosecution capacities	Strengthening public education and information, research and development, collaboration, resource mobilization capacities
INTEGRITY INSTITUTIONS	Better synchronization, focusing and mutual reinforcement of corruption busting initiatives	Better synchronization, focusing and mutual reinforcement of public sector graft and corruption resistance building initiatives
PUBLIC SECTOR	<ul style="list-style-type: none">• Strengthening of legal sanctions• Enforcement of institutional integrity standards• Implementation of moral sanctions• Graft and corruption detection mechanisms	Integrity standards development and implementation assistance
SOCIETY	<ul style="list-style-type: none">• Strengthening of legal sanctions• Enforcement of institutional integrity standards• Implementation of moral sanctions• Graft and corruption detection mechanisms	<ul style="list-style-type: none">• Improvement of public information and awareness• Development of social consciousness, societal integrity values and virtues• Improvement of public access to legal remedies

Other Outputs

The consultants, together with the OMB management and counterpart project team, will conduct a validation workshop to review the medium-term the OMB anti-corruption plan and investment program. The validation workshop will be the basis for the finalization of the reports.

The consultants will also work with the OMB management and counterpart team in presenting the plan to Congress, Executive Branch, donors, civil society, local government units and businesses.

4 Components – Main Activities – Method

What are the project's components, implementation steps, main activities and/or methods to achieve the above mentioned outcome and objectives?

Components

The formulation of the Plan, which will comprise of the following major components:

- **Diagnostic report**

This will contain a general assessment of the domestic and international context of corruption in the Philippines and the public sector, as well as a general capacity assessment of the OMB. The report will contain the following key components:

- Review of the corruption situation in the Philippines and the Philippine Public Sector
- Review of the anti-corruption legal and institutional framework
- Capacity Assessment of the Office of the Ombudsman
- Review of the current anti-corruption programs
- Review of the international experience
- Implications for anti-corruption and integrity development
- **Guiding philosophy, principles and parameters**
This will articulate a set of philosophy, principles and parameters that will guide the entire medium-term anti-corruption plan and its implementation and future performance assessment.
- **Vision, goals, key impact targets and indicators**
This will articulate a proposed vision, the specific goals to be pursued to realize the vision, and the measurable targets, including milestones and indicators.
- **National integrity framework**
This will present a conceptual national integrity framework that will translate the vision and the goals into a systematic organization of the key anti-corruption and integrity development components and their relationship and will guide the identification and prioritization of the various programs and projects.
- **Anti-corruption and integrity development strategy**
This will contain a menu of proposed strategic policy, institutional, advocacy/ informational, collaborative, and other measures and interventions in the various public sector components and in the public sector's external environment to address corruption and pursue integrity development (external stakeholders, legal framework, civil society, international influences, etc.)
- **Programs and projects**
This component translates the strategy into organized and implementable actions comprising of programs and projects. Each will have a profile, which contain a brief statement of objectives, project description, expected outputs, time durations, and resource requirements.
- **Multi-year implementation schedule**
This will develop the programming and sequencing of the various programs and projects over the indicated 5-year period. The implementation schedule will ensure the proper sequencing of inter-related projects as well as appropriate estimation of start-to-finish durations of key activities.
- **Public investment program**
The multi-year public investment program will contain the following:
 - Cost estimates of the each project indicating details of cost items (operating costs, capital equipment and cost of technology, consulting services, travel expenses, and other implementation costs)
 - Multi-year financial estimates, which will reflect the expected expenditure incurrence for the entire program and each project annually over the implementation period.
 - Financing strategies, which will identify potential sources of financing and the indicative financing mix. The financing strategy will identify which donors will fund and which can be best supported by the national budget and other funding sources.
- **Implementation arrangements**
This will define the institutional requirements for the management of the implementation process. In particular, and in coordination with the OMB capacity building program, this will define the expertise requirements, functions and formal structural arrangements and linkages to

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be put in place in order to achieve effective management of the medium-term anti-corruption plan and public investment program implementation.

- **Documentation**

The documentation of the diagnostic and medium-term planning and investment programming process will be a user guide. It will provide a toolkit of conceptual approaches and methodologies, tools and processes that will guide the OMB offices and personnel concerned in the future monitoring, evaluation and updating of the plan and investment program.

Methodology/Design Approach

The formulation of the Plan and the identification as well as definition of the specific projects and reform initiatives that will comprise the Plan will be guided by the following approaches:

- **Reform Identification**

The programs will identify punitive as well as promotive approaches to addressing specific integrity issues.

Punitive approaches will involve both legal and moral sanctions and enforcement of integrity standards for public sector institutions and key government positions.

Promotive approaches will involve the long-term gestating initiatives that will address improvements in societal moral values, strengthening institutional infrastructure for integrity within the public sector and its institutions, and in improving public knowledge and education as a means to improve values and active participation in addressing graft and corruption.

- **Reform Design**

In designing the individual project or reform initiative, a scaling and matching approach will be adopted. Scaling involves calibrating the level of intervention that the OMB will adopt to address a particular graft and corruption issue or problem. Matching involves matching between the gravity of punishment with the gravity of the act, the seriousness of the offense to be investigated and prosecuted with the resources to be invested to ensure successful prosecution, and sophistication of graft and corruption practices with the sophistication of the Office of the Ombudsman machinery to detect, investigate and prosecute.

- **Reform Coverage**

Projects comprising the medium-term anti-corruption plan and public investment program will cover the following:

Within the Office of the Ombudsman. This will involve the strengthening of the institutional capacities of the Office of the Ombudsman in order to improve its efficiency and effectiveness in combating as well as in facilitating the development of integrity within society and government. Capacity building will involve strengthening such areas as structure, functions, staffing and personnel competency development, development of investigation and prosecution tools and improved methodologies, provision of modern investigation equipment, providing appropriate information technology and case management information systems, establishing improved financing strategies, legislating needed laws, and other related measures.

Within integrity development institutions. This will comprise of the Office of the Ombudsman's collaborative mechanisms with, and provision of, assistance to integrity institutions such as NGOs, the Civil Service Commission, Commission on Audit, Commission on Human Rights, law enforcement agencies and international integrity institutions towards team effort and complementary mechanisms to combat corruption and address long-term societal integrity development.

Within government. The role of the Office of the Ombudsman in combating graft and corruption and promoting integrity in the government is two-pronged. One is through the investigation and prosecution machinery. The other is in the development and implementation of integrity standards for public sector institutions. It is important that the independence of the OMB is established, recognized and translated into appropriate institutional relationships between the OMB and the rest of the government. Projects identified in the medium-term plan recognized that the other branches of government should develop and adopt their respective anti-corruption and integrity development programs that comply with the standards prescribed by the OMB. Where appropriate, collaboration between the government and the OMB in

combating corruption in specific functions and agencies will be pursued without undermining the independence of the OMB.

Within society. The role of the Office of the Ombudsman in promoting societal integrity and enhancing the societal capacity to combat graft and corruption is in the area of providing public information, improving public awareness, strengthening values education, and providing assistance, and in collaborating with the delivery agents such as media, the church, government agencies, NGOs, donors and other participants.

5 Involvement of non-governmental actors

In which way does the project involve civil society actors or other stakeholders and have they been consulted during the project development phase?

Among the programs and projects included in the Plan are efforts and initiatives that necessitate the active involvement and collaboration of various non-governmental organizations and other sectors of the Philippine society.

For example, efforts to strengthen the investigation and prosecution capacity of the Office of the Ombudsman involve the participation and assistance of lawyers from the private sector in connection with the prosecution of certain high profile cases before the Sandiganbayan. To this end, consultations with lawyers group and legal group like the Philippine Bar Association and Libertas were completed and firm commitment already obtained.*

A series of trial advocacy skills training seminars for The Ombudsman prosecutors were completed through the participation of noted private litigators, as well as former and current members of the judiciary. Continuous review and evaluation of the effectiveness of the trial advocacy skills training seminars also necessitate a feedback mechanism through actual observation of the prosecutors' performance in court. To this end, tapping of law students to serve as *rapporteurs* was completed.†

As for the Office of the Ombudsman's training for field investigators, a financial (fraud) investigation training seminar was conducted through the auspices of the American Bar Association. The participation of Mr. Tony Kwok Man Wai, formerly of Hong Kong's Independent Commission Against Corruption (ICAC-HK), will be indispensable as he is the Office of the Ombudsman's consultant with respect to the training of field investigators.

In the area of government procurement, the Office of the Ombudsman, through its partner, Procurement Watch, Inc., has endeavored to train private sector volunteers and NGOs who will sit as observers in the bids and awards committees of government agencies pursuant to the provisions of Republic Act No. 9184, the Government Procurement Reform Act.

The Office of the Ombudsman's legislative reform agenda, which includes whistleblowing legislation, organic witness protection program, resource-generation, and others would invariably need the support of the general public and critical and strategic sectors of society, including the Church. Representations with the Catholic Bishops Conference of the Philippines in connection with the advocacy for the Plan were also completed.

6 Related Projects under the 1st Implementation Cycle

Is the project linked to reforms accomplished under the Action Plan's 1st Implementation Cycle? In which way does this project follow up previous activities?

Projects under the 1st Implementation Cycle includes the basic trial advocacy skills training seminars conducted for the prosecutors of the Office of the Special Prosecutor, as well as for the deputized prosecutors of the Department of Justice.

* A Memorandum of Agreement between the Philippine Bar Association and the Office of the Ombudsman was executed on 15 June 2004.

† The pilot stage is schedule for June 2004.

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The Office of the Ombudsman intends to institutionalize such training programs for prosecutors, as well as for its field investigators, with basic and advance training components. Thus, such continuing training programs form part of the Plan under the present cycle.

7 Project Financing and Budget

Approved or estimated overall project budget:

The total budgetary requirement of this project is about US\$40,000.00 (or PhP 2,250,000.00).

Is external funding required?

The United Nations Development Programme (UNDP) is supporting this undertaking and allocated about US\$20,000.00. This amount is sufficient to cover only the expenses for contracting the services of a consulting firm, which is Center for Public Resources Management, Inc. (CPRM). The 50% balance of the total project cost intended to cover the various consensus building activities and series of meetings in the project was submitted for AusAID's consideration.

The UNDP, through Deputy Resident Representative Mr. Kyo Naka, committed to underwrite the remaining 50% balance of the total project cost. Accordingly, UNDP was able to obtain the additional funding from other sources.

If external funding is required, have donor organizations been approached yet, and have any commitments been made?

The UNDP, therefore, will finance the formulation of the Office of the Ombudsman Medium-Term Anti-Corruption Plan and Investment Program for 2004-2009.

If external funding is required, what percentage of the total project costs requires external funding?

8 Technical Assistance

Is external technical assistance required? Have relevant agencies been approached and have they made any commitments?

The UNDP tapped the services of CPRM Consultants, Inc. for the formulation of the Plan and the documentation of its process. Further, as to the modernization/computerization of certain infrastructures and services in the Office of the Ombudsman, including a systems database for case tracking and monitoring and the Statements of Assets, Liabilities and Net Worth (SALN), consultations have been made with the National Computer Center and other agencies with existing systems databases.

Implementation Assessment

9 Output Evaluation

Has the impact of the project on the identified deficiency (cf. item 2 above) been measured or evaluated? Please describe the evaluation method and the outcome.

The Project's defined goal is continuing in character. Thus, the Project's impact on the identified deficiency is quite difficult to see or measure immediately. There are, however, two major outputs delivered by the Project: (a) the OMB medium-term anti-corruption plan and investment program for 2004-2009 (the "Plan"); and, (b) the documentation of the planning and public investment programming process. Moreover, the continuing

implementation of the various anti-corruption reform initiatives started in early 2003 have contributed, to a greater degree, to fighting graft and corruption.

10 Overall Project Assessment

Did the project meet the defined goal (cf. item 3 above)? Did the project remedy the deficiency identified (cf. item 2 above)? Has the project been fully implemented in the foreseen timeframe (cf. item 1 above)?

As earlier mentioned (cf. item 9 above), not only the Project's but also the OMB's goal are continuing in character. The impact and results cannot be seen overnight but rather measured progressively in terms of gains achieved, particularly the extent of active participation of duty-holders and claim-holders in the anti-corruption arena. The full implementation or substantial consideration of the Project's Plan is foreseen within the context of the National Anti-Corruption Program of Action (NACPA), which is the priority area and reform Project under the 3rd Implementation Cycle. The coverage of the reform initiatives identified and contained in the Plan, i.e., within the OMB, within integrity development institutions, within government and within society, is consistent and aligned with the overall goal of NACPA as the final convergence of all stakeholders in the anti-corruption war.

11 Project Design Changes (if any)

Have any modifications to the project been made in the course of its implementation compared to the initial design of the project (cf. item 4 above)? What circumstances made these changes advisable or necessary?

The resignation of former The Ombudsman Simeon V. Marcelo in September 2005 triggered some changes in the implementation schedule as originally designed. The context of implementation, however, simply became a matter of reprioritization. The National Integrity Framework as one of the major components of the Project, hereinafter referred as the National Anti-Corruption Program of Action (NACPA), has been labeled as first priority agenda of The Ombudsman Ma. Merceditas N. Gutierrez. As such, NACPA will translate and realize the vision and goals into a systematic organization of key anti-corruption and integrity development partners in the three other branches of government including the active support and participation of civil society/non-governmental organizations and the international development community.

12 Major Lessons Learned

Given the assessment of the project above, what experience can be drawn from the implementation of this project for future reform projects under the Anti-Corruption Action Plan?

The Plan as originally designed is responsive and provides flexibility. The design approach used in formulating the Plan and the guiding philosophy, principles and parameters in identifying and defining the strategic reform initiatives is key to the Plan's being responsive and flexible. Thus, despite changes in leadership, the Plan and the strategies contained therein are very much applicable to the current situation.

13 Follow-Up

Is it planned to continue or extend this project or to continue a linked reform project? Which measures have been taken to ensure the sustainability of the outcome and the future assessment of the project's impact? The continuity and link of the Project's Plan will be in accord with the thrusts and priorities of the National Anti-Corruption Program of Action (NACPA), which is the priority area and reform Project of the OMB under the 3rd Implementation Cycle 2007-2008. On 17 July 2006, The Ombudsman Gutierrez created the NACPA Secretariat per Office Order No. 222, series of 2006, to ensure its sustainability and smooth implementation.