

**Report of BELIZE for the 13th Meeting
of the Committee of Experts of the Evaluation Mechanism of
the Inter-American Convention against Corruption**

**CONCLUSIONS AND RECOMMENDATIONS IN RELATION TO THE
IMPLEMENTATION OF THE PROVISIONS SELECTED IN THE FRAMEWORK OF
THE SECOND ROUND**

**1. SYSTEMS OF GOVERNMENT HIRING AND PROCUREMENT OF GOODS AND
SERVICES (ARTICLE III (5) OF THE CONVENTION)**

1.1. Systems of Government Hiring

The Committee makes the following recommendation to Belize:

- *Consider strengthening the systems of government hiring.*

In meeting this recommendation, Belize could take the following measures into account:

- a) *Develop, through the relevant legislative and/or administrative procedures, the different stages that comprise the process of selecting and appointing candidates to posts in the Public Service, by adopting provisions and clearly defined criteria that ensure entry to the public service, always taking into account the principles of openness, equity and efficiency as provided in the Convention. (See Section 1.1.2 of Chapter III of this report);*
- b) *Examine the existing job descriptions and classifications, in order to determine whether it would be useful to have a single Job Description or Job Classification Manual containing all generic public sector posts. (See Section 1.1.2 of Chapter III of this report)*

The Minister of the Public Service, Governance Improvement and Elections & Boundaries, the Hon. John Saldivar, accompanied by the Chief Executive Officer (the CEO), Mr. Charles Gibson, conducted a tour of all government offices countrywide. Said tour commenced on May 14, 2009 in the Toledo District and concluded in August 2009.

This tour was aimed inter alia, at identify the needs of the Public Officers, to see their working conditions and to give Public Officers the opportunity to discuss these issues directly with the Minister and the CEO. This initiative was part of the Ministry's commitment to Public Officers of an improved public service. See <http://www.governmentofbelize.gov.bz/consultations.html> for more information.

This consultation followed in the heels of another consultative process entitled "Revision Criteria for Appointment and Advancement in the Horizontal Grades Consultation", as part of the review process for the appointment and advancement of officers in the Horizontal Grades (Administrative, Financial, and Foreign Service). The Ministry of the Public Service informs that the Joint Staff Relations Council was consulted throughout the process. This Council is

comprised of representatives of the Government of Belize, the Association of the Public Service Senior Managers and the Public Service Union of Belize.

The Ministry of the Public Service informs further that they are now embarking on a review process of the technical grades, and that this process will be similar in nature as the process for the revision of appointment and advancement in the horizontal grades.

1.2. Government Systems for the Procurement of Goods and Services

Belize has considered and adopted measures intended to establish, maintain and strengthen the systems for government procurement of goods and services, as discussed in Section 1.2 of Chapter II of this report.

In light of the comments made in the above-noted section, the Committee makes the following recommendation to Belize: Consider strengthening the government systems for the procurement of goods and services.

In meeting this recommendation, Belize could take the following measures into account:

g) Adopt provisions which require publication of tender opportunities, including the conditions for participation therein, and the time, method and place for the submission of bids.

It is a historic practice for the Government of Belize to advertise tender opportunities in the media, including in radio stations with a nationwide coverage, and in newspapers of countrywide circulation. That practice still subsists and has been reinforced with the posting of these opportunities in the Government website. See http://www.governmentofbelize.gov.bz/opportunities_tenders.html where these notices are posted. In general, these tender notices include instructions and general information for applicants.

j) Strengthen and increase the scope of use of electronic forms of communication, such as the internet, for publicizing the tender and consulting opportunities, status of bids and awards and the progress in the execution of major projects. (See Section 1.2.2 of Chapter III of this report)

See Belize's response to recommendation 1.2 (g) above.

2. SYSTEMS FOR PROTECTING PUBLIC SERVANTS AND PRIVATE CITIZENS WHO IN GOOD FAITH REPORT ACTS OF CORRUPTION (ARTICLE III (8) OF THE CONVENTION)

Belize has considered and adopted certain measures intended to establish, maintain and strengthen systems for protecting public servants and private citizens who in good faith report acts of corruption, as discussed in Section 2 of Chapter II of this report.

In light of the comments made in the above-noted section, the Committee suggests that Belize consider the following recommendation:

- Adopt a comprehensive legal and regulatory framework that provides protection for public servants and private citizens who, in good faith, report acts of corruption,

including protection of their identities in accordance with its Constitution and the basic principles of its domestic legal system (See section 2.2 in Chapter II of this Report).

In 2008, Belize enacted the Prevention of Corruption Act, No. 21 of 2007, *inter alia*, “to provide for the strengthening of measures to prevent and combat corruption and corrupt activities; to provide for the offence of corruption and offences relating to corrupt activities; to provide for investigative measures in respect of corruption and related corrupt activities; to provide measures for establishing probity, integrity and accountability in public life. The Act requires that:

- a) persons exercising public functions who are offered or receive an advantage in circumstances which could constitute an offence under this Act, or the offence of bribery, disclose the existence and nature of the advantage or the offer and the name, if known, of the person who gave, procured or offered it or agreed to give or procure it (s. 30 (1)). “Advantage” is given a wide definition by s.2 of the Act;
- b) persons exercising public functions who know, reasonably suspect or ought to have reasonably known or suspected that any person has committed, is committing or is about to commit an offence under this Act, or the offence of bribery, to disclose as soon as is reasonably practicable, the knowledge or suspicion, as well as the information on which it is based (s. 30 (2)).

The Act also provides that any person who reasonably believes that a person has breached this Act or has committed an act of corruption or of corrupt activities, may make a report in writing to the Commission stating the alleged acts of corruption or of corrupt activity, the person against whom the breach was allegedly committed, and any other pertinent fact (s. 34). The Commission shall conduct an investigation on the matter if it considers it necessary, and on completion thereof, shall refer the matter to the Director of Public Prosecutions (“the DPP”) for a determination whether criminal proceedings will be instituted against the offender. Where the alleged offender is the DPP, the Commission shall refer the matter to the Attorney General (s. 38).

The Act establishes an exception to the duty to disclose as well as clear protection mechanisms to encourage disclosure. For example, it is a defence for a person charged with the offence of failure to report in accordance with the foregoing provisions, to prove that he reasonably believed that if he made the required disclosure, he or another person or the property of either would suffer physical harm (s. 31(2)).

In meeting this recommendation, Belize could take into account the following measures:

- a) Protection for persons who report acts of corruption subject to investigation in administrative or judicial proceedings;

Persons who in good faith report breaches of the Prevention of Corruption Act or of the commission of acts of corruption or of corrupt activities, are protected from any form of reprisal or civil or criminal liability.

Additionally, persons who threaten or take any action which is harmful to any person, including interference with a person's lawful employment or occupation, on the ground that such person has made or may make a disclosure pursuant to s.30 of the Act, are guilty of an offence which attracts a fine of not less than twenty-five thousand dollars and/or imprisonment for a term not exceeding one year.

Persons giving evidence before the Integrity Commission shall not be compelled to incriminate themselves and shall, in respect of evidence given to the Commission, be entitled to all the privileges that persons giving evidence before the Supreme Court are entitled to.

b) Protection of whistleblowers and their families, not only in relation to their physical integrity but also as it concerns the workplace, especially when the person is a public official and the acts of corruption involve superiors or co-workers;

The protection referred to in our response to recommendation (a) above applies, irrespective of whether the alleged offender is a superior or co-worker of the "whistleblower".

c) Expand the existing mechanisms for reporting, such as anonymous reporting or protection of identity reporting, that guarantee the personal security and the confidentiality of the identity of public servants and private citizens who, in good faith, report acts of corruption;

The Prevention of Corruption Act establishes the Integrity Commission which is charged, inter alia, with the investigation of complaints regarding non-compliance with or breach of the provisions of the Act (s.4 (c)) and with the performance of such other functions as is required by the Act to perform (s. 4 (d)). In the exercise of those functions, the Commission is not subject to the direction or control of any other person or authority (s. 5). Further, s. 9 of the Act guarantees that *"[t]he records of the Commission and any information revealed by the evidence of a witness before the Commission shall not be produced or disclosed to any other court other than to such extent as may be necessary for the purposes of proceedings relating to a charge under this Act or under the law relating to perjury"*.

f) Mechanisms to facilitate international cooperation on the foregoing matters, when appropriate, including the technical assistance and cooperation provided for by the Convention, as well as the exchanges of experiences, training, and mutual assistance.

Belize has been providing legal assistance to requesting States pursuant to bilateral treaties (the United States of America) and multilateral arrangements such as the present Convention, the United Nations Convention against Transnational Organized Crime and the 1988 Vienna Convention.

- i) Provisions that clearly delineate the respective competence of judicial and administrative authorities with respect to this area.

Our response to recommendation 2 (c) above is relevant to this recommendation.

IV. OBSERVATIONS IN RELATION TO THE PROGRESS IN THE IMPLEMENTATION OF THE RECOMMENDATIONS FORMULATED IN THE REPORT FROM THE FIRST ROUND

3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III, PARAGRAPHS 1, 2, 4 AND 11, OF THE CONVENTION)

Recommendation:

Strengthen, and when appropriate create, oversight bodies in particular in the area of functions to enforce compliance with the matters covered by the provisions of Article III, paragraphs 1, 2, 4, and 11 of the Convention; provide them with the necessary resources to enable them to carry out their functions in full; and establish mechanisms necessary to permit effective institutional coordination, as well as periodic evaluation and monitoring, of the measures they adopt.

In its response, Belize presents information with respect to the foregoing recommendation. . . .In light of the foregoing information, the Committee takes note of the steps taken by Belize to comply with this recommendation, as well as of the need for Belize to give additional attention to its implementation.

On August 11, 2009, the Integrity Commission established by the Prevention of Corruption Act, 2007, were sworn in. The members are:

- ✓ Mr. Bernard Pitts, S.C., Attorney-at-Law, as Chairman;
- ✓ Mr. Dean Lindo, S.C., Attorney-at-Law;
- ✓ Mrs. Maria Fernandez-Swift, CPA;
- ✓ Mr. George Swift, Chartered Accountant;
- ✓ Mrs. Magali Marin-Young, Attorney-at-Law; *
- ✓ Ms. Norma Sutherland; *
- ✓ Mrs. Armead Gabourel.

* Have been appointed, but have not sworn the Oath of Office as yet.

4.2. Mechanisms for access to information

Recommendation:

Strengthen the mechanisms on access to information.

Measures suggested by the Committee:

b. Strengthen systems that ensure public access, as appropriate, to information on public

administration bodies and their program-related and financial activities, in particular as regards those bodies concerned with the issues covered in this report; and improve, where possible, the use of modern technologies to that effect

The Government of Belize's web-site (www.governmentofbelize.gov.bz) is constantly updated with, *inter alia*, initiatives by the various Government Ministries (fiscal and otherwise), Budget Reports, Bills introduced into the House of Representatives, and Cabinet decisions. In the recent consultations conducted by the Minister of the Public Service with public officers, the Joint Staff Relations Council was consulted throughout the process.

4.3. Mechanisms for consultation

Recommendation:

Strengthen existing mechanisms and consider creating other ones as part of their efforts to combat corruption.

Measures suggested by the Committee:

- a. Strengthen consultation mechanisms to enable civil society and nongovernmental organizations to generate opinions and proposals to be taken into account in preventing, detecting, investigating, and punishing corruption.*

The Minister and Ministry of the Public Service are aided by three advisory bodies: the Human resource Development Committee, the Council on Good Governance and Public Sector Modernization, and the Joint Staff Relations Council. Each of these Committees has membership from other Government Ministries as well as Civil Society.

4.4. Mechanisms to encourage participation in public administration

Recommendation:

Implement mechanisms to encourage civil society and nongovernmental organizations to participate in public administration.

Measures suggested by the Committee:

- a. Develop standards and procedures to establish, maintain and strengthen mechanisms to encourage participation by civil society and nongovernmental organizations in public administration as part of the efforts to prevent corruption*

The three Committees described in the preceding paragraph are standing committees and have been participating in the process for many years.

5. ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)

Recommendation 5.1:

Design and implement a comprehensive program of dissemination and training specifically geared to the competent authorities and officials, to ensure they are familiar with and can apply the provisions in force on mutual legal assistance for investigation and prosecution of acts of corruption in the Convention and in other treaties signed by Belize.

Belize has not developed specific comprehensive programs to train its competent authorities and officials on the implementation of the country's mutual legal assistance obligations regarding the investigation and prosecution of acts of corruption. However, country officials have benefited from training opportunities provided by relevant international organizations such as the United Nations Office on Drugs and Crime ("the UNODC").

With its existing resources, the Government has been able to respond to requests made by its counterparts, which in itself, has been a learning experience.

7. GENERAL RECOMMENDATIONS

Recommendation 7.3:

Develop, as appropriate and where they do not yet exist, procedures designed to analyze the mechanisms mentioned in this report, and the recommendations contained in it.

Belize has made bold efforts to fight corruption domestically, and has been providing assistance to its fellow countries in their investigation of corruption-related offences. In his Independence Day speech to the nation, the Hon. Prime Minister of Belize stated:

"[W]e are completing both an expanded Finance and Audit Reform Act, and revised Stores and Financial Orders. These will be accompanied by a new Fiscal Transparency Law; and all these pieces of legislation will have in common stiff penalties and jail time for politicians and public officers caught trying to make off with the people's money. As we have recently demonstrated, this government will go to all lengths to improve our corruption – fighting infrastructure and pursue official wrongdoers. It is a vital part of the democratic nourishment, it is a vital part of making fast the fabric of our social and political compact".