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**ROYAL GOVERNMENT OF BHUTAN
ANTI-CORRUPTION COMMISSION**

NATION'S CONSCIENCE
THIMPHU, BHUTAN

ACC/PREVENTION-02/2007/1027

February 22, 2007

Secretary,
Ministry of Home & Cultural Affairs
Chairman,
Committee of Secretaries,
Tashichodzong

Secretary,
National Assembly Secretariat,
Thimphu

Registrar General,
Royal Court of Justice,
Thimphu

SUB: ENFORCEMENT OF RULES & REGULATION

Dear *Dashos*,

Enforcement of rules and regulation is generally perceived to be weak and is a systemic problem. Abuse of authority, unwritten discretionary powers, complacency, corruption, compassion, varying interpretation, indifference, ignorance, negligence and inaction against defaulters are some factors that attribute to the problem. The complaints that we have received and our investigations reconfirm the above.

For now, we wish to highlight two simple but important issues as a measure towards preventing corruption: (i) conflict of interest and (ii) transfer.

Conflicts of interests is a serious problem whether it is to do with tendering, procurement and award of works, monitoring environmental safety operations by industries or mines, hiring and renting of private properties to offices and projects, consultancies, investigation, dispensing justice, employment, personnel actions, etc. For instance, officials, who are expected to monitor business operations enjoy the hospitality and receive (expensive) gifts and other forms of gratification for himself, his family members or friends from the very business firm; GYT chairpersons who are supposed to monitor development works actually execute the works; officials review/investigate cases in which their relatives are involved; officers who have business interests participate in tender evaluation; officers are members of recruitment boards where relatives are the applicants.

Dashos may be making all efforts to mainstream the code of conduct in the organizational management and administration. **However, compliance has to be aggressively and resolutely demanded from the employees so that they feel the seriousness of the management. Employees need to clearly understand what “Conflicts of interests” means (some rules clearly state it), how, when and where it should be reported/declared. Unless the management is perceived to be serious with the enforcement of the rule (with a sense of purpose and determination) by the employees, compliance will continue to remain weak.** Self regulation is important, which appears to be the general assumption regarding adherence to code of conduct by employees. **However, heads of agencies or responsible officers have to issue orders (or other means) to reiterate the importance of the rule, monitor it closely and penalize staff and officials failing to comply by it.**

On the issue of transfer, some of our enquiries on complaints and the investigation of cases of corruption reveal that corruption is perpetrated by most civil servants, who have remained in the same post in the same place for long, some even as long as 15 years, particularly in corruption prone sectors such as geology and mines, forestry, customs, accounts, procurement, engineering, stores, immigration, judiciary (particularly clerks), lottery, land records & survey, teachers, etc. It is sad to learn that some of those civil servants enjoy their senior officers’ patronage. The transfer policy and rule (although the BCSR rule on transfer after 5 years is not mandatory) has to be sincerely implemented, particularly in corruption prone areas.

There is no dispute that systemic problems prevail because of weak enforcement of policies, rules and regulation. Therefore, we hope that the **Secretaries and concerned officers will urgently look into these simple but important issues and act as deemed appropriate.** We have reproduced some relevant sections on the issues from the BCSR 2006, Judicial Service Act of Bhutan 2007 and Local Government’s Act of Bhutan 2007 (DYT & GYT Chathrim 2002 and the Bhutan Municipal Act 1999 to be amended as per the articles of the Act) for your ready reference.

Implementation and enforcement of policies, rules and regulation is an important strategy in preventing corruption, which is the responsibility of all ministries and agencies.

Yours sincerely,


(Nuten Langmo)
Chairperson

Copy to:

1. Honorable Prime Minister, c/o Cabinet Secretariat
2. Honorable Chief Justice, Royal Court of Justice
3. Honorable Speaker, National Assembly
4. Honorable Chairman, RCSC, c/o Ministry of Agriculture
5. Secretary, RCSC

CONFLICT OF INTEREST

BCSR 2006

Chapter 2 : Code of Conduct and Ethics

Section 8: Avoid conflict of interest in discharging official responsibilities.

Section 9: Not accept for self or family members, favours, gifts, benefits or donations which can be construed by the authority as affecting the decision and performance of his duties.

Chapter 18: Private Trade & Employment

Sub-section 1.1: Ensure a civil servant does not engage in trade and commercial activities which have conflict of interest and thereby compromises public interests.

Sub-section 4.1.1: A civil servant shall declare the business/trade of his spouse/dependent to the Head of the Agency where the civil servant is employed. The Agency shall maintain a list of spouses and dependents of their employees in formal and non-formal business.

Sub-section 4.1.2: No spouse or dependent of a civil servant shall be allowed to participate in supply of goods and services to the particular office where the civil servant is employed or where the civil servants has an authority over it.

Sub-section 4.1.3: A civil servant shall refrain from participation in the interministerial or Agency level Tender Committee if there is a conflict of interest by way of participation of his spouse/dependent(s) or close relative in the bid or the civil servant concerned has a direct interest in any of the parties competing in the bid.

Royal Judicial Service Act of Bhutan 2007

Chapter 10 : Code of Conduct

Section 108: A Drangpon shall not accept any gifts, presents or benefits that would influence his decisions.

Section 110: A Drangpon shall not engage in financial and business transaction in which he may have a conflict of interest.

Section 112: A Drangpon shall disqualify himself from participating in any proceedings in which he is unable to decide the matter impartially or in which he has a conflict of interest.

Local Governance Act of Bhutan 2007

Article 11: Code of Conduct

Section 149: A member with any personal and pecuniary interest shall disqualify himself from voting on matters where conflict of interest may occur and circumstances seem to affect his impartiality.

General Code of Conduct

Sub-section 1(i): No member shall unduly influence a government official in a case in which he is financially or personally interested.

Sub-section 1(k): No member shall recommend to Government officials for employment or business contracts for any of his relations.

Sub-section 2©: A member of the Local government shall not be assigned any responsibility that may be reasonably construed to have conflict of interest.

TRANSFER

BCSR 2006

Chapter 17: Transfer

Sub-section 1.3: Avoid development of vested interests leading to corruption, nepotism and red-tapism due to the prolonged stay of an individual in any particular agency or post.

Sub-section 3.1: After completion of five years of service in a particular or agency, a civil servants be transferred.

Royal Judicial Service Act of Bhutan 2007

Chapter 18 : Promotion and Transfer

Section 225: The council shall affect the transfer of Judicial Service Personnel every three years to prevent unwarranted development due to a prolonged stay of an individual in a particular post or place of posting.