

**SECOND ROUND
REPORT ON THE STATE OF NICARAGUA
INTER-AMERICAN CONVENTION AGAINST CORRUPTION**

INTRODUCTION

The state of Nicaragua submits this report as part of the second round of the work of the Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention Against Corruption (MESICIC). The report is intended to offer an analysis of how the provisions selected for the second round have been implemented and of the follow-up given to the recommendations made by the MESICIC regarding the report submitted by the state of Nicaragua during the first round. The Inter-American Convention against Corruption was approved by the National Assembly of the Republic of Nicaragua on November 11, 1998, ratified by the Executive on March 17, 1999, and the instrument of ratification was deposited on May 6 of that year. On July 14, 1999, the state of Nicaragua received formal notification of the instrument's deposit. Thus, in compliance with Article XXV, the Convention came into force for Nicaragua on the 30th day following its deposit of the instrument of ratification.

Additionally, the Republic of Nicaragua signed the declaration on the Mechanism for Follow-up on Implementation of the Inter-American Convention Against Corruption on June 4, 2001, at the OAS General Assembly held in San José, Costa Rica.

I. SUMMARY OF THE INFORMATION RECEIVED

1. Political Constitution of Nicaragua.
2. Law No. 476, the Civil Service and Administrative Career Law, adopted on November 19, 2003, and published in *La Gaceta* No. 235 on December 11, 2003.
3. Decree No. 87-2004, Regulations of Law 476, the Civil Service and Administrative Career Law, published in *La Gaceta* No. 153 on August 6, 2004.
4. Law No. 502, the Municipal Administrative Career Law, published in *La Gaceta* No. 244 on December 16, 2004.
5. Law No. 501, Judicial Career Law, published in official journal *La Gaceta* Nos. 9, 10, and 11 on January 13, 14, and 17, 2005.
6. Law No. 114, the Teaching Career Law, adopted on October 10, 1990, and published in *La Gaceta* No. 225 on November 22, 1990.
7. Law No. 358, the Foreign Service Law, adopted on August 30, 2000, and published in *La Gaceta* No. 188 on October 5, 2000.
8. Law No. 505, the Law regulating the hiring of Nicaraguan professional and technical services in public sector programs and projects financed with funds from governments or international agencies, published in official journal *La Gaceta* No. 18 on January 26, 2005.

9. Decree-Law No. 86, the Organic Law of the Comptrollership General of the Republic, published in *La Gaceta* No. 16 on September 22, 1979, as amended.¹
10. Law No. 411, the Organic Law of the Office of the Attorney General of the Republic, published in *La Gaceta* No. 244, on November 24, 2001.²
11. Decree 24-2002, Regulations of the Organic Law of the Office of the Attorney General of the Republic, published in *La Gaceta* No. 37 on February 22, 2002.
12. Law No. 346, the Organic Law of the Public Prosecution Service, published in *La Gaceta* No. 196 on October 17, 2000.
13. The Public Prosecution Service Career Law, adopted by the National Assembly in June 2006. Pending publication.
14. Law No. 323, the State Contracting Law, published in *La Gaceta* Nos. 1 and 2 of January 3 and 4, 2000.
15. Law No. 349, Law Reforming and Expanding Law 323, the State Contracting Law, published in *La Gaceta* No. 109 on June 9, 2000.
16. Law No. 427, Law Reforming Law No. 323, the State Contracting Law, published in *La Gaceta* No. 110 on June 13, 2002.
17. General Regulations of the State Contracting Law, Decree No. 21-2000, adopted on March 2, 2000, and published in *La Gaceta* No. 46 on March 6, 2000.
18. Municipal Contracting Bill.
19. Law No. 419, Reforms to the Criminal Code of the Republic of Nicaragua, published in *La Gaceta* No. 121 on June 28, 2002.
20. Law 581, Special Law on the Crime of Bribery and Crimes Against International Trade and International Investment, published in *La Gaceta* No. 60 on March 24, 2006.
21. Law No. 290, Law on the Organization, Competences, and Procedures of the Executive Branch, published in *La Gaceta* No. 102 on June 3, 1998.
22. Law No. 438, the Civil Servants' Probity Law, published in *La Gaceta* No. 147 on August 7, 2002.

¹ Its amendments are: Decree-Law No. 612, published in *La Gaceta* No. 6 on January 10, 1981; Decree-Law No. 743, published in *La Gaceta* No. 149 on July 7, 1981; Decree-Law No. 1490, published in *La Gaceta* No. 161 on August 22, 1984; Decree-Law No. 417, published in *La Gaceta* No. 240 on December 29, 1988.

² Official journal of Nicaragua.

23. Decree No. 124-99, Ethical Standards of Executive Branch Civil Servants, published in *La Gaceta* No. 236 of December 10, 1999.
24. Law No. 475, the Citizen Participation Law, published in *La Gaceta* No. 241 on December 19, 2003.
25. Annual reports from the criminal area of the Office of the Attorney General of the Republic for the years 2003, 2004, and 2005.
26. Statistical data from May 2006 from the Office of the Attorney General of the Republic, criminal area.
27. Annual reports from the Office of the Comptroller General of the Republic to the National Assembly, years 2000 to 2005.
28. Statistical data from the Supreme Court of Justice on crimes against the public administration, years 2000 to 2005.
29. Statistical data provided by the Ministry of the Treasury and Public Credit's General Public Function Directorate.
30. Statistical data provided by the Ministry of the Treasury and Public Credit's General Contracting Directorate.
31. Information provided by the Executive Secretary of the Public Prosecution Service on the public competitions for the selection and hiring of assistant prosecutors.
32. Plan of Action for the Implementation of the Recommendations Issued by the Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention Against Corruption.

II. ANALYSIS OF IMPLEMENTATION BY THE STATE PARTY OF THE CONVENTION PROVISIONS SELECTED FOR THE SECOND ROUND

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

1.1. Government hiring systems.

(a) Are there laws and/or measures in your country establishing government hiring systems? If so, briefly describe them and list and attach copies of the provisions and documents in which they are set out, with particular reference to the following issues: probity and suitability requirements for candidates for entry into or promotion within the civil service; the different forms of entry to the civil service, and the regime of responsibilities and punishments applicable to each of those forms in the event of irregularities in the performance of duties; advertising entrance opportunities, and the

applicable rules that exist; overseeing enforcement of those rules; and training of civil servants vis-à-vis their duties and the consequences applicable to nonperformance thereof.

Nicaragua has a range of provisions that establish and regulate systems for the hiring of public officials, set out in both the Constitution and in ordinary laws and regulatory provisions.

In the Constitution, Title VIII (“Of the Organization of the State”), Chapter I (“General Principles”), the penultimate and final paragraphs of Article 130 set a general ban on the appointment of chief officials in the fourth degree by blood or the second by marriage, except “those appointments in compliance with the Civil Service and Administrative Career Law, the Teaching Career Law, the Judicial Career Law, the Foreign Service Career Law, and any other similar laws as may be enacted.” Similarly, the final part of the third paragraph of Article 131 in the same title of the Constitution states that the civil service and the administrative career are to be regulated by law.

In ordinary domestic law, in compliance with these provisions, in December 2003 the state of Nicaragua adopted and published the Civil Service and Administrative Career Law,³ which sets general regulations for this matter and remains currently in force. In addition to the Civil Service and Administrative Career Law, there are other legal instruments that establish:

- (1) Provisions applicable to a specific and specialized sector, which set out the career paths of public officials and which contain specific regulations for those sectors as regards hiring systems. These provisions are:
 - Law No. 114, the Teaching Career Law, in force since 1990.⁴
 - Law No. 358, the Foreign Service Career Law, in force since 2000.⁵
 - Law No. 502, the Municipal Administrative Career Law, adopted in 2004.⁶
 - Law No. 501, the Judicial Career Law, in force since January 2005.⁷
 - Law No. 505, the Law regulating the hiring of Nicaraguan professional and technical services in public sector programs and projects financed with funds from governments or international agencies, in force since January 2005.⁸

The latter three laws, together with the Civil Service and Administrative Career Law, were adopted and came into force after the first Inter-American Convention against Corruption follow-up round. Recently, in late June of this year, the Public Prosecution Service Career Law was adopted; however, as of the time of this report’s drafting, it has not been published and so has not yet officially come into effect.

- (2) Legal provisions governing the hiring of public officials contained in the following pieces of legislation:

³ Law No. 476, published in the official journal *La Gaceta* No. 235 on December 11, 2003.

⁴ Adopted on October 10, 1990, and published in *La Gaceta* No. 225 on November 22, 1990.

⁵ Adopted on August 30, 2000, and published in *La Gaceta* No. 188 on October 5, 2000.

⁶ Adopted on October 20, 2004, and published in *La Gaceta* No. 244 on December 16, 2004.

⁷ Adopted on October 14, 2004, and published in *La Gaceta* Nos. 9, 10, and 11 on January 13, 14, and 17, 2005.

⁸ Published in the official journal *La Gaceta* No. 18 on January 26, 2005.

- Law No. 346, the Organic Law of the Public Prosecution Service, published in *La Gaceta* No. 196 on October 17, 2000.
- Law No. 411, the Organic Law of the Office of the Attorney General of the Republic, published in *La Gaceta* No. 244 in December 2001.
- Law No. 438, the Civil Servants’ Probity Law, in force since 2002.⁹
- Law No. 346, the Organic Law of the Public Prosecution Service, published in *La Gaceta* No. 196 on October 17, 2000.
- Public Prosecution Service Career Law, recently passed by the National Assembly but not in force until it is published.
- Law No. 181, Code of Military Organization, Jurisdiction, and Social Prevision, published in *La Gaceta* No. 165 on September 2, 1994.
- Law No. 228, the National Police Law, published in *La Gaceta* No. 162 on August 28, 1996.
- Law No. 473, the Prison Regime and Sentence Execution Law,

These last three laws, dealing with the military, police, and prison regimes, contain legal provisions that govern the entry into and hiring by the corresponding bodies of military, police, and prison career officers.

Civil Service and Administrative Career Law

Generic in nature, this law contains provisions that cover the broad range of functions that can be performed within the state apparatus. The purpose of the Law,¹⁰ pursuant to the terms of Article 131 of the Constitution, is to regulate the civil service and administrative career regime. The Law marks a difference between the concepts of civil service and administrative career.¹¹ The scope of the “civil service” covers public officials and employees of all branches of the government, autonomous and governmental agencies, municipalities, and organs of the Atlantic Coast autonomous regions; exceptions to its enforcement exist, including some applicable to chief public officials, who are listed in the text of the law; in addition, temporary officials and workers, those employed on projects, and those occupying positions of trust are excluded from the administrative career but not from the civil service,¹² with the definitions for each specific case contained in Articles 12, 13, and 14. Also excluded from the administrative career, on the grounds that they are governed by their own career laws, are members of the teaching profession, the police profession, and employees subject to the Foreign Service Law or belonging to any public career organized by means of a law.¹³

It sets, as compulsory guiding principles in the performance of public service,¹⁴ observance of the Constitution and the country’s laws, the culture of serving the citizenry, loyalty to the nation and to the Nicaraguan state, the adaptability of public services to the needs of the nation, and equal treatment and working conditions.

⁹ Published in the official journal *La Gaceta* No. 147 on August 7, 2002.

¹⁰ Article 1.

¹¹ Article 2, paragraphs 1 and 2.

¹² Articles 8, 9, and 11 of Law 476.

¹³ Article 77 of Law No. 476.

¹⁴ Article 3 of Law No. 476.

The law creates the following Civil Service Organs: Civil Service Appeal Commission, National Civil Service Commission, Ministry of the Treasury and Public Credit, and the human resource offices at each agency of the public administration; similarly, the law describes the nature of each organ, its composition and professional specialization, and its members' form of election, duration in office, and powers.¹⁵

It creates the State Administration Position Classification System as a basic and obligatory organizational instrument comprising three broad processes: position description, appraisal, and classification. It categorizes positions by their hierarchical ranking and nature.¹⁶ Along with the position classification system, the law also creates the following systems:¹⁷

- Position Assignment System, ensuring the principles of merit, equality, ability, and fairness.
- Performance Management System, for assessing employees' performance in light of the principles of merit, equality, and fairness.¹⁸
- Earnings System, a policy that serves as a basic element in the motivation and management of human resources, based on the principles of equality, fairness, and competitiveness.
- Training System.
- Civil Service Information System (SISEC).

The law sets out rights, duties, and matters relating to the disciplinary regime.¹⁹ Over and above the offenses set out in the Probity Law, disciplinary offenses are classified into slight, serious, and very serious, and the punishable behaviors in each case are described. The types of punishments applicable to these offenses are also indicated.²⁰ The law states that for serious and very serious offenses to be punishable, proceedings must be conducted in accordance with the disciplinary procedure that it sets out.²¹

For access to a civil service position, the law sets the following general requirements: Nicaraguan citizenship; aged between 18 and 75 years; compliance with the position's requirements; in full enjoyment of individual rights; and physically and mentally capable of performing the functions

¹⁵ Articles 15 to 21 of Law 476.

¹⁶ Articles 22 to 26 of Law 476.

¹⁷ Articles 27 to 36 of Law 476.

¹⁸ Articles 78 to 103 of Law No. 476.

¹⁹ Articles 37 to 47 of Law No. 476.

²⁰ Articles 48 to 55 of Law No. 476.

²¹ Articles 56 to 66 of Law No. 476.

required of the position. It also requires that vacancy announcements be published and determines the content required of such announcements.²² It requires the establishment of an institutional Selection Committee for each vacancy processed. Once the selection process has been carried out, this Committee is to submit, to the immediately superior civil servant, the names of those candidates who obtained the best overall scores in the tests administered.²³

To acquire the status of civil servant and employee of the administrative career, the law requires successive compliance with the following requirements: completion of the selection process, and appointment extended by the competent authority.²⁴

Teaching Career Law (Law No. 114) and its Regulations

The “teaching career” is understood as the profession of teachers at levels beneath higher education, at both state and private schools. The purpose of this law is to create the conditions required to guarantee the people quality education and to ensure the stable employment, training, and promotion of teachers.²⁵ It sets rules for the admission, promotion, demotion, transfer, and reallocation of teachers. It also attempts to ensure that teacher promotions are in line with seniority, experience, scientific and pedagogical training, efficiency, and merits, as factors that serve to determine appropriate scales of economic remuneration.²⁶

As regards the requirements for entry to the teaching career regime, the law²⁷ states that entry is open to those Nicaraguans who meet the requirements set in both the Law and its Regulations. The latter²⁸ set the requirements for entry, namely:

- Graduated as a primary education teacher.
- A graduate of a center offering higher-level courses in the field of education and with MED recognition.²⁹
- A graduate as a Basic, Intermediate, or Higher Technician, with pedagogical training given by the MED and INATEC.³⁰

²² Articles 78 to 83 of Law No. 476.

²³ Articles 87 to 91 of Law No. 476.

²⁴ Article 92 of Law No. 476.

²⁵ Article 2 of the Teaching Career Law.

²⁶ Article 3 of the Teaching Career Law.

²⁷ Article 15 of the Teaching Career Law.

²⁸ Article 36 of the Regulations of the Teaching Career Law.

²⁹ The MED (Ministry of Education) currently goes by the name of Ministry of Education, Culture, and Sport (MECD).

The bodies responsible for enforcing the law are the Ministry of Education through its Human Resources Division, the National Teaching Career Commission, the Departmental Human Resources Commissions, and the Departmental Teaching Career Commissions.³¹

Foreign Service Law (Law No. 358)

The scope of this law's application is specific, for a given group of public employees; however, the law itself³² states that the right to pursue entry to the Foreign Service is equally available to all Nicaraguans, irrespective of sex, race, political or religious beliefs, or any circumstance other than merit or ability. It also provides that the selection of Foreign Service staff will seek to ensure, with fairness, the participation and representation of women.³³ It also stipulates that foreign service staff are to discharge their duties at the Ministry of Foreign Affairs or in places abroad in accordance with the established rotation or assignment system, and that they may also discharge their duties at other agencies of the public administration as provided for in the law. It defines the Foreign Service as comprising special missions, diplomatic missions, permanent representations, consular offices, and specialized attaché services; in addition, its staff members may be active career personnel or passive career personnel.³⁴ The law also defines what is meant by active and passive career personnel.

The law regulates the selection of aspiring Foreign Service officers and requires that public competitive examinations and other entry mechanisms be organized,³⁵ for which purpose an ad-hoc Entry Commission, charged with organizing and assessing the competitive exams, is to be established. In addition, the Foreign Service Personnel Commission is also set up as the body responsible for enforcing the law, with duly specified powers.³⁶

Municipal Administrative Career Law (Law 502)

This law specifically provides municipal governments with a human resource management system for carrying out their public policies, ensuring efficiency, effectiveness, and transparency

³⁰ INATEC (National Technological Institute).

³¹ Article 6 of the Teaching Career Law.

³² Article 32 of the Foreign Service Law.

³³ Article 5 of the Foreign Service Law.

³⁴ Articles 6 and 7 of the Foreign Service Law.

³⁵ Articles 32 to 36 of the Foreign Service Law.

³⁶ Articles 82 to 84 of the Foreign Service Law.

in municipal public administrations.³⁷ This law does not apply to the incumbents of popularly elected offices, personnel of trust, or temporary employees.³⁸

Two sets of principles are enforced by this law:³⁹

- Selection: the principles of equality, generality, merit and ability, and public disclosure.
- The performance of officers or employees: the principles of: observance of the Constitution and law; of efficiency; of effectiveness; of impartiality; of probity and transparency; and of public service.

The law says that the following agencies are responsible for its enforcement: the National Commission for the Municipal Administrative Career as the top enforcement body, the Regional and Departmental Commissions for the Municipal Administrative Career, the Municipal Commissions for the Municipal Administrative Career, and the General Directorate of the Municipal Administrative Career. It also establishes the numerical strengths, requirements, operations, and powers of those bodies.⁴⁰

The classification of positions is identified as one of the instruments of the municipal career system, which organizes positions within the various institutions and, consequently, the scope of the associated responsibilities, functions, and powers. The law establishes two broad classifications of positions, namely: in terms of their nature, they are divided into common and proper positions; in terms of their functions, they are categorized as directorial, executive, auxiliary, operational, and basic positions.⁴¹

The right of access to positions within the bodies covered by this law is open to all Nicaraguan citizens irrespective of race, sex, gender, color, political, philosophical, or religious beliefs, or any other circumstance not set down in the law.⁴² It also states that selection processes for filling vacancies at the institutions covered by the law must uphold the principles of equality, merit, ability, and disclosure.⁴³ Any citizen aspiring to a position in the municipal administrative career is to do so by means of a competitive system based on the merit and abilities demanded by the job, guaranteeing compliance with the principle of equality.⁴⁴

The law orders a mixed system of merit assessment and competitive examinations for directorial, executive, auxiliary, and operational positions; with merit competitions for basic positions.⁴⁵ The public competitive examination selection procedure entails two phases:

³⁷ Article 1 of the Municipal Administrative Career Law

³⁸ Article 5 of the Municipal Administrative Career Law.

³⁹ Article 3 of the Municipal Administrative Career Law.

⁴⁰ Articles 6 to 19 of the Municipal Administrative Career Law.

⁴¹ Articles 20 to 23 of the Municipal Administrative Career Law.

⁴² Article 45 of the Municipal Administrative Career Law.

⁴³ Article 48 of the Municipal Administrative Career Law.

⁴⁴ Article 3, section (a), paragraph 3, of the Municipal Administrative Career Law.

⁴⁵ Article 47 of the Municipal Administrative Career Law.

- Phase One: The public selection procedure is carried out, consisting of the tests indicated in the corresponding announcement, which may be oral, written, and/or practical.
- Phase Two: The competition, which serves to assess the merits and experience of the candidates in the fashion described in the announcement.

The competition will only be graded if the candidate meets the skill level established for each of the eliminatory exercises set in the public selection phase.

Judicial Career Law (Law No. 501)

This law sets a framework for the administrative and financial running of the judicial branch of government and regulates the judicial career as provided for in the Nicaraguan Constitution, ensuring the prompt and correct administration of justice; it also establishes the disciplinary regime applicable to the judiciary.⁴⁶ It deals with entry to the judicial career, transfers, permissions, the disciplinary regime, and other related issues. The law is based on the following principles: merit, responsibility, equality, disclosure, stability, impartiality, and independence.⁴⁷

The body responsible for overseeing the enforcement of the Judicial Career Law and for coordinating, planning, and executing the administrative and financial policies of the judiciary, is the National Judicial Administration and Career Council.⁴⁸ The law stipulates its composition, powers, and authority to create commissions for ensuring compliance therewith.

It establishes the right of Nicaraguans to enter the judicial career irrespective of sex, race, political or religious beliefs, or any factor other than personal merit and ability, together with the formal requirements for admission to the judicial career.⁴⁹ It states that merit is the chief characteristic for aspiring to, entering, and receiving promotions within the judicial career, based on the requirements set out in the law itself and in the announcements of competitive processes for filling vacancies in the judiciary. The principle of disclosure is addressed by requiring that announcements be made publicly by the National Judicial Administration and Career Council, and by making the process open to all those who meet the requirements set by the Law.⁵⁰ The announcements, the competitive processes, and the selection of the officials are published in the *La Gaceta* official journal and in other daily publications. The announcements indicate the requirements that the candidates must satisfy. The merit competitions and competitive examinations, theoretical and practical courses, the length of professional service, seniority, and merit considerations are the parameters use to determine entry into the judicial career, continued presence therein, and promotions within it.

It should be noted that one important and innovative element in this judicial career system is the remedy of challenge,⁵¹ for which a complete list of all candidates is to be published so that

⁴⁶ Article 1 of the Judicial Career Law.

⁴⁷ Article 2 of the Judicial Career Law.

⁴⁸ Articles 4 to 7 of the Judicial Career Law.

⁴⁹ Articles 8 and 9 of the Judicial Career Law.

⁵⁰ Article 14 of the Judicial Career Law.

⁵¹ Articles 16 and 17 of the Judicial Career Law.

citizens with objections to the suitability of any candidate may pursue the corresponding grounded procedure before the examining tribunal.

The Law also stipulates rights and duties for officers of the judicial career,⁵² together with the applicable impediments, incompatibilities, and prohibitions.⁵³ It establishes a disciplinary regime that provides for slight, serious, and very serious infractions, together with statutory limits for their proscription and the applicable disciplinary sanctions, irrespective of any additional civil or criminal liability that could arise therefrom.⁵⁴ It provides for a disciplinary procedure that begins with the opening of an investigation as summary proceedings.⁵⁵

Law regulating the hiring of Nicaraguan professional and technical services in public sector programs and projects financed with funds from governments or international agencies (Law 505)

This law regulates the preferential hiring of the services of Nicaraguan professionals and technicians for the development, preparation and execution of public sector programs and projects that entail funding by loans from national or international governments or agencies, or in those private sector programs and projects in which the state serves as an intermediary or guarantor for the funding.

In hiring the professional or technical services of individuals or corporations, the mechanisms set forth in the State Contracting Law must be observed: in other words, they must be registered in the Register of State Suppliers and the contract must be awarded on a competitive basis; similarly, the principles governing Law 323 must also be applied.

Organic Law of the Public Prosecution Service

This law sets down the method for appointing the Prosecutor General of the Republic, together with his powers and the grounds on which he may be removed. This official is elected from three-name shortlists put forward by the executive and legislative branches of government;⁵⁶ it also sets the requirements for prosecutors in the departments and autonomous regions, and for auxiliary prosecutors.⁵⁷ The law's transitory provisions⁵⁸ provide that until the Prosecutorial Career Law is enacted, the selection of departmental, autonomous region, and auxiliary prosecutors is to be effected by means of public competitions organized by the Prosecutor General, after publication of the corresponding announcement, which is to indicate the requirements and tests applicable to candidates. The law states that the selection system is to be

⁵² Articles 40 and 41 of the Judicial Career Law.

⁵³ Articles 42, 43, and 44 of the Judicial Career Law.

⁵⁴ Articles 63 to 68 of the Judicial Career Law.

⁵⁵ Articles 69 to 73 of the Judicial Career Law.

⁵⁶ Articles 23 to 28 of the Organic Law of the Public Prosecution Service.

⁵⁷ Article 22 of the Organic Law of the Public Prosecution Service.

⁵⁸ Chapter VIII, Article 37, section III, of the Organic Law of the Public Prosecution Service.

governed by the principles of equality, merits, and ability, ensuring that positions are taken by individuals with the knowledge, experience, and vocation needed to provide quality public service.

Public Prosecution Service Career Law

Recently, in the last week of June 2006, this law was passed by the National Assembly; once it is published, it will come into force. The law regulates the Public Prosecution Service career as described in Article 9 of the Organic Law of the Public Prosecution Service, to guarantee its organizational, functional, and administrative autonomy and to ensure the efficiency and suitability of its officers by establishing requirements and procedures for their entry, continued service, training, promotion, transfers, and retirement. It provides for the establishment of a retirement fund for prosecutors and employees of the Public Prosecution Service which, if approved, would be a strong incentive for the training and permanence of officers and employees in the Service's career.

Organic Law of the Office of the Attorney General of the Republic (Law No. 411) and its Regulations

This Organic Law sets the requirements needed for an appointment as Attorney General of the Republic, and the general eligibility requirements and impediments for selection and appointment as other attorneys of the state. The law stipulates that the selection process will be regulated by its Regulations.⁵⁹

The Regulations⁶⁰ stipulate the skills and requirements for specific, regional, and auxiliary attorneys, and for notaries public; they also specify the process for personnel selection, assigning it to the Planning and Training Division, which is to organize the entry and selection programs for attorneys by means of public competitions, following the publication of announcements indicating the applicable requirements and tests. The selection system is based on the principles of equality, merit, and ability, and it requires the evaluation and verification of theoretical and practical knowledge. From the list of participants and their scores, the Attorney General will select the candidates in accordance with the number of vacancies and will proceed with their appointment. A performance evaluation system is established.

Civil Servants' Probity Law (Law 438)

This law contains no regulations for the hiring of civil servants or public employees as such; its purpose is to establish and regulate the probity regime applicable to public employees in the exercise of their functions, in order to prevent and correct incidents that could affect the interests of the state. The law establishes, *inter alia*, as regards the civil service, a regime of restrictions on public employment, such as a ban on the appointment, in any branch of government or state agency or office, of persons related in the fourth degree by blood or the second by marriage, with the exception of appointments under the Civil Service and Administrative Career Law, the Teaching Career Law, the Judicial Career Law, the Foreign Service Law, and other similar pieces

⁵⁹ Articles 8 and 9 of Law 411.

⁶⁰ Articles 34, 35, 36 and 37 of the Regulations to Law 411.

of legislation.⁶¹ The law also lists the incompatibilities and disqualifications applicable to holding public employment.⁶²

(b) Briefly state the objective results obtained with the application of the above provisions, providing the relevant information available to your country on which those results are based and making specific reference to the following: measures indicating that the requirements for entry into, continued presence in, and promotion within public employment are being effectively enforced; decisions taken in applying the regime of liability and sanctions provided for each form of access thereto; proportion or total percentage of public jobs assigned in compliance with the general provisions established for the purpose, and proportion or percentage thereof that have been assigned through special mechanisms; the disclosures carried out in connection with those rules and regarding vacancies in public employment; measures carried out to oversee the enforcement of those rules; and training given to public employees regarding their duties and the consequences of noncompliance.

In Nicaragua the legal provisions governing the administrative career of public officials and hiring systems is relatively new; we are embracing a new culture in this area, working on adopting the existing concepts and models and creating the technical bases for the gradual introduction of the civil service and administrative career. The Civil Service and Administrative Career Law states that the hiring system is decentralized and that each agency is responsible for its enforcement. However, the General Public Function Directorate, attached to the Ministry of the Treasury and Public Credit, has drawn up a set of rules to assist agencies in streamlining their hiring processes, and, in addition, the civil regime introduction strategy has been designed. This Public Function Directorate oversees the “Civil Service Reform Project” as a component of the State Modernization and Reform Program; in conjunction with the body that oversees the civil service, it has been carrying out the following activities:

- Strengthening the technical and organizational capacities of the civil service oversight body and of institutions’ human resource agencies for the introduction of the civil service. Thus, between September 2000⁶³ and March 2005, 179 training activities have been carried out, covering a total of 1,535 hours and 4,281 participants and benefiting 357 institutions.⁶⁴ (see Annexes 1 and 2)
- The thrust of these training activities was directed at:
 - (a) Strengthening the civil service.
 - (b) Training for classification of positions in the state administration.
 - (c) Training on the legal framework of the Nicaraguan civil service.
 - (d) Training in the use of the Civil Service Information Management Systems.

⁶¹ Article 8 (c) of the Civil Servants’ Probity Law.

⁶² Articles 10 and 11 of the Civil Servants’ Probity Law.

⁶³ Although the current Civil Service and Administrative Career Law was published in December 2003 and came into effect that same month, prior to its adoption the Nicaraguan government began a process of training for the human resource agencies in order to respond to their needs for strengthening.

⁶⁴ Information taken from the Civil Reform Project on the webpage of the Ministry of the Treasury and Public Credit, <<http://www.hacienda.gob.ni>>.

- (e) Strengthening human resource offices.
 - (f) Introduction to gender awareness in the civil service reform process.
 - (g) Strengthening the institutions of the state administration.
 - (h) Conceptual model of the Civil Service Information System (SISEC).
 - (i) Motivational seminar: “Performance Management.”
 - (j) Institutional introduction of the Administrative Career System.
- Implementation of the position classification system, which to date has been carried out at 24 state institutions, covering a total of 65,831 positions and with 2,930 job descriptions having been written.⁶⁵ (see Annex 3)
 - Progressive implementation of the Civil Service and Administrative Career regime in state agencies, by means of the accreditation process for administrative career public employees based on merit and ability. By the end of 2005, the special accreditation process had incorporated 1,811 public employees, from nine agencies of the executive branch, into the administrative career. The assignment process has reviewed, as of June 2006, a total of 1,408 registrations of officials and employees of institutions of the Fiscal Registration System. Currently (June 2006), 14 state institutions are undergoing the accreditation process, for a total of 2,500 officials and employees to be accredited. At the close of this year, 20 civil service institutions will still be pending accreditation.⁶⁶
 - Devising organizational and functional models for the competent organs of the civil service.
 - Rules for updating and processing the central government’s fiscal registration system.
 - Development of an information system incorporating the position classification systems and the human resource management systems.

There has been a series of problems with the introduction of the Civil Service and Administrative Career, including:

- Inflexibility in the deadlines set in the Civil Service and Administrative Career Law and in the commitment matrixes established with the multilateral agencies and donor countries for the implementation of the Civil Service Regime.
- Resistance to change in terms of adapting to a new culture, also seen among high-level officials in the state administration.
- Technical and managerial weaknesses in the institution’s human resource offices in assuming their functions under the Civil Service and Administrative Career Law.

⁶⁵ Information taken from the Civil Reform Project on the webpage of the Ministry of the Treasury and Public Credit, <<http://www.hacienda.gob.ni>>.

⁶⁶ Information provided by the Ministry of the Treasury and Public Credit’s General Public Function Directorate.

- Financial constraints for the definition and introduction of a payment policy based on equality and fairness.
- Constant changes in the organizational structures of state institutions.

In particular, certain agencies – such as the Ministry of Foreign Affairs, the Office of the Attorney General of the Republic, and the Public Prosecution Service – make public announcements for the selection, classification, and hiring of employees. As regards the Public Prosecution Service, since its creation⁶⁷ it has issued four announcements, of which one was internal and three were public. A total of 62 criminal prosecutors participated in the internal process, of whom 60 were classified and confirmed in their positions as prosecutors. A total of 1,147 people participated in the public processes, from whom 335 were classified and 249 prosecutors were hired,⁶⁸ with a total of 31 candidate prosecutors listed as available.⁶⁹ (see Annex 4)

1.2. Systems for the procurement of goods and services by the state

(a) Does your country have rules establishing systems for the procurement of goods and services by the state? If so, briefly describe them and list and attach copies of the provisions and documents in which they are set out, with particular reference to the following issues: the legal framework of the existing systems, their coverage and hierarchy, and measures contained in each in pursuit of the goals of the Convention at the different stages of the corresponding procurement processes (planning; drafting of lists of conditions or rules for auctions or requests for tenders; submission and evaluation of proposals; awarding; execution; and evaluation), together with such areas as direct or biddingless procurement; the institution, agencies, officers, and public officials with specific responsibilities for procurements; training and specialized assistance, and the liability regime applicable to public servants and contractors; the use of electronic communications or other technologies and systems for information, registration, and reference pricing; measures governing access to information and civil society oversight and monitoring of contract execution; and the mechanisms for internal scrutiny, oversight, control, complaints and/or claims, sanctions, investigation, and the administrative and judicial enforcement and prosecution thereof.

The Constitution⁷⁰ establishes provisions intended to prevent conflicts of interest in the exercise of public functions; it states that no public official, from any branch of government, obtain concessions from the state. The Constitution sets two kinds of sanctions for breaches of this precept: first, it cancels the concessions or benefits obtained and, second, it orders the surrender of the representation and position.

⁶⁷ Previously the Office of the Attorney General for Justice of Nicaragua, which was split into two agencies: the Public Prosecution Service (October 2000) and the Office of the Attorney General of the Republic (November 2001).

⁶⁸ Information furnished by the Executive Secretary of the Public Prosecution Service.

⁶⁹ According to the rules of the public competitive process, candidate prosecutors are to remain on the Public Prosecution Service's available list for a period of three (3) years.

⁷⁰ Article 130.

Among ordinary legislation, the State Contracting Law⁷¹ and its amendments⁷² frames and develops the constitutional provisions for preventing such conflicts, by establishing the general standards and procedures for regulating the acquisition and leasing of goods and services of all kinds by organs and agencies of the public administration. Its scope of application is the public sector, decentralized and autonomous agencies, municipalities, universities that receive state funding, and those companies in which the state holds stock.⁷³ The Law also specifies those areas that are excluded⁷⁴ from the contracting system.

Principles of public contracting: The principles of efficiency, disclosure and transparency, equality, and free competition guide the bidding-based goods procurement procedure.⁷⁵

The principle of efficiency says that the state is obliged to plan, program, organize, conduct, and oversee its contracting activities in such a way that its needs are satisfied in a timely fashion and in optimal conditions of cost and quality.

The principle of disclosure and transparency states that contractors must be selected by means of a bidding process, except in cases of contracting by quotation. It also provides for the possibility of the involved parties challenging the documents, reports, evaluations and decisions, and allows bidders access to all the information except any that could give them an advantage over the others as regards the administrative contracts, transparency in all proceedings, and the possibility of participants receiving timely notification of the commencement of a bidding process. The law instructs all components of the public sector to publicize their procurement programs at the start of each budgetary period, publishing them in *La Gaceta* or in two national dailies; and this is carried out.

The principle of equality and free competition states that all potential bidders who meet the legal and regulatory requirements may participate in administrative procurement processes on an equal footing and subject to no restriction not arising from the technical specifications and inherent objectives of the good for which bids are being sought.

Electronic media and information systems for public procurement. The following channels are used to publicize procurement processes:

- Publication of the request for tenders in the official journal *La Gaceta* and another major national daily newspaper.
- Electronic mail.
- In restricted bids, by means of correspondence sent to the address furnished by the supplier.

Restrictions. The Law states that the following may not be state suppliers: public officials with a commercial or personal interest, those involved in designing the bidding process, their relatives

⁷¹ Law No. 323, published in *La Gaceta* No. 1 on January 3, 2000.

⁷² (a) Law Reforming Law No. 323 “State Contracting Law,” Law No. 349, adopted on May 17 2000 and published in *La Gaceta* No. 109 on June 9, 2000, and (b) Law Reforming Law No. 323, “State Contracting Law,” Law No. 427, adopted on April 25, 2002, and published in *La Gaceta* No. 110 of June 13, 2002.

⁷³ Article 2 of the State Contracting Law.

⁷⁴ Article 3 of the State Contracting Law.

⁷⁵ Contracting Law, Articles 5, 6, and 7.

up to the third degree by blood, and their spouses. Similarly, public officials are responsible for overseeing and safeguarding the state's assets; they are prohibited from using their positions for their own benefit or on behalf of others.⁷⁶

Oversight Unit. The Ministry of the Treasury and Public Credit's General Contracting Directorate⁷⁷ is the body charged with serving as the oversight unit for the entire public sector procurement system; its powers include, *inter alia*: creating and updating the register of state suppliers; designing and implementing computer-based registration systems to provide the information needed in contracting and purchasing processes; and reporting to the Ministry of the Treasury and the state comptrollers' officers regarding all anomalies detected in purchasing and contracting procedures, for the applicable legal effects.

Finally, there is the Office of the Comptroller General of the Republic as the supreme body of the system that oversees the public administration and the state's assets and resources, with the constitutional mandate of overseeing, examining, and assessing the administrative and financial management of public entities.

Records. The Law⁷⁸ provides for the creation of the Procurement System Information Register and the Central Register of Suppliers.

Chapter V describes the state's regular procurement processes – public biddings, registration biddings, restricted biddings, and purchases by quotation – together with the regulatory provisions applicable to the corresponding procedures and the special provisions applicable to each. Section Five sets out the procurement procedures applicable to the following services: consultancies, equipment leasing, and provision of goods.

Procurement procedures. The Contracting Law and its Regulations⁷⁹ provide for the following forms of procurement:

- **Public bidding:** Applicable to procurement operations in excess of 2.5 million cordobas. An invitation to participate is extended by means of its publication in the official journal *La Gaceta*, in two national daily newspapers, or by means of electronic mail.
- **Registration bidding:** Applicable when the procurement is worth between 700,000 and 2.5 million cordobas. All suppliers of goods, services, and work with due accreditation in the state's Central Suppliers Register are invited to participate by means of communications sent to the addresses provided by those suppliers.
- **Restricted bidding:** Applicable for procurement operations worth between 100,000 and 700,000 cordobas. It requires the contracting body to use the Suppliers Register to select potential suppliers in accordance with their background information and to invite them to participate in the process.

⁷⁶ State Contracting Law, Articles 12 and 13. Civil Servants' Probity Law, Articles 2, 5, 7, and 8.

⁷⁷ Article 17 of the State Contracting Law.

⁷⁸ Articles 19 and 22 of the Contracting Law.

⁷⁹ Article 25 of the Contracting Law and Article 51 of its Regulations.

- Purchase by quotation: If the procurement is worth less than 100,000 cordobas, the contracting agency or department may select a contractor after requesting quotations from at least three suppliers from the Suppliers Register.

Basic bidding document and conditions. All the information that this document must contain in order for interested parties to present valid offers is indicated. The document must be prepared in such a way as to favor competition and equitable participation. The Law indicates the basic content to be included in the request for tenders.⁸⁰

Discussion of the basic document. In all public bidding procedures, the bidding committee of the agency organizing the process must hold a meeting with all the bidders to enable them to ask questions and offer comments about issues that could affect their equitable participation.⁸¹

Bids. The Law provides rules for the presentation and opening of bids, for terms of validity, and for the modification and withdrawal of offers. It also states that both consortium bids and joint bids are acceptable. It allows the bid committee to request clarifications of bids, and it also specifies the situations in which the committee may reject an offer.⁸²

Bid awards. The bid committee is to issue its award decision based on considered parameters, recommending the bidder who makes the best offer in terms of the requirement of the basic document and conditions; this notwithstanding, the award must be made by means of a grounded resolution by the supreme authority of the agency making the purchase. It also stipulates those cases in which bidding processes can be declared void.⁸³

Sanctions. The State Contracting Law and the Civil Servants' Probity Law set out sanctions of an administrative nature for those public officials (and private citizens) who commit violations of these mechanisms, irrespective of any other civil and criminal liabilities that may also arise therefrom.⁸⁴

The inclusion of the criminal clause is one of the novelties of the Contracting Law, with the contracting agency or the Office of the Comptroller General of the Republic being responsible for enforcing the sanctions. The Office of the Comptroller General of the Republic⁸⁵ is responsible for sanctioning public officials, and the Ministry of the Treasury and Public Credit⁸⁶ is responsible for sanctions applicable to private citizens. The Law establishes procedures for imposing sanctions and filing challenges or claims.⁸⁷

⁸⁰ Articles 27, sections (a) to (z), 28, and 29 of the Contracting Law.

⁸¹ Article 31 of the Contracting Law.

⁸² Articles 32 to 38 of the Contracting Law.

⁸³ Articles 39 to 42 of the Contracting Law.

⁸⁴ State Contracting Law, Articles 84, 85, 86, 87, 88, 89, and 90; Civil Servants' Probity Law, Articles 13, 14, 15; Organic Law of the Comptrollership General of the Republic, Articles 173, 174, and 175.

⁸⁵ Article 84 of the Organic Law of the Comptrollership.

⁸⁶ Article 91 of the Contracting Law.

⁸⁷ Article 93 of the Contracting Law.

Challenges. Our laws establish four types of remedies for filing challenges against administrative contracting procedures,⁸⁸ namely:

- Objections to the basic document and conditions: To be reasoned and based on a specific violation of the general principles for administrative contracting, on the violation of the essential rules of the procedure, or when the basic document clearly favors one of the potential bidders.⁸⁹
- Clarification of the decision of the bid committee: Can be filed against decisions in public bidding procedures, registration procedures, and bidder restrictions.⁹⁰
- Challenges against the decision of the bid committee: Applies when the clarification remedy has been exhausted.
- Annulment of the award: Can be filed against bid awards that are deemed to undermine legitimate rights, to violate the general principles of administrative contracting, or to be in breach of the essential rules; filings are to be lodged with the Office of the Comptroller General of the Republic.

The Organic Law of the Comptrollership General of the Republic assigns that office the task of evaluating, overseeing, and making recommendations about the effectiveness of the state's Goods and Services Procurement System as well as other systems, but the law also specifically states that any oversight involving income or expenditure or other state or public sector resources is to be overseen by the Office of the Comptroller General of the Republic, and that when they do not comply with the applicable legal provisions, the procedure for the annulment of the award is to be implemented.⁹¹ Along these same lines, the Organic Law of the Comptrollership General of the Republic (CGR) allows for the annulment of state contracting and also allows the CGR to denounce it on an *ex officio* basis when it is carried out without the current or future provision of the financial resources necessary for its completion, in which case it may itself order the suspension of the contracting procedure.⁹²

Municipal Contracting Bill

It should also be noted that a Municipal Contracting Bill received a favorable ruling from the National Assembly's Municipal Affairs Commission in November 2005 but, to date, it has not yet been put before the plenary of the legislature for discussion. The legal basis for this bill is the Municipalities Law and the State Contracting Law, both of which refer to a municipal contracting law. The current law for state contracting regulates municipal procurement as regards the resources municipalities receive from the national General Budget but not the municipalities' own funds. Additionally, the current state contracting legislation entails complex and bureaucratic procedures for municipal administrations, which hinder the work of municipal

⁸⁸ Article 149 of the Regulations of the State Contracting Law.

⁸⁹ Article 31, paragraphs 2 and 3, of the Contracting Law.

⁹⁰ Article 30 of the Contracting Law.

⁹¹ Article 10, section 9, and Article 11 of the Organic Law of the Comptrollership General of the Republic.

⁹² Article 177 of the Organic Law of the CGR.

governments and the promotion of local development; since social and economic development has not been equal for all the country's municipalities, the legislators have been forced to categorize them according to the income levels and particular characteristics of each, and the demands of the law currently in force are not equally applicable to all municipalities. The bill is intended to regulate the procurement of work, assets, services, consultancies, and public works projects acquired by local governments in discharging their functions, and to set rules and procedures to govern those procurement operations.

(b) Briefly state the objective results obtained in connection with question (a); state the objective results obtained, including any available statistical data (e.g., percentage of contracts awarded through public tender; sanctions imposed on contractors.

In general terms, all state organs and bodies subject to the State Contracting Law comply with all the established procedures as regards public disclosure and invitations and as regards publishing their results. Purchases of goods and services and other forms of acquisition covered by the law are programmed and are made public. Requests for tenders and basic documents are drawn up. A central register of suppliers is kept.

Currently under development is the central module of the Diploma Course in Purchasing and Procurement, which is being used to train 400 officials from Institutional Procurement Units. There are also plans to train Institutional Technical Areas (users) and suppliers.⁹³ Additionally, through this diploma course, the government's Procurement Directorate, attached to the Ministry of the Treasury and Public Credit, plans to provide public officials with training on ethics and values, with support from the Office of Public Ethics.

The state's General Procurement Directorate is providing assistance to 26 state agencies whose contracts account for 80% of public investment, and 15 municipalities. In August of this year, an additional five municipalities will also be provided with assistance. These assistance efforts are intended to encourage the ability to plan, assess, and monitor contracts.

As regards awards, there has not been much progress; however, use of the standard basic documents has enabled the evaluation system to be improved and standardized. The Standards and Policies Team of the state's General Procurement Directorate has been working on a simple standard document for quotation-based purchases and contracts that is also being assessed by the international agencies.

As of July 14, 2006, the Central Suppliers Register of the state's General Procurement Directorate contained a total of 12,651 suppliers, each assigned a supplier number, indicating the RUC codes,⁹⁴ the kind of activities they offer, corporate and commercial names, if any, telephone number, geographical location, and the date on which the corresponding State Supplier Certificate was issued.

According to the Contracting Law, the state's General Procurement Directorate is responsible for imposing administrative sanctions on suppliers. Between October 2004 and November 2005, the

⁹³ Information furnished by the Director General of Procurement, Ms. Nelly Castro.

⁹⁴ RUC number: Sole Taxpayer Registration Number, kept by the General Directorate of Income.

Directorate reports that a total of 15 suppliers' dossiers were reviewed because of breaches of the Contracting Law; of these, sanctions were imposed in 11 cases, while the other four were not sanctioned. The suppliers' actions that gave rise to these disciplinary reviews were the following:

	Actions or breaches	Cases	Sanction	No sanction
1	Alteration of documents	5	4	1
2	Noncompliance with the purpose of the contract	5	3	2
3	Noncompliance with the contract	2	2	–
4	Introduction of falsehoods in the contracting process	3	2	1
	TOTAL	15	11	4

Source: General Procurement Directorate.

Of the 11 administrative sanctions imposed, 10 were temporary suspensions of the suppliers' activities and one was the irrevocable cancellation of activities as an engineering civil consultant because the supplier was not an engineer (alteration of documents). The lengths of time during which the sanctioned suppliers' activities were suspended were as follows:

1 year	9 months	6 months	3 months
2	2	5	1

Among the main problems and limitations, the General Procurement Directorate has identified the following:

- Private sector participation in bidding processes, particularly among SMEs, is still very timid.
- The results of bidding processes need greater publicity.
- There is a need for greater fluidity in the information sent to the General Procurement Directorate from the state agencies' Procurement Units.
- Budget constraints in the General Procurement Directorate have prevented the adoption of an effective information registration system for identifying weaknesses and taking steps to strengthen procurement procedures.

Similarly, according to the annual reports⁹⁵ of the Office of the Comptroller General of the Republic to the National Assembly, as a result of its oversight activities conducted in accordance with the powers granted to it by the organic law for state contracting of goods and services, between 2000 and 2005 it analyzed 63 annulment filings and 43 no objections; it has also reviewed 1,656 contracts and 7 basic documents, answered 295 consultations and 42 annulment remedies applied to processed contracts, and concluded 37 opinions. (see Annex 5)

⁹⁵ Annual reports of the CGR to the National Assembly, years 2000 to 2005.

The various state agencies may, having given the reasons to justify such a move, lodge requests for exemptions from the established procedures with the Office of the Comptroller General of the Republic; the CGR may then, when warranted, authorize or deny the direct contracting. Thus, according to its annual reports, between 2000 and 2005 the Comptroller’s Office heard and ruled on a total of 651 requests, of which it authorized 562 (86%) for direct contracting and denied 89 (14%). The following table shows the yearly data:

Year	Requests for Exemptions	Authorized		Denied	
2000	53	38	70%	15	30%
2001	76	57	70%	19	30%
2002	86	71	83%	15	17%
2003	80	76	95%	4	5%
2004	130	118	91%	12	9%
2005	226	202	89%	24	11%
Total	651	562	86%	89	14%

The amounts represented by these authorized exemptions from direct contracting, and by the denied requests, were as follows:

Year	Authorized			Denied	
	Cordobas	Dollars	Other	Cordobas	Dollars
2000	26,795,647.00	10,350,551.00	–	1,336,553.00	750,857
2001	39,178,437.13	32,724,778.53	–	14,862,523.18	40,184,626.52
2002	123,660,911.12	13,481,185.00	–	–	996,112.23
2003	134,748,578.00	6,085,081.00	E 887,890.00	185,000.00	1,560,800.00
2004	108,297,933.29	54,881,092.22	–	54,881,092.22	19,118,326.00
2005	269,852,921.44	29,264,051.80	E 6,367.76	323,380,473.30	3,602,498.53
TOTAL	702,534,427.98	146,786,739.55	E 894,257.76	394,645,641.70	66,213,220.28

As regards these requests for exemptions from contracting procedures, it is the opinion of the Office of the Comptroller General of the Republic⁹⁶ that there is a need for greater planning and programming within state agencies, and that factor leads to the frequent lodging of requests for procedural exemptions.

Since state procurement is such a delicate issue, this year, the Office of the Attorney General of the Republic, acting as the state’s legal representative and in defense of its interests and assets and using funds given by donors for anti-corruption programs, began a new subcomponent in the “Strengthening the fight against corruption” program, which is specifically intended to strengthen the Special Financial Prosecutor’s Office to encourage greater involvement and participation in the bidding processes of the various state agencies. In 2006 to date, it has participated in reviewing 35 administrative cases dealing with bidding processes and 60 cases of minor purchases by various state agencies.

⁹⁶ Pp. 55 of the CGR’s Report for 2003, submitted to the National Assembly.

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

(a) Are there measures establishing systems for protecting public servants and private citizens who, in good faith, report acts of corruption?

Our country's ordinary anti-corruption legislation contains a vacuum regarding the establishment of protective measures for public servants or private citizens who report, in good faith, acts of corruption. Our laws do not provide special treatment for those making such reports; in general there are no programs, much less a protection system, for public officials or citizens who denounce acts of corruption. In contrast, the laws do require public officials to make reports when they become aware of irregularities or anomalies committed by civil servants, to furnish any information requested by the oversight bodies, and to appear as witnesses in procedures to investigate alleged acts of corruption.

In particular, the Organic Law of the Comptrollership General of the Republic contains a legal provision that protects the internal auditors of public institutions and agencies.⁹⁷ This provision states that responsible officers at the internal auditing units of public agencies cannot be dismissed from their positions without first informing the Office of the Comptroller General for it to issue the corresponding authorization and only in that case may the dismissal proceed. This measure is intended exclusively to protect the auditors, so as to guarantee their independence in the correct performance of their duties, which are also incumbent on the financial officers of public agencies. Other than this provision, in general the existing rules simply specify the obligation of assisting and providing information in connection with alleged acts of corruption and other irregularities in the handling of state resources.

(b) Results obtained with the enforcement of the existing provisions?

Not applicable.

(d) If no such measures exist, indicate how has your state considered the applicability of measures intended to protect those who, in good faith, report acts of corruption?

Nicaragua's draft Criminal Code, passed by the National Assembly in general terms but not in its particulars, constitutes a step forward in the protection of whistleblowers, witnesses, and other individuals involved in the process. Its title "Crimes against the Administration of Justice," chapter on "Obstruction of Justice and Professional Disloyalty," contains an article that deals with improperly influencing the participants in proceedings. It provides that: "Any person who, with violence or intimidation, attempts to influence or influences, either directly or indirectly, a person who is the informant, participant, defendant, lawyer, prosecutor, expert, interpreter, or witness in proceedings to change their declaration, testimony, opinion, interpretation, translation, defense, or handling of a judicial proceeding shall be punishable by a prison term of between one and four years and a fine of between fifty and two hundred days'-equivalent." This same article

⁹⁷ Article 59, third paragraph, of CGR Law.

goes on to state that: “similar sanctions shall apply to any person who carries out an act that affronts the life, integrity, sexual freedom, or property of the individuals identified in the previous paragraph in reprisal for their actions in judicial proceedings.”⁹⁸

This article of the draft Criminal Code, while not establishing a protection mechanism as such, does provide a deterrent by criminalizing undue influence on or reprisals against a participant in proceedings. Other than this draft, there is no protection provision that takes into account the subsequent situation of the whistleblowers or witness as regards their employment or physical and moral integrity.

3. ACTS OF CORRUPTION (ARTICLE VI OF THE CONVENTION)

3.1 Criminalization of the Acts of Corruption set out in Article VI.1 of the Convention

(a) Does your country criminalize the acts of corruption provided for in Article VI (1) of the Convention transcribed in this chapter of the questionnaire? If so, describe briefly the laws and/or other measures regarding them, indicating to which of the particular aforesaid acts of corruption they refer, including sanctions, and attach a copy of them.

In Nicaragua the acts of corruption described in Article VI.1 of the Convention are criminalized by the current Criminal Code, as amended by Law No. 419, the Law Amending and Expanding the Criminal Code,⁹⁹ and, recently, by Law 581, the Special Law on Bribery and Crimes against International Trade and International Investment,¹⁰⁰ adopted on March 21, 2006, in compliance with the commitments assumed by the Government of Nicaragua under CAFTA-DR and as a part of the fight against corruption. This new law amends the Criminal Code and Law 419 as regards the crime of crossborder bribery. Additionally, there are provisions in the Civil Servants’ Probity Law¹⁰¹ that prevent public employees from committing such acts in the performance of their functions.

Convention:

i. The solicitation or acceptance, directly or indirectly, by a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions.

Such behavior is punishable under Law 419,¹⁰² which amended Article 421 of the Criminal Code; irrespective of that, however, the more recent Law 581¹⁰³ again addressed those crimes and criminalized them as **passive bribery**, to wit: “*The crime of passive bribery is committed by any authority, official, or public employee who solicits, receives, or accepts, either directly or indirectly, any object of monetary value or other benefit, such as gifts, favors, promises, or*

⁹⁸ Article 466 of the draft Criminal Code (undue influence on proceedings).

⁹⁹ Published in *La Gaceta* No. 121 on June 28, 2002.

¹⁰⁰ Published in *La Gaceta* No. 60, March 24, 2006.

¹⁰¹ Law 438, published in *La Gaceta* No. 147 in 2002.

¹⁰² Article 8 of Law No. 419.

¹⁰³ Article 2 of Law No. 581.

advantages, for himself or for another, in exchange for performing or refraining from performing any action in the pursuit of his public functions.” It imposes the same punishment of four to six years in prison and absolute disqualification from holding public office or public employment for the same period, rising to five to eight years in prison and absolute disqualification for the same period should the perpetrator be a prosecutor, government attorney, judicial secretary, judge, or magistrate. The new law also imposes a fine equal to three times the value of the item or benefit sought or received.

Similarly, the Civil Servants’ Probity Law,¹⁰⁴ in speaking of the restrictions applicable to the exercise of public functions, prohibits civil servants from soliciting or receiving gifts or money, either directly or indirectly, from private citizens or other public servants in exchange for commitments to action or to refrain from acting in the pursuit of their functions, and from soliciting or accepting, on their own behalf, commissions in cash or kind for purchases of goods and services by any agency of the state.¹⁰⁵ It does not specifically establish sanctions for such actions, but it does state¹⁰⁶ that breaches of the prohibitions, incompatibilities, and disqualifications set forth in law are to be punished in accordance with the Organic Law of the Comptrollership.

Convention:

- ii. The offering or granting, directly or indirectly, to a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions.**

Such behavior is specifically punishable under Law 581¹⁰⁷ in two ways:

– **Active bribery** takes place when a *“private citizen offers, gives, or grants, either directly or indirectly, to an authority, official, or public employee, any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person, in exchange for any act or omission in the performance of his public functions.”* It is punishable by between three and five years in prison and a fine equal to three times the value of the item or benefit offered, given or granted to the authority, official, or public employee.

– **Crossborder bribery** takes place when a person *“offers, promises, or gives, either directly or indirectly, an authority, official, or public employee of another state or an international organization, an undue advantage of a monetary or other nature in exchange for acting or refraining from acting in the exercise of this functions in order to obtain or maintain a contract or other benefit in international economic and commercial transactions.”* It is punishable by between three and five years in prison and a fine equal to three times the value of the item or benefit offered or given to the authority, official, or public employee. When such actions are

¹⁰⁴ Law No. 438, published in *La Gaceta* No. 147 on 07-08-2002.

¹⁰⁵ Article 8, sections (i) and (j), of the Probity Law.

¹⁰⁶ Article 15 of the Probity Law.

¹⁰⁷ Articles 3 and 4.

carried out by a public official, the punishment shall be between five and eight years in prison and absolute disqualification from public office or employment for the same period.

Law No. 581¹⁰⁸ stipulates that when the actions of the authority, official, public employee, or private citizen acting on behalf of a body corporate are intended to secure an illicit economic advantage that undermines international trade or international investment, that shall be an aggravating factor in the crimes of active and passive bribery. In such cases, the applicable punishment is 8 to 10 years in prison and absolute disqualification from holding public office or public employment for the same period. It also states that irrespective of the individual criminal responsibility established in the crimes defined in the law in question (passive bribery, active bribery, and international bribery), any corporation or institution that obtains or attempts to obtain an economic benefit as a result of a private citizen acting on behalf of another shall be subject to one or more accessory consequences, to wit:¹⁰⁹

- The closure of the company and its premises or establishments, on a temporary (no longer than three years) or definitive basis.
- The revocation of the company or corporation’s legal existence.
- The suspension of the company or corporation’s activities, for a period of no more than 3 years.
- A ban on future activities, commercial operations, or business dealings of the kind in which the crime was committed, encouraged, or concealed, which may be either temporary (no more than 3 years) or definitive.
- An intervention of the company to safeguard workers’ or creditors’ rights for as long as necessary up to a maximum of three years.

Convention:

iii. Any act or omission in the discharge of his duties by a government official or a person who performs public functions for the purpose of illicitly obtaining benefits for himself or for a third party.

For this kind of behavior or act of corruption, Law 419¹¹⁰ imposes a punishment of between one and three years in prison and absolute disqualification for the same period on “*any authority, official, or public employee who, in pursuit of personal gain or that of others and causing serious harm to the public good, makes private use of the funds, assets, or resources belonging to the public administration, to decentralized, deconcentrated, or autonomous state bodies, agencies, entities, or corporations, to municipalities or autonomous regions made available to them in the course of their duties.*”

Similarly, Law 419 amended the article dealing with fraud and illegal charges and levies, as well as the crime of embezzlement in the current Criminal Code, adding Articles 417 and 418 on the

¹⁰⁸ Article 5 of Law 581.

¹⁰⁹ Article 6 of law 581.

¹¹⁰ Article 6 of Law 419, amending Article 406 of Chapter X, “Embezzlement of Public Funds,” of the Criminal Code currently in force.

crimes of illegal enrichment and influence peddling, respectively. These articles provide as follows:¹¹¹

- The amendment of Article 415 of the Criminal Code states that any authority, official, or public employee who, in the contracts, supply operations, public auctions, bidding processes, competitive tendering processes, and all other operations in which he is involved by reason of his position or special commission, defrauds or allows the defrauding of the public administration, bodies, offices, deconcentrated, decentralized, and autonomous agencies, or companies of the state, municipalities, or autonomous regions, shall be punished by a prison term of between four and eight years and absolute disqualification for the same period.
- Article 417, added to the Criminal Code, states that any authority, official, or public employee who obtains an increase in his net worth significantly in excess of his legitimate income during his time in that position and who cannot justify the same when requested to do so by the competent body identified in the law shall be punished by a prison term of 4 to 9 years and absolute disqualification for the same period.
- Article 418 provides that any authority, official, or public employee who, by himself, by means of another person, or by acting as an intermediary, secures the adoption by a public authority of a decision whereby he obtains for himself or for another person any benefit or advantage to the detriment of the state's assets or in violation of laws or regulations shall receive the punishment of a prison term of between five and eight years and absolute disqualification for the same period.
- The amendment of Article 435 states that the crime of embezzlement occurs when an authority, official, or public employee removes or allows another person to remove funds, valuables, or public assets for which he is responsible by reason of his position; it orders a punishment of between seven and ten years in prison and absolute disqualification for the same period. The punishment rises to between eight and twelve years in prison if the removed objects have been declared of historical or artistic value or if they were intended to assist in any public disaster.

Convention:

iv. The fraudulent use or concealment of property derived from any of the acts referred to in this article.

The current Criminal Code does not address such use; it only identifies the hiding of the means, effects, or instruments of a crime as a form of participation under the definition of “concealment.”¹¹² Regarding this, Law 419, which amended and expanded the current Criminal Code, adds a new article to the Criminal Code¹¹³ where it is defined as an independent crime, with a prison term of between one and three years for anyone who, being aware of the

¹¹¹ Article 7 of the Law amends Article 415 and adds Articles 417 and 418 to the current Criminal Code and the Article 10 of Law 419, amending Article 435 of the Criminal Code.

¹¹² Article 27, sections 1 and 2, of the current Criminal Code.

¹¹³ Article 5 of Law 419, adding Article 352 to the Criminal Code.

commission of a crime but not having participated in it as the perpetrator or co-perpetrator, does so subsequently in any of the following fashions:

- Assisting the perpetrators or co-perpetrators in benefiting from the proceeds, price, or benefit earned through the crime.
- Concealing, altering, or rendering unusable the accessories, effects, or instruments of a crime to prevent their discovery.
- Assisting those responsible for a crime to evade investigations carried out by the authorities or their agents, or to avoid location and capture.

In no instance may a prison term longer than the one indicated for the concealed crime be imposed; if the concealed crime is not punishable by imprisonment, the punishment must be replaced by that of the fine corresponding to the concealed crime, with the guilty party ordered to pay the minimum amount of the fine applicable to the principal crime. In addition, criminal responsibility does not apply to those who conceal the actions of their spouses or common-law partners, their forebears or progeny, or their siblings.

The draft Criminal Code, the details of which are currently being discussed by the National Assembly, returns to the definition of concealment as an independent crime against the administration of justice; this is because those who conceal have no ties to the antecedent crime, but are only involved after it has been committed.¹¹⁴ It also defines the crime of receiving,¹¹⁵ distinguishing it from the crime of concealment in that in the latter instance, the principal is involved, with no goal of personal gain for himself, in assisting the perpetrators or co-perpetrators in benefiting from the proceeds, price, or benefit of the crime. In the crime of receiving, the perpetrator is involved with the aim of securing personal gain, to wit: “Any person who, while not participating as perpetrator or accomplice, purchases or knowingly makes use of the fruits of the crimes of theft and larceny shall be punishable by a prison term of between one and three years and a fine of between 100 and 250 days’-equivalent.

Similarly, the draft Criminal Code identifies, as a crime of public officials, the use or concealment of the proceeds of acts of corruption, stating that it is punishable by a prison term of between two and four years and a special disqualification from public office for the same period.¹¹⁶

Convention:

- v. **Participation as a perpetrator, joint perpetrator, instigator, accomplice or accessory after the fact, or in any other manner, in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts referred to in this article.**

Law 419 introduced the following amendments to Chapter I, “On Criminal Liability,” of the

¹¹⁴ Article 431 of the draft Criminal Code.

¹¹⁵ Article 283 of the draft Criminal Code.

¹¹⁶ Article 430 of the draft Criminal Code.

current Criminal Code:¹¹⁷

- It states that perpetrators and participants are criminally liable for their crimes. Perpetrators can be direct perpetrators, intermediated perpetrators, or joint perpetrators.
- It also explains that the participants can include those who induce the action, those who are its necessary cooperators, and its accomplices. Similarly, it states that the participant has accessory liability with respect to the action of the perpetrator.¹¹⁸
- The direct perpetrators are those to carry out the crime themselves; joint perpetrators are those who carry out the crime in conjunction with the former; and intermediated perpetrators are those who carry out the crime by means of another person acting as an instrument. For offenses, only the perpetrators are criminally liable.¹¹⁹ Also considered perpetrators for the purposes of punishment are those individuals who willfully and directly encourage other(s) to commit the act, and those who willfully cooperate in such commission with actions without which it would not have taken place.¹²⁰
- In crimes of omission, those individuals who fail to do as the law orders are considered liable.¹²¹
- The law defines as “accomplices” as those who willfully provide any previous or simultaneous assistance to the commission of the action and who are not covered by Articles 23 and 24 of the Law.¹²²

(b) Briefly state the objective results that have been obtained in enforcing the above provisions, and provide the pertinent information available in your country on which those results are based, such as judicial proceedings undertaken and their outcome, referring, as far as possible, to the last five years.

The country does not have a single national information system, covering all the agents of the justice administration system, that would allow an assessment of the entire investigative and judicial process implicit in the enforcement of the proceeding provisions, from the reporting and investigation of the alleged corruption crime, the dismissal of the same on merit grounds by the Public Prosecution Service or the filing of charges before the competent courts until the issuing of a irrevocable judicial ruling on the process. Institutional records do exist that allow the management of some statistical data, but there is no specialized information system dealing with crimes of corruption, or one that provides the necessary data about them for monitoring and assessing the enforcement and effectiveness of the applicable provisions.

Based on the information regarding crimes of corruption or the behaviors described in Article VI (1) of the Inter-American Convention against Corruption furnished by the Directorate of Planning

¹¹⁷ Article 1 of Law 419, amending Articles 22, 23, 24, 25, and 26 of the Criminal Code.

¹¹⁸ Amendment of Article 22 of the Criminal Code made by Law 419.

¹¹⁹ Amendment of Article 23 of the Criminal Code.

¹²⁰ Amendment of Article 24 of the Criminal Code.

¹²¹ Amendment of Article 25 of the Criminal Code.

¹²² Amendment of Article 26 of the Criminal Code.

and Information of the Supreme Court of Justice, between 2000 and June 2006 the local criminal IN courts,¹²³ sole local IN courts, district criminal IN courts, CPP hearing courts,¹²⁴ and CPP trial courts, at the national level, heard a total of 424 cases (see Annex 6), broken down as follows:

- 62 crimes of bribery
- 167 crimes of fraud and illegal charges and levies
- 65 crimes of perverting the course of justice
- 41 crimes of misappropriation of public funds
- 68 crimes of embezzlement
- 21 crimes of bribing a jury member

These 424 crimes account for 44.70% of a total of 948 crimes by public officials and employees heard by the courts of the judicial system during that period. (see Annex 7)

No statistical data are available on the results and the current situation of the proceedings, how many have been resolved, and the decisions adopted.

The Office of the Attorney General of the Republic, in its capacity as the representative of the Nicaraguan state, is carrying out an anti-corruption program with funds from donor countries and headquartered at the Specific Criminal Prosecutor’s Office. It has been in operation since 2002-2003 and, as of the end of 2005, had registered the following corruption related crimes:

CRIMES	Previous years	End of 2005	July 7, 2006
Fraud	37	10	8
Fraud and others	11	2	–
Embezzlement	9	3	4
Bribery	1	–	–
Passive bribery	–	–	1
Illegal enrichment	–	1	–
Misappropriation of public funds	3	2	–
Perverting the course of justice	–	–	1
TOTAL	61	18	14

The 61 crimes of corruption from years prior to 2005 that were still active – in other words, that had not been resolved as of the end of the previous year – account for 47% of the total crimes during that same period. Similarly, the 18 crimes recorded in 2005 only represent 18% of the crimes entered during that year. According to the case records kept by the Criminal Prosecutor’s Office, as of July 7, a total 71 crimes had been entered to date in 2006, of which 14 (19.71%) were crimes of corruption in a strict sense. (see Annexes 8, 9, and 10)

Of the total number of corruption crimes reported by the Office of the Attorney General of the Republic at the close of 2005: 30% were before the courts, 16.45% were awaiting a decision from

¹²³ IN (the abolished Code of Criminal Instruction) refers to the inquisitorial system in the process.

¹²⁴ CPP (current Code of Criminal Procedure) refers to the public, oral system in proceedings.

the Public Prosecution Service, 6.32% were under police investigation, and 46.83% were under internal investigation by the Attorney General's Office. (see Annex 11)

We regret the lack of cooperation shown by the Public Prosecution Service – in spite of the fact that requests were made on repeated occasions – in failing to furnish statistical data on the crimes of corruption that it has dealt with, investigated with the National Police, and brought before the courts, as well as those cases that were dismissed because of inadequate criminal merit.

3.2 Application of the Convention to other acts of corruption not described therein, pursuant to the terms of Article VI (2)

a. Has your State entered into any agreements with other States Parties to apply the Convention to any act of corruption not described therein, in accordance with Article VI (2)?

NO.

III. ANALYSIS OF PROGRESS MADE WITH IMPLEMENTING THE RECOMMENDATIONS ISSUED DURING THE FIRST ROUND

In general terms, the state of Nicaragua and its various agencies have been taking steps aimed at furthering and strengthening transparent and efficient management within the public administration. These initiatives have been taking place under the aegis of the gradual implementation of the Inter-American Convention against Corruption in our country and in line with our nation's conditions of economic, political, and social development. However, it was not until late 2005 that the state of Nicaragua, through its Office of Public Ethics, drew up a Plan of Action in order to ensure a correct, gradual implementation of the specific and general Recommendations that the Follow-up Committee extended to Nicaragua during the First Round. This Plan of Action was validated by means of a process of participation and discussion among the different players involved: the state agencies affected, nongovernmental organizations active on anti-corruption issues, and other sectors of civil society.

This Plan of Action comprehensively identifies and systematizes all the specific actions set out for the pursuit of the goals set in the Inter-American Convention against Corruption; it defines the way the plan is to be executed and coordinated; and it identifies the governmental and nongovernmental players who are to be involved therein. It also identifies the resources needed and the possible sources of funding. This Plan of Action will be described in the specific analysis of the Committee's recommendations, as applicable.

The analysis of the implementation of the Recommendations will address the corresponding novelties in this area, as regards both legal provisions and other actions or situations not described in the Report that the state of Nicaragua submitted during the first round.

RECOMMENDATION No. 1

Strengthen the implementation of laws and regulatory systems concerning conflicts of interest so that they permit practical and effective application of the public ethics system.

To comply with this recommendation, the Republic of Nicaragua could give consideration to the following measures:

- (a) Ensure the applicability of sanctions to public servants who violate the norms that govern conflicts of interests, in accordance with the aims of the Civil Service Probity Law.*
- (b) Regulate certain eventualities that may encompass conflicts of interest and that due to its importance it would be convenient to treat with greater detail and specificity.*
- (c) Establish adequate restrictions for those public servants who have recently left their public positions.*
- (d) Design and implement mechanisms to publicize and provide training on the standards of conduct, including those involving conflicts of interest, to all government officials and employees, and to provide further training or periodic updating regarding them.*

Description of measures adopted and specific steps taken toward implementing the recommendation.

Other than the existing provisions¹²⁵ already described in the previous report (first round), no specific law on preventing conflicts of interest has been enacted to gather together and systematize all the existing provisions and regulate the various eventualities that could constitute conflicts of interest and that, by reason of their importance, it would be useful to deal with in greater detail and specificity. With respect to the prevention of conflicts of interest, a number of legal provisions have been incorporated into the different laws that address various careers – administrative, judicial, teaching, foreign service – to wit:

The Civil Service and Administrative Career Law requires¹²⁶ officers and employees of the Civil Service and Administrative Career to refrain from involvement in matters in which they have a personal interest, or when the parties interested therein are related to them up to fourth degree by blood or second by marriage. Similarly, the Law's Regulations¹²⁷ set, as a requirement for the entry of public employees into the civil service, the absence of relations up to the fourth degree by blood or second by marriage with the contracting or appointing authority. Thus, the Regulations stipulate¹²⁸ that members of the Civil Service Appeal Commission may not be members of national, departmental, or municipal executive committees, or any other level of committee, of political parties, or hold executive positions at any level of trade unions or other professional organizations. The same requirement is applicable to members of the National Civil Service Commission.¹²⁹

¹²⁵ Political Constitution of Nicaragua, State Contracting Law, and Civil Servants' Probity Law.

¹²⁶ Article 38, paragraph 13, of the Civil Service and Administrative Career Law.

¹²⁷ Article 4, paragraph 6, of the Regulations to the Civil Service and Administrative Career Law.

¹²⁸ Article 9 of the Regulations to the Civil Service and Administrative Career Law.

¹²⁹ Article 25, paragraph 5, of the Regulations to the Civil Service and Administrative Career Law.

The Law rules on the applicability of sanctions for failing to comply with the duties and obligations of members of the civil service and administrative career, irrespective of those set out in the Probity Law.¹³⁰ Both the Law and the Regulations establish rules for the procedure whereby those sanctions are imposed.¹³¹

Among the other provisions intended to prevent conflicts of interest, the Municipal Administrative Career Law deems a serious offense and punishes career officers or employees¹³² who perform professional services or employment, either public or private, that is incompatible with the nature of municipal public duty, or who hold two positions simultaneously in any office of the municipality; neither may they represent private interests against the interests of the municipality where they are employed in the administrative municipal career. Mayors may impose punishments of temporary unpaid suspension from duty of between one and thirty days, or dismissal, once the disciplinary case file has been opened.¹³³

The Judicial Career Law requires members of the judicial career to immediately withdraw from cases when cases of involvement or recusal arise; otherwise, disciplinary proceedings are to commence. It also provides for cases of involvement or recusal among the magistrates of the Supreme Court of Justice and establishes the corresponding disciplinary procedure.¹³⁴ The Law also identifies the incompatibilities and prohibitions applicable to all levels of positions within the judicial career.¹³⁵ Breaches of the duties, prohibitions, and incompatibilities set out in the Constitution and in law are defined as a serious disciplinary offense, provided that they are not also classified as a very serious offense.¹³⁶ Breaches of any of the prohibitions set out in the Judicial Career Law are defined as very serious disciplinary offenses, punishable by a disciplinary sanction of between three and sixth months' suspension or dismissal.¹³⁷

The Foreign Service Law requires members of the foreign service to refrain from providing services, be they remunerated or not, to individuals or bodies corporate other than the state of Nicaragua, without prior authorization of the Ministry of Foreign Affairs, when they are accredited abroad. In addition, in the state where they are accredited, they may perform no professional or commercial activities from which they benefit.¹³⁸ The illicit use of diplomatic bags, mail, and duty exemptions, or of the immunities and privileges inherent in diplomatic positions, are defined in the Law as dismissal offenses.¹³⁹

As regards outreach and training in this area, the Office of Public Ethics has been pursuing a series of training activities intended for public employees in the executive branch and dealing with corruption-related public ethics and legislation, including matters relating to conflicts of

¹³⁰ Articles 47 to 55 of the Civil Service and Administrative Career Law.

¹³¹ Articles 56 to 65 of the Civil Service and Administrative Career Law and Articles 75 to 78 of the Regulations.

¹³² Article 121, sections 10 and 18, of the Municipal Administrative Career Law.

¹³³ Article 122 of the Municipal Administrative Career Law.

¹³⁴ Articles 38 and 39 of the Judicial Career Law.

¹³⁵ Articles 42 and 43 of the Judicial Career Law.

¹³⁶ Article 66, section 2, of the Judicial Career Law.

¹³⁷ Judicial Career Law, Article 67, paragraph 7, and Article 68, section (e).

¹³⁸ Article 62, paragraph 13, of the Foreign Service Law.

¹³⁹ Article 65, section 5, of the Foreign Service Law.

interest. Between 2001 and 2006, a total of 100 training events have taken place, providing training for a total of 2,644 public employees and 85 students.¹⁴⁰ (see Annex 12)

These events are aimed at:

- Continuous improvements in the quality of public functions
- Value-based changes in attitudes and leadership
- Reflections on power relations
- The causes and effects of corruption
- Construction of best practices
- The role of internal control in public ethics and probity
- Internal control using the COSO approach
- Study of crimes and acts of corruption against the public administration

With respect to the steps to be taken, the Plan of Action establishes the following activities for implementation of the Recommendations:

1. Promotion and dissemination of the Public Officials' Probity Law.
2. Efforts toward the drafting of a Code of Ethics for public employees in general.
3. Making amendments and additions to the State Contracting Law.
4. Recognition of superior public employees.
5. Active participation in the discussion and adoption of the preliminary draft of the Criminal Code of the Republic of Nicaragua (creation of an impact team).
6. Developing a training program for public employees, including their embracing of legal and moral precepts regarding conflicts of interest.
7. Coordinating, with the country's universities, the organization of a diploma or postgraduate course on public policies and corruption prevention mechanisms.
8. Publishing a compendium of definitions and situations that could lead to conflicts of interest, with warnings for public officials to steer clear of them (critical moments and risk situations).
9. Specifying those activities that are expressly forbidden for former holders of public positions.

Possible difficulties seen in the implementation processes.

The gradual implementation of the Civil Service and Administrative Career Law, together with the incipient enforcement of the other laws that regulate the careers of other specific sectors – the judicial career, the prosecutorial career, the municipal career, the foreign service career, etc. – has not brought about an increase in the prevention and detection of breaches of the legal provisions

¹⁴⁰ Figures provided by the Office of Public Ethics.

governing conflicts of interest; neither is there a single information system to keep records on those offenses and the punishments applied. Adequate legislation imposing appropriate restrictions on those who leave public positions has not yet been enacted.

Agencies participating in the implementation, and specific technical assistance needs and other requirements related to implementation

The Office of the Comptroller General of the Republic, the Office of Public Ethics, the Ministry of the Treasury and Public Credit, through the General Public Function Directorate, the Permanent Council of the Plan of Action.¹⁴¹

RECOMMENDATION No. 2

Strengthen resource control systems within the public administration.

To comply with this recommendation, the Republic of Nicaragua could give consideration to the following measures:

- (a) Modernize or introduce a legal reform to the Organic Law of the Comptroller General in order to establish, among other things, simple procedures for application of penalties to violators of these standards of conduct and for obtaining restitution to the State for damages for which the violators may be liable.*
- (b) Make public, where appropriate, the reports of the Comptroller General of the Republic, as the oversight body of the cited standards of conduct.*
- (d) Design and implement mechanisms to publicize and provide training on the standards of conduct to all government officials and employees, and to provide further training or periodic updating regarding them.*

Description of measures adopted and specific steps taken toward implementing the recommendation.

The Government of Nicaragua has been making major efforts to structure the principal processes of the public administration in order to enhance administrative effectiveness and probity. In its systems for the oversight of the public administration, it has begun and persevered with a process of reforms and modernization that has meant major legal, institutional, and functional changes for modernizing and strengthening the structure of the public sector, thereby increasing the administrative capabilities of the Government of Nicaragua.

It has been implementing and strengthening the Integrated Financial, Administrative, and Auditing Management System (SIGFA).¹⁴² This is not just a computer system; it also implies

¹⁴¹ According to the Plan of Action for the implementation of the Committee's recommendations, the Permanent Council of the Plan of Action will be set up with equal numbers of government and civil society representatives.

processes of regulatory centralization and operational decentralization, rules, processes, and procedures, process reengineering, comprehensive training and skill-acquisition, internal oversight, technological modernization, institutional strengthening, etc.

Records of budgetary income and expenditure transactions are kept by the financial administrative directorates of the ministries and executing units which, since the 2002 budget, record their operations in the Integrated Accounting System (e-SICOIN) using identities assigned in the system. With the computer subsystems that make up SIGFA, the financial administration oversight mechanisms have been incorporated with those of purchasing and procurement, human resources, asset control, and inventories, such as the fiscal registration system (SNF). At present, according to the webpage of the Ministry of the Treasury and Public Credit,¹⁴³ fifty-one (51) state agencies and offices are connected to SIGFA by means of the government intranet; these draw up and formulate their budgets on line, which ensures a more efficient and transparent use of state resources. (see Annex 13)

As regards the integral reform of the Organic Law of the Comptrollership General of the Republic, a draft bill of this Organic Law is currently awaiting the assessment, discussion, and approval of the National Assembly.¹⁴⁴

The Office of the Comptroller General of the Republic publishes, on its webpage, the results of its oversight efforts.¹⁴⁵ That webpage contains statistical and descriptive data on the CGR's various component areas: audits conducted, liabilities detected, resolutions adopted, civil inquiries ordered and processed, state procurement oversight efforts, requests for exemptions from contracting procedures (granted, denied), statements of probity received upon assuming and leaving office, etc.

The Office of the Comptroller General of the Republic has also carried out a constant training effort, directed along two lines: an internal one, intended for the Office's own employees, and an external one, aimed at providing general training for public officials at different state agencies. Internally, between 2000 and 2005, 86 events were held, at which 2,659 CGR officers received training (employees/courses). During the same period, it organized 332 external events, training a total of 12,292 public officials. (see Annex 14). These efforts were in general intended to foster ethical patterns of behavior among public officials, and to equip them with the legal and technical tools necessary for the correct performance of their duties. (see Annex 15)

The Plan of Action establishes the following activities for implementation of Recommendation No. 2:

¹⁴² SIGFA is a set of legal, regulatory, and procedural provisions intended to establish internal oversight; it is used to manage and oversee the financial execution of the state's General Budget and of the resources under the control of the General Treasury of the Republic.

¹⁴³ <www.hacienda.gob.ni>.

¹⁴⁴ The preliminary draft text of the Law of the Office of the Comptroller General of the Republic can be found on the National Assembly's webpage <www.asamblea.gob.ni> (legislative bills).

¹⁴⁵ The webpage of the Office of the Comptroller General of the Republic is <www.cgr.gob.ni>.

1. Assisting the Office of the Comptroller General with an impact mechanism for the review and approval of the draft amendments to the Organic Law of the Comptrollership General of the Republic that the Office has already drawn up.
2. Organizing forums, seminars, and conferences relating to the draft proposal for the integral reform of the Organic Law of the Comptrollership General of the Republic, so it can be improved by public officials, university academics, professional bodies, and civil society.
3. Publishing the reports, rulings, and audits produced by the oversight agency (up-to-date and historical information) on the webpage of the Office of the Comptroller General of the Republic.
4. Creating links to that website from all the country's public institutions.
5. Designing a training program that involves all the institutions of the state and the branches of government, to cover standards of conduct for public officials; in conjunction with that, a civic campaign – using posters, fliers, billboards, radio advertising, etc. – about the rules by which a good public servant should abide.
6. Designing and implementing a special training program for awareness and enforcement of the Convention, aimed at auditors of the Comptroller's Office, prosecutors, state attorneys, judges, and magistrates.

Possible difficulties seen in the implementation processes.

One of the main problems seen in the implementation of this Recommendation is the stagnation in the process of enacting the legislation needed for the approval and publication of the Organic Law of the Comptrollership General of the Republic. The draft bill was drawn up and discussions with various interested parties were held by the Office of the Comptroller General of the Republic; it was placed before the National Assembly as a bill; but the competent parliamentary commission has not yet issued its recommendation.

Agencies participating in the implementation, and specific technical assistance needs and other requirements related to implementation

Office of Public Ethics and Office of the Comptroller General of the Republic, together with the Permanent Council of the Plan of Action.

RECOMMENDATION No. 3

Strengthen the mechanisms that Republic of Nicaragua has for requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.

To comply with this recommendation, the Republic of Nicaragua could give consideration to the following measures:

(a) Apply effectively, to those who violate this obligation, the sanctions provided in the corresponding punishment regimes.

(b) Train public officials concerning the existence and purpose of their responsibility to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.

Description of measures adopted and specific steps taken toward implementing the recommendation.

With reference to this specific recommendation, practically no progress has been made with strengthening the legal mechanisms that were already in existence and that were identified during the first round. Currently there is a provision in the Public Officials' Probity Law¹⁴⁶ that requires public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.

Similarly, the Law of the Office of the Comptroller General of the Republic¹⁴⁷ requires the officers and employees of bodies and office subject to the public resource oversight regime to assist governmental auditors and to appear as witnesses, give sworn statements, present documents, and, in general, take the steps necessary to provide auditors with evidence. It also provides that¹⁴⁸ during government audits, any individual who refuses to cooperate, either by appearing as a witness, giving a statement, or furnishing documents, may be forced to do so at the order of the competent Civil District Judge when so requested by the officer of the Comptrollership. It also stipulates the penalties and punishments applicable to those who make false statements in statements given to an officer of the Comptrollership.

The Plan of Action establishes the following activities for implementation of Recommendation No. 3:

1. Promotion and dissemination of the Public Officials' Probity Law.
2. Establishment of a national anti-corruption policy.
3. A system for receiving allegations of acts of corruption, so that government employees and citizens can report acts of corruption within public institutions.
4. Including provisions in the internal regulations of public institutions requiring all public officials and employees to report any acts of corruption of which they are aware.
5. Creation, to the extent that is possible, of Citizen Complaint Reception Offices or Units within public institutions or civil society organizations.

¹⁴⁶ Article 7 (h) of the Public Officials Probity Law.

¹⁴⁷ Article 164 of the Organic Law of the Comptrollership General of the Republic.

¹⁴⁸ Article 80 of the current Organic Law of the CGR.

6. Establishment of a mechanism to protect public employees and private citizens who report acts of corruption.
7. Establishment of a mechanism to provide professional and personal protection to public employees and private citizens who report acts of corruption.
8. At institutions responsible for receiving complaints and investigating those incidents, establish a protocol for action (procedure) for protecting and, when applicable, safeguarding the identity of those individuals who report acts of corruption.
9. Promote and publicize the legal benefits that can be awarded to public employees involved in acts of corruption who make an effective contribution – in either the reporting or investigation phase – to its resolution.

Possible difficulties seen in the implementation processes.

The lack of protective mechanisms for those public officials and private citizens who lodge reports is a factor that hinders effective compliance with this obligation, as a result of which many reports are made anonymously or through the mass media.

Agencies participating in the implementation, and specific technical assistance needs and other requirements related to implementation

The Permanent Council of the Plan of Action for implementing the recommendations. Assistance and collaboration through consultancies are needed to design the mechanisms outlined in actions Nos. 6 and 7 of the plan of action for the implementation of this specific recommendation.

RECOMMENDATION No. 4

Improve the systems for verification and use of the content of sworn financial declarations.

To comply with this recommendation, the Republic of Nicaragua could give consideration to the following measures:

- (a) Establish systems for verifying the content of the sworn declaration by the competent authority.*
- (b) Design systems that facilitate access to the information contained in the sworn declarations by those who are authorized to do so.*
- (c) Optimize the systems for analyzing the content of asset declarations for the purpose of detecting and preventing conflicts of interest as well as for detecting possible cases of illicit enrichment.*

Description of measures adopted and specific steps taken toward implementing the recommendation.

The Office of the Comptroller General of the Republic reports that in the period from 2000 to January 2006,¹⁴⁹ it received a total of 13,338 probity declarations from public officials, of which 11,670 (87.50%) were presented at the start of their mandate and only 1,668 (12.50%) when they left their positions. (see Annex 16). These statistics indicate a clear trend whereby public officials are failing to submit their probity declarations when they leave their positions, since there should be a proportional relationship between the number of public officials assuming office and the number leaving those same positions.

No information was obtained regarding how many probity declarations were checked and analyzed over 2002 to 2005; however, the annual reports for 2000 and 2001 indicate that the following numbers were checked:

- 150 probity declarations in 2000, accounting for 26.70% of the total number of declarations received that year.
- 567 probity declarations in 2001, accounting for only 16.80% of the total number of declarations received that year.

Although the public officials identified in the Probity Law¹⁵⁰ have been meeting the commitment of submitting statements of net worth or probity declarations more at the start of their terms in office than at the end of their mandates, the oversight efforts carried out by the Office of the Comptroller General of the Republic with respect to checking their content and using the results as a mechanism to prevent illegal enrichment and the commission of other crimes by public officials has been insignificant. There are no systems for the timely verification of those filings.

The Plan of Action establishes the following activities for implementation of Recommendation No 4:

1. Providing the verification unit of the Office of the Comptroller General with human and material resources.
2. Setting up a website to enable citizens to oversee probity declarations and general anti-corruption information.
3. Conducting a crossreferenced analysis of the statements of net worth submitted by public officials, with particular emphasis on the assets held in corporations in order to check whether they are registered as state suppliers and to note the service they provide in “related areas.”
4. Carefully checking how declared income corresponds to the increase in net worth registered when leaving public office.
5. Retaining a percentage of their monthly salary or imposing a fine on those officials who have not presented their probity statements.

¹⁴⁹ Information contained in the CGR’s Annual Reports to the National Assembly (2000 to 2005), and January 2006 information from probity declarations on the CGR’s webpage.

¹⁵⁰ Article No. 20, sections 1 to 28, of the Civil Servants’ Probity Law.

Possible difficulties seen in the implementation processes.

The shortage of human and material resources in the Comptroller's Office, together the absence of systems to check and analyze public officials' probity declarations, preventing the completion of this important task in preventing and detecting cases of illegal enrichment and conflicts of interest. The objective verification of statements of net worth has not been a priority within the modernization of the Comptroller's Office.

Another problem is the absence of forms of coercion or punishment that would effectively guarantee that public officials produce and submit statements of net worth when they leave office.

Agencies participating in the implementation, and specific technical assistance needs and other requirements related to implementation

The Office of the Comptroller General of the Republic, the Office of Public Ethics, the Permanent Council of the Plan of Action for implementing the recommendations, and the governing authorities of the different state institutions.

RECOMMENDATION No. 5

Strengthen the Comptroller General's Office, as the oversight body that undertakes the functions related to the effective compliance with paragraphs (1), (2), (4) and (11) of Article III of the Convention.

To comply with this recommendation, the Republic of Nicaragua could give consideration to the following measures:

- (a) Strengthen the Office of the Comptroller General, giving the office the necessary legal instruments and resources needed for compliance with the new responsibilities that have been assigned to it, in relation with the oversight provisions of the Convention.*
- (b) Guarantee the autonomy and independence of the internal audit units, and strengthen fulfillment of their responsibilities in the detection and prevention of illegal administrative activities.*
- (c) Make sure that the Comptroller General of the Republic has greater political and social support; and establishing mechanisms that will allow coordination and continued evaluation and monitoring of its actions.*

Description of measures adopted and specific steps taken toward implementing the recommendation.

The draft bill of the Organic Law of the Office of the Comptroller General of the Republic, currently undergoing analysis by a parliamentary commission, contains legal provisions that

would enable it to fully assume the new powers and functions that the Office has received under various pieces of legislation as a part of the fight against corruption.

The CGR is currently carrying out a number of projects, namely:

CGR Modernization Program, funded by the Inter-American Development Bank for a period of four years, commencing in 2003. The following activities have been carried out under the aegis of this project.¹⁵¹

- Consultancy for the design of a new organizational and managerial structure for the CGR.
- Design of the organizational structure and procedural manuals.
- Drawing up terms of reference for contracting: (a) equipment for and installation of a new LAN, and (b) equipment for the computing center and the development and applications platform.
- Updating and publishing Technical Standards for Internal Control.
- Introduction of the new Technical Standards for Internal Control.¹⁵²
- Updating the Government Auditing Manual.
- Construction of storage facilities for central archives.
- Updating the Internal Auditing Guide.
- Drafting the Organization and Functions Manual, the Procedures Manual, and performance indicators.
- Design and development of a human resource management system.
- Purchase of 100 laptop computers.
- Purchase of 82 PC-type computers to modernize the installed hardware base.
- Purchase of a bus for transporting personnel.
- Consultations on strategic training planning and drafting of specialized programs.

Improvement Program for the Legal Duties of the CGR's General Legal Directorate

This program, which began in January 2002, involves two projects: (a) one intended to ensure that the information available is adequate, updated, and ordered, and (b) one intended to ensure rapid, appropriate procedures.

The main activities carried out include:

- Preparation and conduction of the pilot test to assess the performance of the General Legal Directorate and to review the work plans of each specific division.
- Adaptation of the evaluation manual to the Civil Service and Administrative Career Law.
- Practical training for individuals involved in the evaluation process.
- Production and delivery of the automated procedure systems (inquiry monitoring and oversight system, and administrative liability oversight system).
- Automation of review procedures.

¹⁵¹ Annual reports from the Office of the Comptroller General of the Republic to the National Assembly (2003, 2004, and 2005).

¹⁵² Between March and September 2005, 41 training events were held on this topic; each was attended by 50 people, giving a total of 920 public officials who benefited.

- Caution system for public officials, which is being implemented and is expected to attain its goal during 2006.
- Creation of the Institutional Juridical Committee and production of its Functions Manual.
- Technical assistance for reviewing procedures for citizens' complaints.
- Standardization of the planning system throughout the CGR.

Parallel to this, the draft bill for the CGR Organic Law reasserts the autonomy and independence of the Internal Auditing Units in order to guarantee they operate effectively; in practice, however, financial resources are needed to strengthen the existing auditing units and to create them in those departments and agencies of the public administration where they do not yet exist, such as within municipal governments. At the start of 2003,¹⁵³ according to the Office of the Comptroller General of the Republic, there were 68 internal auditing structures within various institutions, of which seven were mayors' offices, compared to the total of 150 municipal governments that exist in the country. On this same issue, the General Public Function Directorate of the Ministry of the Treasury and Public Credit says it only has information on auditors' positions paid for by means of the fiscal registration system, which total 232 auditors stationed in 16 state institutions and offices. (see Annex 17)

The Plan of Action establishes the following activities for implementation of Recommendation No. 5:

1. Strengthening the verification unit of the Office of the Comptroller General.
2. Providing the internal auditors of the various state institutions with greater autonomy.
3. Establishing a system of public competitions for positions as internal auditors in public institutions, at the same time guaranteeing stability in those positions.
4. Introducing amendments to the Organic Law of the Comptrollership General of the Republic.
5. Strengthening legal provisions so that the Office of the Comptroller General of the Republic can conduct audits in nongovernmental institutions that use public funds.
6. Implementing a permanent training program for those officials responsible for investigating acts of corruption; this program would involve fellowships and work placements in other Convention countries (acquisition of good practices).
7. Promoting and encouraging the adoption of mechanisms for harmonious communications between the Office of the Comptroller General of the Republic, the Office of the Attorney General of the Republic, the Public Prosecution Service, and the Office of Public Ethics.
8. Establishing an interinstitutional protocol for the prompt handling, investigation, and processing of cases involving indications of civil and criminal liability.

¹⁵³ Information furnished by the Training Director of the Office of the Comptroller General of the Republic in 2003.

Possible difficulties seen in the implementation processes.

A more thorough interactive process is needed among the various agencies jointly involved in anti-corruption efforts – basically, the Office of the Comptroller General, the Office of Public Ethics, the Public Prosecution Service, and the Office of the Attorney General of the Republic.

Agencies participating in the implementation, and specific technical assistance needs and other requirements related to implementation

Office of the Comptroller General of the Republic, Office of Public Ethics, and Permanent Council of the Plan of Action.

RECOMMENDATION No. 6

Institute legal norms supporting public access to government information.

To comply with this recommendation, the Republic of Nicaragua could give consideration to the following measures:

- (a) Develop and issue regulations on procedures for acceptance of requests for information, for response to requests in a timely fashion, for appeal procedures in the case of denials, and for penalties concerning failure to comply with obligations to provide information.*

Description of measures adopted and specific steps taken toward implementing the recommendation.

Although the right of access to public information is enshrined in the Constitution of Nicaragua,¹⁵⁴ only slow progress has been made with the recommendation of enacting legal provisions to support citizens' access to public information: the Access to Public Information Bill has been with the Justice Commission of the National Assembly for several years. This draft legislation is intended to guarantee and regulate the right of Nicaraguan citizens to the public information found in the documents, archives, and databases of state institutions, jointly-owned corporations, those that receive state subsidies, and private entities that administer or manage public resources, and it establishes the necessary procedures for that purpose.

The Office of Public Ethics is a member of a group sponsoring the Public Information Access Law, which also involves various state agencies and civil society organizations. This group has been conducting a process of consultations, studies, and analyses of this draft legislation, culminating with a forum with various public officials, members of civil society, and donor organizations; intended to improve the content of the bill, the fruits of the forum's work were handed over to the National Assembly.

¹⁵⁴ Articles 52 and 131, first paragraph, of the Constitution.

Although this draft legislation has not yet been passed, the government of Nicaragua is developing what it has called the “Voluntary Information Access Strategy” (EVA) as a voluntary effort intended to make a large amount of public information available to the citizenry.¹⁵⁵

This strategy is a governmental initiative entailing actions aimed at promoting transparent management within state institutions and, at the same time, channeling the efforts of organized civil society sectors that are committed to transparency. This voluntary information access initiative is currently in its first phase, as a pilot project, at six state institutions, namely: the Ministry of the Treasury and Public Credit, the Ministry of Health, the National Statistics and Census Institute (INEC), the Rural Development Institute (IDR), the General Revenue Directorate (DGI), and the Emergency Social Investment Fund. These agencies were selected on account of their leadership, capacity, the importance of their information, and their target groups. The aims of the strategy include:

1. Demonstrating President Enrique Bolaños’s commitment to transparent and accountability governance.
2. Contributing to social auditing, thereby promoting economic development and anti-poverty efforts and fostering a transparent state with a public service mentality.
3. Enhancing citizen participation and expanding the practical exercise of citizens’ basic rights.
4. Building a platform for the Information Access Law, specifically as regards its implementation costs.
5. Embarking on the transformation of a culture of silence into one of greater openness.

At the same time, the Plan of Action for the implementation of the recommendations contains the following activities with specific reference to meeting Recommendation No. 6:

1. Publicizing and promoting the draft bill for the Information Access Law.
2. Creation of a group to promote the Information Access Law, led by the Office of Public Ethics and comprising civil society organizations and state agencies, to work for its passage through effective and timely lobbying.
3. Conducting a study into public institutions’ capacity for response to requests for information presented in a given period (one or two months); disseminating the results; proposing the steps that should be taken.
4. Creating, encouraging, and promoting university lectures on access to information; they should be directed at all university students and the general public, and could be held every quarter.
5. Once the Information Access Law is passed, a manual should be prepared setting out the steps to follow to obtain public information and describing how to proceed if the requested information is not forthcoming.

¹⁵⁵ See information on the web at <www.hacienda.gob.ni> (EVA)

6. Designing a training program for journalists and social communicators on the role of the media in investigating and preventing corruption.
7. Holding an annual contest for corruption-related journalism, and encouraging other initiatives in that direction.
8. Influencing the Regulations of the Public Information Access law.

Possible difficulties seen in the implementation processes

State institutions lack appropriate information systems, documentation centers, structures, and procedures, preventing them from providing a satisfactory response to civil society's requests for information. In addition, many public officials still abide by the idea of the rigorous and closed management of state information.

Agencies participating in the implementation, and specific technical assistance needs and other requirements related to implementation

Office of Public Ethics, Permanent Council of the Plan of Action, and all state institutions.

RECOMMENDATIONS Nos. 7, 8, and 9 (the three recommendations will be addressed simultaneously)

Institute procedures, where appropriate, that provide an opportunity for consultation prior to the design of public policies and to the approval of legal norms. (RECOMMENDATION 7)

To comply with this recommendation, the Republic of Nicaragua could give consideration to the following measures:

- (a) Publish and disseminate the drafts of legal norms, and develop transparent processes in order to allow the consultation of interested sectors in relation to the drafting of laws, decrees and resolutions within the executive branch.*
- (b) Develop suitable mechanisms to allow for public consultation in areas other than those already considered.*

Strengthen and further implement mechanisms that encourage civil society and nongovernmental organizations to participate in public administration. (RECOMMENDATION 8)

To comply with this recommendation, the Republic of Nicaragua could give consideration to :

- (a) Establish mechanisms to encourage civil society and nongovernmental organizations to participate in efforts to prevent corruption and to develop public awareness of the problem; and promote awareness of the mechanisms established for participation and explaining their use.*

Strengthen and further implement mechanisms that encourage civil society and nongovernmental organizations to participate in monitoring public administration. (RECOMMENDATION 9)

To comply with this recommendation, the Republic of Nicaragua could give consideration to the following measures:

- (a) Promote additional ways, where appropriate, to allow, facilitate, and assist civil society and nongovernmental organizations in developing activities to monitor public administration.*
- (b) Design and carry out programs to publicize mechanisms for participation in monitoring public administration; and, where appropriate, train and enable civil society and nongovernmental organizations to have the necessary tools to use the said mechanisms.*

Description of measures adopted and specific steps taken toward implementing the recommendation.

Law No. 475, the Citizen Participation Law,¹⁵⁶ plays a key role in complying with Articles 7 and 50 of the Constitution, which state that Nicaragua is a democratic, participatory, and representative republic and set out the right of citizens to participate, on an equal footing, in public affairs and the running of the state. This law is intended to promote the full exercise of citizenship in the political, social, economic, and cultural spheres, through the creation and operation of institutional mechanisms that allow fluent interaction between the Nicaraguan state and society.¹⁵⁷

The law identifies the instruments of citizen participation,¹⁵⁸ which are:

- Citizen initiatives in general for provisions at the national, autonomous region, and local levels.
- Citizen consultations for provisions undergoing analysis, at the national, autonomous region, departmental, and local levels.
- Consultation forums for the design, monitoring, and evaluation of public policies at the national, autonomous region, departmental, and local levels.
- Residents' associations, and professional, sectoral, social, women's, and youth organizations at the local level.
- Citizen consultations at the local level.
- Open municipal councils.
- Municipal and Departmental Development Committees.
- Citizen petitions and complaints.

In addition, the branches of government and various government agencies have set up webpages for the general public, enabling any citizen to establish electronic communications with the

¹⁵⁶ Passed in October 2003 and published the following December.

¹⁵⁷ Article 1 of the Citizen Participation Law.

¹⁵⁸ Articles 2 and 3 of the Citizen Participation Law.

institution in question. Through its webpage,¹⁵⁹ the National Assembly publishes rulings and draft legislation, but there are no mechanisms for direct participation therein by the general population.

Under the aegis of the Citizen Participation Law, the nongovernmental organization FUNDEMOS has, in several of the country's municipalities, been carrying out projects geared toward the participatory preparation of municipal budgets and toward the construction (when they do not yet exist) and the strengthening (when they do) of Municipal Development Committees, helping to promote social auditing and citizen participation in municipal administration.

In addition to the Citizen Participation Law, which regulates all issues relating to this topic, the government of Nicaragua has been developing its "National Development Plan" to assist with the development of a public administration guided by social consensus and supported by citizen participation, that applies transparent and accountable mechanisms to public resources and endeavors.

This Plan or system is structured as follows:

- Three territorial levels: municipal, regional or departmental, and national.

- Three axis of democratic governance, namely: political/administrative; technical/executive in public administration; and participation and consensus-building in the strictest sense.

The political/administrative axis refers to the institutionality necessary for the system to function, guaranteeing that the state has an adequate capacity for dialogue and decision-making at each territorial level.

The technical/executive axis of the public administration is intended to guarantee the integration of actions taken by different institutions and agencies in pursuit of the tasks for which they were set up in a comprehensive, coherent, and effective fashion, thereby bringing together and combining the public supply of goods and services both effectively and efficiently. It requires the

¹⁵⁹ <www.asamblea.gob.ni>.

coordination and structuring of actions and duties within the cabinet and the government's national, departmental, and regional subsidiary cabinets.

Participation and consensus-building axis, comprising the forums for participation and consensus-building that make up the public-private dialogue system as such.

At the municipal level, the agency of the system is the Municipal Development Committee (CDM) . At the autonomous region level, as with municipalities, regional planning commissions have been set up with the aim of supporting the endeavors of regional governments and councils and their corresponding secretariats. At the departmental level, Departmental Development Councils have been set up.

The sectoral subsystem covers national dialogue commissions and councils within different agencies of the executive branch. (see Annex 18) The Social Economic Planning Council (CONPES) is the national agency that brings together the sectoral subsystem. Chaired by the President of the Republic, its members are:

- Delegates from the organizations of each of the labor, business, cooperative, and community sectors represented at the national level.
- Delegates from organizations and social networks from each of the following social sectors: women, indigenous people, young people, universities, and the media.
- Delegates from each of the fifteen Departmental Development Councils provided for in the Citizen Participation Law.
- Delegates from each of the Regional Economic and Social Planning Councils (CORPES), the one for the South Atlantic Autonomous Region and the one for the North Atlantic Autonomous Region, as provided for in the Citizen Participation Law.
- Delegates from each of the national sectoral councils provided for in the Citizen Participation Law.
- The ministers responsible for the sectoral cabinets: production, infrastructure, social affairs, governance, and economics.
- Other members deemed important by the President of the Republic.

The main duties of the CONPES include: following up on the National Development Plan, answering consultations from the President of the Republic regarding specific issues of national or territorial interest, organizing the National Participation System to support decision-making on issues of national, regional, and local interest, and, to answer consultations on policies, strategies,

laws, and other issues formulated by the branches of government, sponsoring citizen audits in the country's municipalities, departments, and regions.

In addition, advising the President of the Republic on the formulation, monitoring, and evaluation of economic and social policies, plans, and programs, and preparing recommendations on preliminary drafts of economic, social, or national-interest policies and laws as requested by President of the Republic or the coordinating ministers of the sectoral cabinets or on its own initiative; guaranteeing civil society participation within the National Public Policy Follow-up System; those set by the Citizen Participation Law.

In addition, in late 1999 the Citizen Complaints Office was created within the Office of the Comptroller General with the aim of providing citizens with a space for reporting inappropriate actions on the part of public officials, creating a direct channel between the agency and the civilian population. The office records cases of complaints, together with those that are admitted. However, they are not categorized by the type of crime, and so it is not possible to give figures on the corruption crimes reported. Nevertheless, it is interesting to note that citizens used the office to lodge a total of 587 complaints between 2000 and 2005, which gives an average of 97.83 filings a year. Of this total, 512 cases, equal to 87% of those filed, were admitted. (see Annex 19)

At the same time, in January of this year, and as a part of its efforts to bolster the fight against corruption, the Office of the Attorney General of the Republic opened its Citizen Complaint Office, creating a space for citizens and public officials alike to lodge complaints. Between January and June 2006, 47 citizen complaints were received.¹⁶⁰ As a part of its actions to publicize its existence among the general public, this office has drawn up an education and outreach plan aimed at student sectors and general population groups at the national level, intended to inform about the role of the Office of the Attorney General of the Republic as the legal representative of the state of Nicaragua, and about its specific areas and duties. The aim of this is to help this new forum that has been opened for the citizenry to become an important factor in civil society participation in the fight against corruption and in the defense of Nicaragua's national interests.

The Public Prosecution Service, as a part of the new criminal proceedings regulated by Law No. 406, has set up Fiscal Attention Centers (CAFs) in order to respond, as a first filter, to proceedings admitted using that new procedural model. At present those centers are located at stations of the National Police and, through them, new ties with the population have been forged.

The Plan of Action for implementation of the recommendations establishes the following activities:

To meet Recommendation No. 7:

¹⁶⁰ Figures provided by the Office of the Attorney General of the Republic.

1. Promoting consultation processes about public policies through the agencies described in the Citizen Participation Law, civil society associations, and the opening of forums for discussion within universities.
2. Assisting the National Assembly with greater promotion of the legislative agenda and the draft bills presented to the various commissions for analysis.
3. Training nongovernmental and civil society organizations about the legislative drafting process and about mechanisms for influencing parliamentary work.
4. Creating a database of civil society organizations so that – through the virtual creation of interest groups – they are informed about various legislative bills and can thus participate and lobby in the process.
5. Developing appropriate mechanisms so the business sector can keep informed about and participate actively in all activities, policies, and provisions intended to prevent and punish acts of corruption.
6. Taking steps to build awareness about corporate social responsibility in anti-corruption efforts.

To meet Recommendation No. 8:

1. Program to promote a civic anti-corruption culture; fostering a culture of values in the public education system and in the private sector, with the active involvement of the Office of Public Ethics and civil society organizations, so that all citizens are capable of performing social audits.
2. Training, in coordination with civil society organizations, on the topic of social auditing.
3. Involving professional associations and business groups in all prevention, information, and training activities.

To meet Recommendation No. 9:

1. Encouraging organizations to create and implement a system to monitor the public administration.
2. Designing a set of indicators that civil society can use both locally and nationally.
3. Designing a training program for the constant oversight and monitoring of the administration of the state, at all levels, by nongovernmental and civil society organizations.
4. Encouraging the development of local and national networks for monitoring the public administration.

Possible difficulties seen in the implementation processes.

Full citizen participation is hampered by the political polarization that currently characterizes our society and by the tendency toward entering into pacts among certain socially and politically important sectors in order to secure given areas of power. Achieving full citizen participation requires a united effort on the part of all sectors involved, branches of government (executive, legislature, and judiciary), and regional and municipal governments.

Agencies participating in the implementation, and specific technical assistance needs and other requirements related to implementation

Branches of government, state institutions, Office of Public Ethics, Permanent Council of the Plan of Action, and civil society organizations.

RECOMMENDATION No. 10

Determine and prioritize specific areas in which the Republic of Nicaragua feels it needs technical cooperation from other States Parties in order to strengthen its ability to prevent, detect, investigate, and punish corrupt acts.

In addition, the Republic of Nicaragua should determine and prioritize the requests for reciprocal assistance to investigate or adjudicate cases of corruption.

Description of measures adopted and specific steps taken toward implementing the recommendation.

The Office of the Attorney General of the Republic is the central authority for International treaties and conventions governing mutual legal and juridical assistance in criminal matters. Those instruments operate with respect to all crimes defined in our country. With regard to crimes of corruption, one of the offenses that has required the highest levels of activity from Nicaragua has been the crime of money laundering, in some of which officials of the previous government have been involved, such as in the cases involving Panama and the United States.

To date in 2006, the state of Nicaragua on one occasion failed to comply with the Inter-American Convention on Mutual Assistance in Criminal Matters, in respect of the petition lodged with the Nicaraguan judicial authorities by the competent authorities of the Republic of Panama requesting notification of the date of preliminary hearing of former President Arnoldo Alemán and other individuals involved in the criminal proceedings underway in that city for the crime of money laundering. In connection with this, and in spite of the multiple requests made by the Panamanian authorities through the Attorney General of the Republic in his capacity as the central authority for treaties and conventions on mutual legal assistance in criminal matters, the Supreme Court of Justice failed to process the corresponding notice and issued no ruling, either positive or negative, on the request.

The Plan of Action for the implementation of the recommendations identifies the following steps with respect to recommendation No. 10; one action it proposes is technical assistance for the Ministry of Education Culture and Sport in implementing the program for bringing about a civic anti-corruption culture.

Also important is the implementation of exchanges of experiences and information among:

- Officials of the justice administration system in cases involving corruption crimes with other countries in the area, such as Panama and Costa Rica, including criminal prosecutors, prosecutors specializing in corruption offenses, investigating and trial magistrates, police investigators, and financial analysts.
- The central authorities of the Inter-American Convention Against Corruption and officials from within those structures.

RECOMMENDATION No. 11

Continue the efforts of technical cooperation exchange with other State Parties on the effective ways and methods to prevent, detect, investigate and sanction acts of corruption, taking advantage of the experience the Republic of Nicaragua has had in this field.

Description of measures adopted and specific steps taken toward implementing the recommendation.

In connection with this, the Rule of Law Program has recently conducted a training seminar on money laundering crimes, based on Panama's experience in preventing, detecting, and investigating offenses of that nature; it served to transmit and analyze the experience of Panama's First Anti-Corruption Prosecution Office. It was attended by some 50 participants, including criminal prosecutors, economic investigation police officers, staff of the Banking Superintendency, members of the National Ant-Drug Commission, advisors to the Justice Commission of the National Assembly, and representatives of civil society.

The Plan of Action establishes the following activities for implementation of the Recommendations:

1. Signing cooperation agreements with local universities, the judicial branch, and the Public Prosecution Service for carrying out training courses and postgraduate programs aimed at increasing awareness and absorption of the CICC and of the international treaties governing legal assistance and mutual cooperation.
2. Promoting the exchange of experiences and mutual training, among the states parties, particularly with those that have developed good practices in this area, such as Argentina, Bolivia, Brazil, Colombia, Costa Rica, El Salvador, Guatemala, Mexico, and the Dominican Republic.

Possible difficulties seen in the implementation processes.

The absence of a central body to coordinate the implementation – at all the agencies involved, whether they belong to the executive or judicial branches or to other autonomous institutions – of

the conventions signed and of the exchanges of experiences and mutual training agreed up could well keep those efforts from reaching all the sectors involved.

Agencies participating in the implementation, and specific technical assistance needs and other requirements related to implementation

Office of Public Ethics, Office of the Attorney General of the Republic, Permanent Council of the Plan of Action.

RECOMMENDATION No. 12

Design and implement an integral program for dissemination and training directed specifically to competent authorities (in particular to, judges, magistrates, state attorneys and other authorities with judicial investigative functions), in order to ensure that they are knowledgeable of the provisions on mutual legal assistance in the Inter-American Convention against Corruption and in other related treaties signed by Nicaragua, and may apply them to concrete cases.

Description of measures adopted and specific steps taken toward implementing the recommendation.

No comprehensive program of the kind described in the recommendation exists; what there have been are independent training initiatives within each sector. For judges and magistrates of the judiciary, there are training programs organized, led, and carried out by the Judicial School of the Supreme Court of Justice; these are not, however, directed at disseminating the mutual legal assistance provisions contained in either the Inter-American Convention against Corruption or in other relevant treaties signed by Nicaragua.

One of the activities in the Plan of Action for the implementation of the recommendations is active participation in all international efforts to prevent, prosecute, and punish corruption: forums, congresses, summits, and specific treaties dealing with the topic.

Possible difficulties seen in the implementation processes.

The absence of a central agency to coordinate a program of this type that involves different bodies from three branches of government; the scope of the Office of Public Ethics is restricted to agencies of the executive branch.

Agencies participating in the implementation, and specific technical assistance needs and other requirements related to implementation

Office of Public Ethics, Judicial School of the Supreme Court of Justice, Public Prosecution Service, Office of the Attorney General of the Republic, National Police.

RECOMMENDATION No. 13

Notify the OAS General Secretariat of the designation of the central authority, pursuant to the prescribed formalities.

Description of measures adopted and specific steps taken toward implementing the recommendation.

The central authority for the Inter-American Convention against Corruption is the Office of Public Ethics.

Possible difficulties seen in the implementation processes.

None.

RECOMMENDATION No. 14

Give that central authority sufficient resources to properly perform its duties.

Description of measures adopted and specific steps taken toward implementing the recommendation.

Inadequate progress has been made with complying with this recommendation. This is because the Office of Public Ethics is working under a budgetary ceiling that fails to cover its real needs but instead depends on the availability of resources from the Nicaraguan state.

The preliminary draft Plan of Action for the implementation of the recommendations covers the promotion of the following activities:

1. Working so that the Presidency's Office of Public Ethics is transformed into a state agency charged with leading the fight against corruption, informing the OAS General Secretariat of that.
2. Improving the budget allocated to the Office of Public Ethics.
3. Setting up the Permanent Council of the Plan of Action, which will coordinate all actions under the plan and will channel international support and assistance for its implementation.
4. Ensuring that the General Budget of the Republic includes the counterpart funds necessary for enforcing the plan of action.
5. Participating in the drafting of policy proposals on preventing and combating corruption at the Central American, hemispheric, and subregional levels; devising mechanisms for consensus-building and technical cooperation among the countries involved; and designing proposals for following up on the joint decisions and channeling them through the competent entities.
6. Promoting exchanges of experiences and mutual training.

Agencies participating in the implementation, and specific technical assistance needs and other requirements related to implementation

Office of Public Ethics, Ministry of the Treasury and Public Credit.

GENERAL RECOMMENDATIONS

RECOMMENDATION No. 15

Design and implement training programs for public servants who are responsible for implementing the systems, norms, measures and mechanisms considered in this report, in order to ensure that they are adequately known, managed and applied.

Description of measures adopted and specific steps taken toward implementing the recommendation.

A comprehensive training program directed at all public officials has been neither designed nor implemented; however, each lead institution has designed and carried out training plans for its own public officials. Thus, the CGR has been implementing annual training programs intended to strengthen the enforcement of the systems and rules applicable to its sphere, and the same is also true of the Office of Public Ethics, which has signed a partnership agreement with the PROBIDAD organization to provide training on transparency and corruption issues for executive-branch officials. In this same regard, the Office of Public Ethics – in conjunction with the Office of the Attorney General of the Republic, the Ministry of Education, and several of the country’s universities – has designed a campaign that, under the slogan “Zero Tolerance for Corruption,” aims to raise public awareness about the fight against corruption; this campaign will shortly be fully underway.

The Plan of Action for implementation of the Recommendations establishes the following specific activities:

1. Determining training needs by means of a study to reveal the strengths, weaknesses, opportunities, and threats facing the institutions’ human resources, in order to put into effect a national transparency and anti-corruption policy.
2. Establishing a national training program for public employees, teaching them awareness of, respect for, and mastery of the rules and procedures that guarantee the transparent management of public resources.
3. At the end of the training program a research effort could be conducted to investigate service quality and the economic cost of corruption, and to detect what weaknesses exist in the public administration (public administration white paper).
4. The training program will be overseen by a monitoring program, using a set of indicators selected for the purpose.

Possible difficulties seen in the implementation processes.

Failure to secure the funding necessary to conduct the situational analysis of the human resources (strengths, weaknesses, opportunities, threats) and to implement the national training program.

Agencies participating in the implementation, and specific technical assistance needs and other requirements related to implementation

The Office of Public Ethics, the Permanent Council of the Plan of Action, the Office of the Comptroller General of the Republic, and the National Administrative Career Council.

RECOMMENDATION No. 16

Select, develop and report to the Technical Secretariat of the Committee procedures and indicators, where appropriate, that allow for verifying follow-up of the recommendations established in this report.

Description of measures adopted and specific steps taken toward implementing the recommendation.

The drafting and validation of the Plan of Action for the implementation of the recommendations issued by the Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention Against Corruption has been completed. This plan sets out steps to be taken for implementing each of the specific recommendations issued; it also provides for the establishment of a Permanent Council of the Plan of Action, timetables for the measures to be implemented, and performance indicators.

Prior to the validation of this Plan of Action, the Office of Public Ethics sponsored and organized a meeting with representatives of civil society and universities in order to publicize the recommendations that the Committee of Experts extended to Nicaragua.

The Plan of Action establishes the following activities for its implementation:

1. Selecting and developing procedures and indicators to verify implementation of the recommendations set by the Committee and to report back thereon to the corresponding agencies of the OAS.
2. Creating a *Follow-up and Monitoring Unit* for the entire plan of action.
3. Determining and ensuring that the execution of this Plan of Action is an inclusive and participatory process involving all the institutions and organizations involved and all the citizens of Nicaragua.
4. Establishing a suitable mechanism for carrying out the Plan of Action, identifying priority areas and grouping together recommendations and activities in accordance with the executing units created for the purpose.

Possible difficulties seen in the implementation processes.

The Office of Public Ethics should adapt its structure and staff to ensure effective control over the timely and correct execution of the Plan of Action for the implementation of the Recommendations of the Committee of Experts.

Agencies participating in the implementation, and specific technical assistance needs and other requirements related to implementation

Office of Public Ethics and Permanent Council of the Plan of Action.

IV. CONCLUSIONS AND RECOMMENDATIONS

4.1. Conclusions and recommendations regarding the implementation of the provisions selected for the second round

Conclusions

1. Nicaragua has kept to a clear path of adapting its legal and regulatory framework to positively impact on the transparency and effectiveness of the administration, as a part of the government policy of preventing and combating the manifestations of state corruption that were highly frequent under the previous government.
2. The levels of party politicization that still prevail in various agencies of the three branches of government and that have an impact on their priorities have further hindered the implementation of the existing provisions, particularly when procedures or mechanisms are needed for their implementation and oversight, or when they are not implemented in an equal fashion in all institutions.
3. The levels of influence the major political parties enjoy within the branches of government and their agencies, and most particularly in the judiciary, have led to situations in which, in spite of the overwhelming evidence pointing to their participation in illegal activities, the accused have been acquitted thanks to political negotiations.
4. The powers of the executive branch were curtailed as a result of the enactment of various laws that reduced its functions,¹⁶¹ with the remaining branches of government lining up against the executive, which created an institutional crisis within our country. The Framework Law helped overcome this crisis between the executive and the legislature. The struggle for control of political power that has arisen among the branches of government and the use of pressure mechanisms in that contest has served to slow down the process of adopting new provisions to fight corruption; thus, there are no systems to protect whistleblowers, the draft bill for the Public Information Access Law has not been adopted, etc.

¹⁶¹ Law Amending the Constitution of the Republic of Nicaragua, Law of the Public Service Superintendency, Law Creating the Reformed Urban and Rural Property Institute, and the Social Security Law.

5. Progress has been made in establishing systems for hiring public officials and employees through the various laws that structure the corresponding careers in accordance with the specialty. Work is still underway on their introduction and accreditation, even though there are some technical and managerial weaknesses in within the human resource offices of the institutions, financial constraints for defining and following a payment policy based on fairness and balance, and resistance toward changing to a new administrative culture.
6. The systems for state procurement of goods and services suffer from various weaknesses in their application, and there are also weaknesses in the contracts that derive from those procurement processes. Additionally, the General Procurement Directorate of the Ministry of the Treasury and Public Credit has faced problems because of constraints in its budget and in its physical premises.

Recommendations

1. Technical strengthening of the human resource offices, providing them with equipment and training.
2. Implementation of a single information system for the civil service and the administrative career.
3. Strengthening the oversight of bidding and procurement processes, to which end efforts should be made toward developing the Electronic Procurement System, implementing the Public Procurement Monitoring and Evaluation System, and simplifying the operations of the Institutional Purchasing Units through the implementation of quality in process management.
4. Work on preparing the draft bill for the National Assembly Administrative Contracting Law and on submitting it to the National Assembly.
5. Work on drawing up a Civil Service Code of Ethics and submitting it to the National Assembly.
6. Create an interinstitutional team comprising the Office of the Comptroller General of the Republic, the Office of the Attorney General, and the Public Prosecution Service, in order to propose the establishment of basic measures to protect individuals who, in good faith, report acts of corruption.
7. Create civic pressure groups so that the National Assembly adopts and enacts the draft Criminal Code and the Law on Public Access Information.

4.2 Conclusions and recommendations regarding progress made with implementing the recommendations issued in the first round report

Conclusions

The institutional crisis situation that our country underwent, the struggle between the branches of government, and the absence of a national forum with legal competence in all agencies of the three branches of government for implementing and overseeing the provisions of the Inter-American Convention against Corruption explain why it was not until 2005 that a plan of action for the comprehensive implementation of the Committee of Experts' recommendations was drawn up. The Government of Nicaragua has shown its willingness to meet it by promoting and pursuing various initiatives, such as the Voluntary Information Access Strategy, the National Development Plan, etc.

Recommendations

1. Involve all sectors of the state and society in the execution of the Plan of Action for the implementation of the recommendations that the Committee of Experts served on Nicaragua.
2. Conduct regular assessments of the implementation of the measures agreed on in the plan, so that timely and appropriate steps can be taken to ensure correct compliance.
3. Strengthen the Office of Public Ethics in its capacity as central authority for the Inter-American Convention against Corruption.