

Income and Asset Declarations:

Using Financial Disclosure to Prevent, Detect and Prosecute Corruption

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Income and Asset Declarations

- If done well:
 - They are the single most effective tool for
 - Increasing citizens confidence in government
 - Preventing corruption
 - Detecting Corruption
 - Tracking illicit enrichment
- If done poorly:
 - They are
 - a waste of financial and personal resources
 - They encourage corruption because people believe the government does not take corruption seriously
 - Undermines the efforts of even the most committed anti-corruption agency.

What do they do?

- **Detect Conflicts of Interest**
 - Suggest solutions for “innocent” conflicts
 - Beginning assumption: the official is honest & wants to show impartiality in his position.
- **Provide baseline for investigators**
 - Payment of bribes
 - Illicit Enrichment
 - Connections to other conspirators in corruption crimes
- **Courts of law**
 - Disclosures are evidence by themselves
 - Demonstrate to a judge/jury how illegal corrupt acts were hidden

Objectives of an IAD System: preventing and detecting Illicit Enrichment (IE) & Conflicts of Interest (COI)

Illicit Enrichment

IE systems capture information about assets to monitor changes in wealth

IAD serves to flag unusual behavior and assist in the **prevention, investigation & prosecution** of underlying **corrupt acts**

Conflicts of Interest

COI systems work with officials to identify situations that present a risk of actual or perceived conflict of interest

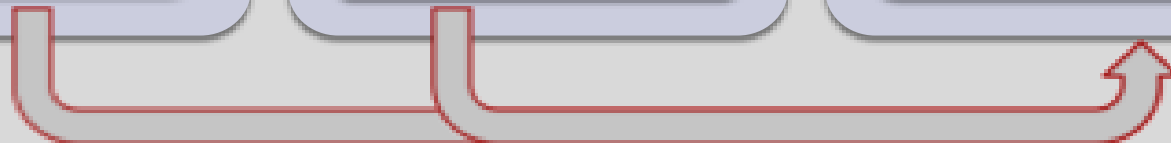
COI systems capture information about sources of income, membership of boards, ownership of shares etc

IAD serves to assist the filer in preventing potential COI.

Dual Objective

Most systems combine elements of both COI and IE

Particular care must be taken not to compromise the advisory role of a COI system when implementing dual objective systems



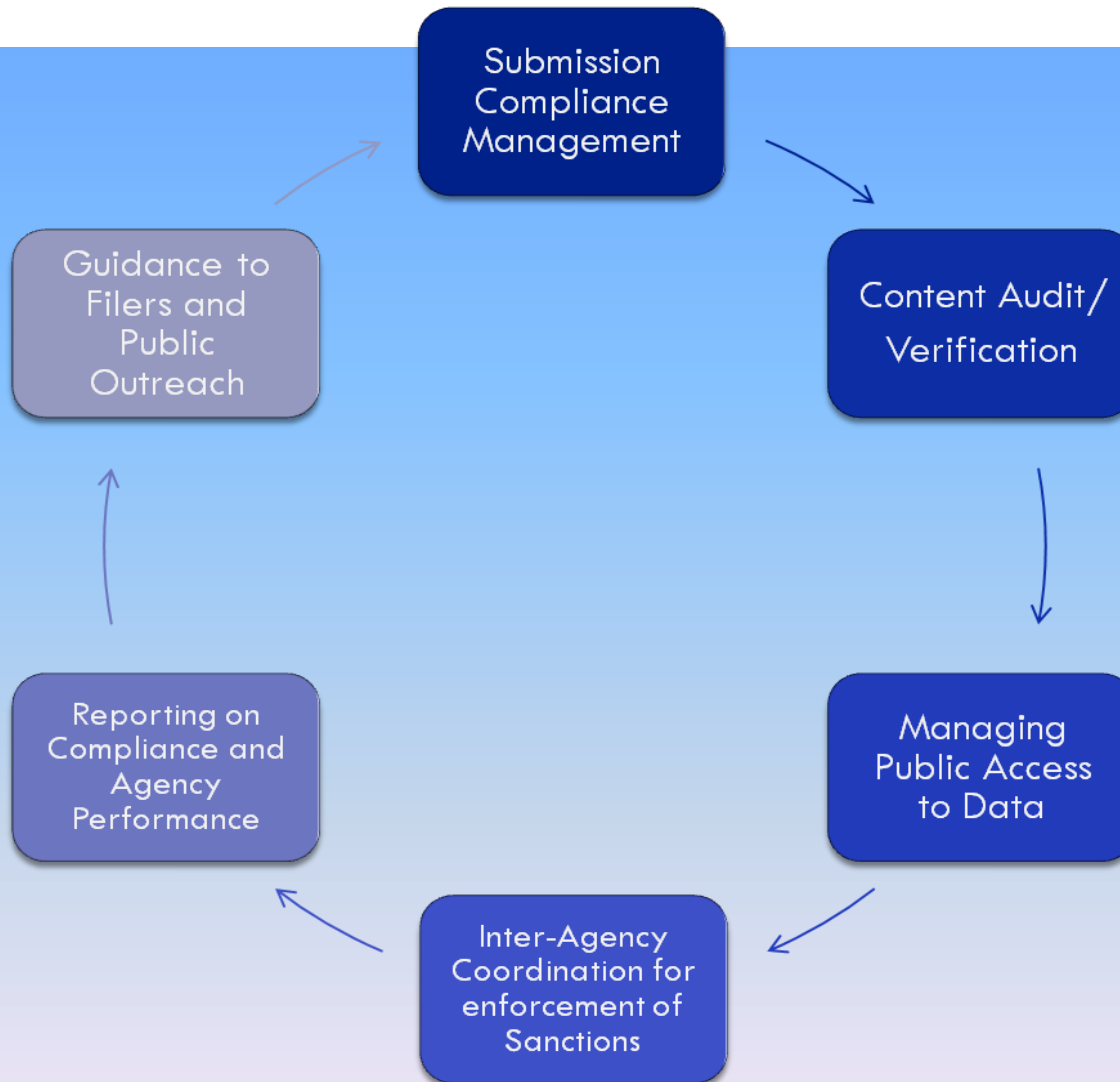
What are the KEY elements?

- A document that details all financial holdings, stocks, bonds, location of bank accounts, loans, positions outside the government, as well as others
- The document should be filed when a person enters a public position, regularly when they are in that position and shortly after leaving the public post.
- The disclosure is best when public, but *critically* a professional with appropriate skills must review it.
- The professional can direct the person to clarify holdings and has other tools to ensure that the official has declared all assets and holds nothing to conflict with his or her post
- Dissuasive penalties for non-compliance

Myths?

- **Only Wealthy Countries can afford Asset Declarations**
 - Georgia (UN 2013 Anti-corruption Award for their system)
 - Botswana, Argentina, Thailand
- **Officials will lie on the form**
- **Officials will ignore the requirement**
- **ADs are a danger to officials (address/phone number)**
- **They don't directly lead to catching corrupt officials**
 - **Partially true: They are one of several tools**
- **Agencies responsible for review lack the power for enforcement**
 - **Partially true: Only if parliamentarians design them that way**

Core Functions of an IAD Agency



How to make a bad system?

- **Don't provide the personnel or resources**
 - Morocco – Cour des Comptes
- **Time between disclosures is too long**
 - Egypt – Every 10 years
- **Make access of AD to investigators difficult**
 - Romania – three judge panel recommending to PM
- **Don't provide for remedies or compulsion**
 - Australia
- **Have too many officials file**
 - Serbia – 78,000 disclosures, 2 staff
- **Do not provide computers or other storage resources**
 - New Jersey or Argentina (1994)
- **No agency responsible or no system in place**

Sanctions for IAD violations

A violation of the IAD requirement should result in sanctions. These should be:

Proportional

A range of sanctions (administrative and criminal) should be applicable and proportional to the offense

Enforceable

Sanctions should be enforceable and consistently enforced
A range of serious administrative sanctions may be preferable in countries where the courts are slow or unwilling to prosecute corruption cases

Visible

Data on the enforcement of sanctions should be communicated to filers and to the public

- **Transparency is recommended to deal with social and political diseases, just as “Sunlight is the best disinfectant, and the electric light is the best policeman.**

(Brandeis)

What does an Effective Asset Declaration System Look Like?

- The Country of Georgia:
- <http://csb.gov.ge/en/asset-declarations>
- 2013 United Nations Award Winner for Anti-Corruption