

**QUESTIONNAIRE ON THE PROVISIONS OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION SELECTED IN THE SECOND ROUND AND FOR FOLLOW-UP ON THE RECOMMENDATIONS FORMULATED IN THE FIRST ROUND – MEETING OF THE MESICIC**

**SECTION 1**

**QUESTIONS ON IMPLEMENTATION OF THE CONVENTION PROVISIONS SELECTED FOR REVIEW IN THE SECOND ROUND**

**CHAPTER 1**

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

**1. Government Hiring systems**

- a. Are there laws and/or measures in your country establishing government hiring systems? If so, briefly describe the main systems, indicating their characteristics and principles and list and attach a copy of the related provisions and documents**

**Also describe how the above systems ensure openness, equity and efficiency in your country.**

**In relation to the above, refer among others, to the following aspects:**

- (i) Governing or administrating authorities of the systems and control mechanisms.**
- (ii) Access to the public service through a merit-based system.**
- (iii) Advertisement for the selection of public servants, indicating the qualifications for selection.**
- (iv) Ways to challenge a decision made in the selection system.**
- (v) Relevant exceptions to the above.**

The Public Services Commission Regulations 1971 provide information in relation to the above questions. Particularly Part III of said Regulations, the relevant parts of which are outlined below.

**Section 15 (1)** of the Regulations state:

The Commission shall make recommendations to the Governor on the following:

- (a) Appointments (not being appointments delegated by the Governor under section 99 of the Constitution), promotions and transfers of public officers in respect of whom powers of appointment are vested by section 98 of the Constitution in the Governor acting in accordance with the recommendation of the Commission:
- (b) Petitions by public officers to the Governor against decisions by him and by public officers in respect of appointments, promotions and transfers.
- (2) Before recommending the appointment of a person to be a Permanent Secretary or a Head of Department (or to be the holder of any such office of similar status as the Governor may, after consultation with the Prime Minister, specify by notice in the *Gazette*) the Commission shall consult the Prime Minister, in accordance with the provisions of subsection (3) of section 98 of the Constitution and shall state in its recommendation to the Governor that the Prime Minister has been so consulted.

**Section 16** states:

In order to discharge its duties under the provisions of regulation 15 the Commission shall exercise supervision over and approve any scheme for admission to any public office by examination or for the award of any scholarship for training for the public service, and over any other method of recruitment including the appointment and procedure of any Board for the selection of candidates.

**Section 17** states:

Where any vacancy is not to be filled by promotion the existence of such vacancy shall, unless the Commission otherwise directs, be notified to the public by advertisement in time to enable candidates to make application in accordance with such advertisement.

**Section 18** states:

- (1) In considering the claim of any officer in the public service for promotion, merit and ability shall be taken into account as well as seniority, experience and formal qualifications.
- (2) Any recommendation made to the Commission for promotion shall state whether the person recommended is the senior officer in the department of grade eligible for promotion and, where this is not the case, detailed reasons shall be given in respect of each person in that department or grade over whom it is proposed that the person recommended should be promoted.

**Section 19** states:

In order to discharge its duties under regulation 18, the Commission may issue such direction as it may see fit for the maintenance of a system of confidential reports on public officers and for their safe custody.

**Section 20** states:

The procedure for making acting appointments shall be the same as that prescribed in these Regulations for making a promotion. Any recommendation to the Commission for the making of an acting appointment except one under subsection (2) of section 16 of The Public Service Act, 1969 shall contain a statement of whether or not the officer recommended for acting appointment is in every way qualified to perform all the duties of the office in which he is to act.

**Section 24** states:

The appointment (not being an appointment delegated by the Governor, under section 99 of the Constitution), promotion and transfer of public officers shall be made by the Governor, acting in accordance with the recommendation of the Commission and, subject to the provisions of regulation 23 of these Regulations, the following procedure shall be followed –

(a) as soon as it is known that a vacancy will occur in the post of ‘Head of Department’ the holder of that post shall without delay report the matter to the Permanent Secretary and made recommendations if for any reason the Head of Department is unable to report the vacancy, the officer acting for such Head of Department or the next senior officer in the department shall make the required report and recommendations;

(b) upon receipt of a report referred, to in paragraph (a) of this regulation the Permanent Secretary shall forward the report together with his observations there on to the Establishment Secretary, who shall communicate to the Chairman in writing his recommendations regarding the filling of the vacancy;

(c) the Head of Department shall report to the Permanent Secretary without delay the creation of any new post or an impending vacancy in an existing post in his department. The report shall include a recommendation as to how the post should be advertised. If it is recommended that the post should be advertised the Head of Department shall forward a draft advertisement with the report;

(d) upon receipt of a report referred to in paragraph (c) of this regulation, the Permanent Secretary shall forward it to the Establishment Secretary who shall verify that there is no Establishment or financial objection to the filling of the post and that the terms of the advertisement, is any, are correct and shall forward the report to the Chairman, together with his own recommendation in the matter;

(e) in the case of vacancies among miscellaneous officers to which this regulation applies, the necessary report shall be made to the Chairman by the Establishment Secretary;

(f) if the Commission decides that a post should be advertised, the Commission shall arrange the publication of the advertisement and shall receive the replies to the advertisement;

(g) the Commission may interview the candidates for any post or it may appoint a Selection Board for this purpose and the Selection Board shall report to the Commission in such manner as the Commission directs. The Commission shall take into consideration the recommendations by the Head of Department and the Permanent Secretary on the candidates;

(h) if the Commission is unable to recommend any candidate for appointment to the post, the Commission may propose such arrangements as may be necessary for recruitment to the post from outside The Bahamas.

**b. In relation to a), state the objective results obtained, including any available statistical data.**

No Information Available

**c. If no such law and/or measures exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen government hiring systems, in accordance with Article III (5) of the Convention.**

Not applicable

## **2. Government systems for procurement of goods and services**

**a. Are there laws and/or measures in your country establishing government systems for procurement of goods and services? If so, briefly describe the main systems, indicating their characteristics and principles and list and attach a copy of the related provisions and documents.**

**Also describe how the above systems ensure openness, equity and efficiency in your country.**

**In relation to the above, refer, among other things, to the following aspects:**

- (i) Procurement systems with a public tender and without a public tender.**
- (ii) Governing or administrating authorities of the systems and control mechanisms.**
- (iii) Register of pre-approved contractors.**
- (iv) Electronic methods and information systems for government procurement.**
- (v) Public works contracts.**
- (vi) Identification of the selection criteria for contractors (e.g. price, quality and expertise).**
- (vii) Ways to challenge a selection.**

The Financial Administrative and Audit Act provides for the establishment of the Government Tenders Board, which is comprised of the Financial Secretary, who is the Chairman and two (2) members; the Permanent Secretary of the Ministry of Works and the Permanent Secretary of the Ministry of Health. A public officer serves as secretary to the Board.

The function of the Board is to make recommendations to the Minister of Finance for the award of contracts for supplies, works and services required by the Government in excess of fifty thousand dollars. Contracts exceeding two hundred and fifty thousand dollars are referred to the Cabinet for approval.

Tenders are invited to bid for government contracts either by way of public invitation or select tender process.

Public invitation is when advertisements are published in the local and / international media inviting qualified tenders for the supply of goods and / services. The advertisement includes specifications (if practical) and deadline for submission of bids.

Select tender process is when a select number of qualified tenders are invited to submit bids for the supply of goods and /services. The invitation will include specifications and deadline for submission.

In both cases the bids should be submitted in sealed envelopes clearly marked “Tender for .....” and addressed to the Chairman, Tenders Board Ministry of Finance. Bidders are invited to the opening of tenders which takes place at the Tenders Board. During the opening of bids the Chairman announces the names of the tenders and their prices if practical.

Once the bids are opened the original remains at the Ministry of Finance and copies are given to the client ministry. The client ministry analyzes the bids based on price, experience, capability and capacity to carry out the work.

Occasionally when there is only one qualified tender that can provide the required goods or services a recommendation is made to the Board for award of contract without

competitive bidding. The client ministry however must obtain an expert estimate of the cost of the goods or services for comparative analysis.

Once a tender has been selected for award of contract a recommendation is made to the Tenders Board. The Tenders Board evaluates the recommendation and forwards its views to the Minister of Finance or Cabinet for consideration/approval of award of contract.

\*Note the successful tender must have a valid business license and National Insurance contributions must be current.

- b. In relation to a), state the objective results obtained, including any available statistical data (e.g. percentage of contracts awarded through public tender; sanctions imposed on contractors).**

No information available

- c. If no such law and/or measures exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen government systems for procurement of goods and services, in accordance with Article III (5) of the Convention.**

Not applicable

## **CHAPTER 2**

### **QUESTION 1 A**

**Are there laws and/or measures in your country establishing systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

**In relation to the above, refer, among others, to the following aspects:**

- i. Mechanisms for reporting (e.g. anonymous reporting, protection of identity reporting)**
- ii. Mechanisms for reporting threats or reprisals**
- iii. Witness protection mechanisms.**

The following laws/measures establish systems for protecting public servants and private citizens who, in good faith report acts of corruption.

- Bahamians can take advantage of the anonymous reporting telephone service known as ‘Crime stoppers’. This successful facility allows citizens both in the capital of Nassau and on other Islands to anonymously report criminal activity.

Once the telephone number is dialed, rather than employing call handlers here in The Bahamas, the caller is transferred automatically to Florida, U.S.A. This promotes confidence in the service within the community. The public feel safer knowing their call will be answered by a person unrelated, unconnected and unknown to them. In such a small community this feeling of security when reporting crime is essential.

Upon receiving a call, every call handler takes the time to explain how the service works, they explain how safe and secure the information being given will be and how, once the information is recorded, it will be passed to the relevant police department in the Bahamas who will investigate.

At times, the Royal Bahamas Police Force, appeal for information relating to a crime through the ‘Crime stoppers’ service. Crimes may be reconstructed, or information pertaining to criminal activity may be given and explained through the media. Persons with information relating to the offence are then asked to call ‘Crime stoppers’ (anonymously, if so desired) and pass the information on to the Police.

- The Bahamas specifically has a Corruption Unit within the Royal Bahamas Police Force. This department deals with internal affairs matters and reports of

corruption within the Police Force and Government. Citizens can report acts of corruption to this special department; provisions are available for anonymous reporting and for the protection of a person's identity where necessary.

- Under the **Proceeds of Crime Act, Chapter 93** of the **Statute Laws of the Bahamas** a police officer has a duty of confidentiality. Section 56 states: Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any enactment, no police officer shall disclose any information or matter which has been obtained by him in the performance of his duties or the exercise of his functions under this Act.

Under section 56 (2) it is an offence to contravene the above duty and any person who does so contravene said duty shall be liable on summary conviction to imprisonment for one year or a fine of \$2,000 or both.

- Under the **Criminal Procedure Code, Chapter 91** of the **Statute Laws of the Bahamas**, the place in which any Court sits for the purpose of trying any offence shall be deemed to be an open court to which the public generally may have access, so far as the same can conveniently contain them. Provided that the presiding judge or magistrate may, at any stage of the trial of any offence before the court, order that the public generally or any particular person shall not have access to or remain in the room or building when the trial is being conducted if it appears to him to be necessary for the due administration of justice or in the interests of defence, public safety, public order or public morality or for the welfare of persons under eighteen years of age.
- Mechanisms for Witness Protection: The Justice Protection Act is not yet fully in force in the Commonwealth of the Bahamas. It is legislation supported by both the Government and the opposition party and is in the process of becoming fully enacted.

It is an Act designed to protect persons appearing as witnesses in judicial proceedings by providing for their participation in a programme designed for ensuring their safety. Thus, enabling them to carry out their civic duty as witnesses with confidence when there is a threat to their safety or property arising from, or related to, the carrying out of that duty and to provide for matters incidental to judicial proceedings.

Under the Act, the following are offences:

- The corruption of witnesses;
- Allowing oneself, as a witness to be corrupted;
- The prevention or an attempt thereof, to prevent a witness from attending Court;
- The intimidation of witnesses;



- The insulting of a participant in judicial proceedings.

The Act states that where the Attorney-General after consultation with the Director of Public Prosecutions and the Commissioner of Police determines that it would be in the interest of the safety of a witness that measures be taken to place the witness within an environment either within or without the Bahamas for the purpose of ensuring their safety and the attainment of the interest of justice during the relevant period, the Attorney-General may refer the matter to the Administrative Centre to take such measures as it considers necessary for the purpose of placing the witness in the Justice Protection Programme. The said programme is still to be established, details of the programme as proposed are to be found in section 9 of the Justice Protection Act.

Under the Act, the participants also have a responsibility to bear. They are required to undertake that they will not compromise the security of, or any other aspect of, the protection or assistance being provided. They are also required to undertake to comply with all reasonable directions, undergo any necessary medical tests or examinations, a psychological or psychiatric evaluations, drug or alcohol counseling or treatment and make the results available. The participant is also required to disclose details of any criminal charges made against him, any civil proceedings initiated against him or any bankruptcy proceedings.

The witness must understand; a breach of the undertaking may result in his discharge from the programme.

Participants must be registered with the Administrative Centre which will keep a record of all participants (classified at a level of 'Top Secret' or above).

Under the programme, participants may be given a new identity. Should the participation of a witness in the programme be terminated, this new identity may be revoked. However, the Act also provides for a participant to retain his new identity after his involvement with the programme is no longer necessary.

The identity of the participant is not to be disclosed, even if proceedings are issued against the participant (save in the case when the Court rules it is in the interests of Justice to do so).

The Act provides a list of offences which may give rise to protection under the Justice Protection Programme. This list can be found in the Second Schedule of the Act.

As stated above, at present the Act is not fully in force. That does not mean however, that the need for witness protection mechanisms and protection for citizens reporting acts of corruption is not recognized. Therefore, when a situation arises in which a witness requires protection as a result of his involvement in judicial proceedings, government agencies work together to ensure the witness

and if necessary, his family, are protected post-involvement. In this sense, there is an active witness protection programme, even if the absence of the Act designed to regulate it.

### **QUESTION 1 B**

**In relation to question a), state the objective results obtained, including any available statistical data.**

- The ‘Crime Stoppers’ programme is a value and successful part of crime prevention in The Bahamas. The programme has received over three thousand calls to date of which, only three (3) have requested a reward for the information provided. Information given to the ‘Crime Stoppers’ programme has provided useful intelligence to authorities, it has led to the clearing of many cases, arrests and convictions of offenders as well as the recovery of stolen property.
- Due to the sensitive nature of the information relating to the witness protection program, it is not possible to provide statistical data as to the program and its progress. It is an ongoing program with active participants.

### **QUESTION 1C**

**If no such laws and/or measures exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen systems for protecting public servants and private citizens who, in good faith, report acts of corruption, in accordance with Article III (8) of the Convention.**

- Not applicable as laws and measures *do* exist.

## **CHAPTER 3**

### **QUESTION 1 A**

1. **Criminalization of acts of corruption provided for 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 measures regarding them, indicating to which of the particular aforesaid acts of corruption they refer, including sanctions, and attach a copy of them.**
    - The acts of corruption provided for in Article VI (1) of the convention are criminalized in the Bahamas. As well as the information and legislation relating to the specific situations below, a code of ethics for ministers and parliamentary secretaries was presented to the House of Assembly on the 25<sup>th</sup> June 2002. This provides a standard of conduct to prevent conflicts of interest in order to ensure that the Prime Minister and other Ministers of government observe the highest standards of probity in public life
    - i. The solicitation or acceptance, directly or indirectly, by a government official or a person who performs public functions, of any article or 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.

Under the provisions of the **Penal Code, Chapter 84** of the **Statute Laws of The Bahamas** the following are offences:

- Section 453 (1) Every public officer or juror who is guilty of corruption, or of willful oppression, or of extortion, in respect of the duties of his office, commits a misdemeanour and shall be liable to imprisonment for two years.
- Section 453 (2) A public officer or juror is guilty of willful oppression in respect of the duties of his office, if he willfully commits any excess or abuse of his authority, to the injury of the public or of any other person.
- Section 453 (3) A public officer is guilty of extortion who, under cover of his office, demands or obtains from any other person, whether for public purposes or for himself or any other person, any money or valuable consideration which he knows that he is not lawfully authorized to demand or obtain, or at a time at which he knows that he is not lawfully authorized to demand the same.

- Section 463 Whoever accepts, agrees, or offers to accept any valuable consideration under pretence or colour of having unduly influenced, or of agreeing or being able so to influence, any person in respect of his duties as a public officer or juror, is guilty of a misdemeanour and shall be liable to imprisonment for one year.
- Section 464 Whoever, otherwise than in the due execution of his duties as a judicial officer or juror, makes or offers to make any agreement with any person as to the judgment or verdict which he will or will not give as a judicial officer or juror in any pending or future proceeding, is guilty of a misdemeanour and shall be liable to imprisonment for one year.

Under the provisions of the **Prevention of Bribery Act, Chapter 88** of the **Statute Law of the Bahamas** the following are offences:

- Section 3 (2) Any public servant who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his –
  - (a) performing or abstaining from performing, or having performed or abstained from performing any act in his capacity as a public servant;
  - (b) expediting, delaying, hindering or preventing or having expedited, delayed, hindered or prevented the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
  - (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed any person in the transaction of any business with a public body

Shall be guilty of an offence

- Section 4 (2) Any public servant who, who without lawful authority or reasonable excuse, solicits or accepts any advantages as an inducement or to reward for or otherwise on account of his giving assistance or using influence in, or having given assistance or used influence in –
  - (a) the promotion, execution or procuring of; or
  - (b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in,

any such contract or subcontract as is referred to in subsection (1) shall be guilty of an offence

- 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, favour, 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.

Under the provisions of the **Penal Code, Chapter 84** of the **Statute Laws of The Bahamas** the following are offences:

- Section 462 Whoever corrupts or attempts to corrupt any person in respect of any duties as a public officer or juror is guilty of a misdemeanour.
- Section 426 states that whoever fabricates evidence, with intent to defeat, obstruct or pervert the course of justice in any proceedings shall be liable to the same penalties as if he had committed perjury in those proceedings.
- Section 427 states that whoever, in any declaration made in pursuance of any Act shall willfully or corruptly declare to the truth of any matter material to be stated in such declaration, knowing the matter so declared to be false, shall be liable to the same penalties as if he had committed perjury.

Under the provisions of the **Prevention of Bribery Act, Chapter 88** of the **Statute Law of the Bahamas** the following are offences:

- Section 3 (1) Any person, who without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement or reward for or otherwise on account of that public servant's –
  - (a) performing or abstaining from performing, or having performed or abstained from performing any act in his capacity as a public servant;
  - (b) expediting, delaying, hindering or preventing or having expedited, delayed, hindered or prevented the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
  - (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed any person in the transaction of any business with a public body,

Shall be guilty of an offence

- Section 4 (1) Any person who without lawful authority or reasonable excuse, offers an advantage to a public servant as an inducement or to reward for or otherwise on account of such public servant's giving assistance or using influence in, or having given assistance or used influence in –
  - (a) the promotion, execution, or procuring if
    - (i) any contract with a public body for the performance of any work, the providing of any service, the doing of any thing or supplying of any article, material or substance; or
    - (ii) any subcontract to perform any work, provide any service, do any thing or supply any article, material or substance required to be performed, provided, done or supplied under any contract with a public body; or
  - (b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in any such contract or subcontract as aforesaid,

Shall be guilty of an offence.

- Section 7 any person who without lawful authority or reasonable excuse, while having dealings of any kind with any public body, offers an advantage to any public servant employed in or by that public body, shall be guilty of an offence.
- 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.

Under the provisions of the **Penal Code, Chapter 84** of the **Statute Laws of The Bahamas** the following are offences:

- Section 454 Every public officer who, being bound or authorized as such officer, to attest or certify, by writing or otherwise, any document or matter, or that an event has or has not happened, attests or certifies the document or matter, knowing the same to be false in any material particular, or attests or certifies that the event has happened or has not happened as the case may be, according to his attestation or certificate, is guilty of a misdemeanour.
- Section 464 Whoever, otherwise than in the due execution of his duties as a judicial officer or juror, makes or offers to make any agreement with any person as to the judgment or verdict which he will or will not give as a judicial officer or juror in any pending or future proceeding, is guilty of a misdemeanour and shall be liable to imprisonment for one year.

- Section 426 states that whoever fabricates evidence, with intent to defeat, obstruct or pervert the course of justice in any proceedings shall be liable to the same penalties as if he had committed perjury in those proceedings.
- Section 427 states that whoever, in any declaration made in pursuance of any Act shall willfully or corruptly declare to the truth of any matter material to be stated in such declaration, knowing the matter so declared to be false, shall be liable to the same penalties as if he had committed perjury.

Under the provisions of the **Prevention of Bribery Act, Chapter 88** of the **Statute Law of the Bahamas** the following are offences:

- Section 3 (2) Any public servant who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his –
  - (a) performing or abstaining from performing, or having performed or abstained from performing any act in his capacity as a public servant;
  - (b) expediting, delaying, hindering or preventing or having expedited, delayed, hindered or prevented the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
  - (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed any person in the transaction of any business with a public body

Shall be guilty of an offence

- iv. The fraudulent use or concealment of property derived from any of the acts referred to in this article
  - Under the provisions of the **Prevention of Bribery Act, Chapter 88** of the **Statute Laws of the Bahamas** special powers of investigation are conferred onto the Attorney-General for the purpose of investigating an alleged act of corruption.

Section 13 (2) of the Act states that any person who –

- (a) when requested under paragraph (a) of subsection (1) to render assistance, without reasonable excuse neglects or fails to render such assistance; or
- (b) obstructs or resists any police officer or public servant in the exercise of the powers of entry and search conferred by paragraphs (b) of subsection (1),

Shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

- Under the provisions of the **Public Disclosure Act, Chapter 9** of the **Statute Laws of the Bahamas**, the following is an offence:

Section 13.(1)Any person who –

- (a) fails without reasonable cause, to furnish to the Commission a declaration which he is required to furnish in accordance with the provisions of this Act;
- (b) knowingly makes any false statement in such declaration;
- (c) fails without reasonable cause to give such information or explanation as the Commission may require under section 6 or 7;
- (d) after a summary of a declaration has been published in the Gazette pursuant to section 6(2), accuracy of the declarant, otherwise than by way of complaint to the Commission;
- (e) makes any frivolous, vexatious or groundless complaint to the Commission in relation to a summary of a declaration;
- (f) fails without reasonable cause to attend an enquiry being conducted by the Commission under section 7; or knowingly gives any false information in such enquiry;

shall be guilty of an offence and shall on conviction on information, be liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment, and where the offence involves the deliberate non-disclosure of the property of a Senator or Member of Parliament, the court shall, in addition to the imposition of a fine or term of imprisonment or both-

- (i) if the property involved is situate within The Bahamas, declare that it be forfeited to the Government;
- (ii) if the property involved is situate outside The Bahamas, Order that an amount equivalent to the value of such property (the value to be assessed as directed by the court), be paid by the Senator or Member of Parliament to the Government.



- (2) Payment of all sums due to the Government pursuant to paragraph (ii) of subsection (1) may be enforced in like manner as a debt due to the Government and any proceedings thereon on behalf of the Government may be taken summarily, without limit of amount.
- v. Participation as a principle, co-principle, 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.

Under the provisions of the **Penal Code, Chapter 84** of the **Statute Laws of The Bahamas** the following are offences:

- Section 462 Whoever corrupts or attempts to corrupt any person in respect of any duties as a public officer or juror is guilty of a misdemeanour.
- Section 463 Whoever accepts, agrees, or offers to accept any valuable consideration under pretence or colour of having unduly influenced, or of agreeing or being able so to influence, any person in respect of his duties as a public officer or juror, is guilty of a misdemeanour and shall be liable to imprisonment for one year.
- Section 464 Whoever, otherwise than in the due execution of his duties as a judicial officer or juror, makes or offers to make any agreement with any person as to the judgment or verdict which he will or will not give as a judicial officer or juror in any pending or future proceeding, is guilty of a misdemeanour and shall be liable to imprisonment for one year.

### **QUESTION 1 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.**

- One of many examples of the above anti-corruption legislation in practice is to be found in the case of *Ezel Sherman & Others v The Commissioner of Police No. 94, 95 and 96 of 1995*. In this case the Defendants were convicted of various offences relating to bribery. The charges arose out of what is known as a “sting operation” involving the prosecution of senior public officers (including the Chief Passport Officer) within the Passport Office, Nassau, The Bahamas.
- A similar case was that of *Commissioner of Police v. Michael Duvalier Criminal Appeal No. 72 of 2001*. Duvalier was a Police Officer who was charged and convicted of soliciting and accepting from a citizen, the sum of \$200, as an

inducement to perform an act in his capacity as a public servant. This was contrary to section 3 (2) (b) and section 10 (b) of the Prevention of Bribery Act, Chapter 81.

- Another case is that of *Sidney Stubbs v Gina Gonzales Appeal No. 28 of 2004*. Although this case was concerned with bankruptcy proceedings, there was an issue of whether Stubbs, a member of the House of Assembly had declared a true value of his assets in accordance with the Bankruptcy Act, Chapter 69 of the Statute Laws of the Bahamas.
- The case of *Moss v Commissioner of Police [1989] BHS J. No. 108 1989 No. 74* involved the offence of offering to a public servant contrary to section 3 (1) (a) and 10 (b) of the Prevention of Bribery Act, chapter 81. The Defendant had offered a Stipendiary Magistrate the sum of \$10,000 as an inducement to her performing an act in her capacity as a public servant. To wit; to acquit another person of offences with which he was on trial before her as a Magistrate.
- The case of *The Commissioner of Police v Elam R. Moxey No. 19 of 1993* was a case against a public officer. It involved forgery offences and perverting the course of justice.

### **QUESTION 1 C**

**If the aforementioned acts of corruption are not criminalized, what steps is your country taking to criminalize these acts.**

Not applicable, as acts *are* criminalized.

### **QUESTION 2 A**

- 2. Application of the Convention to acts of corruption not described therein, in accordance with Article VI (2)**

**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)? If so, briefly describe the respective agreements or conventions and attach a copy of the related documents.**

The Bahamas has a comprehensive system of laws, regulations and Codes of Conduct to combat corruption. In addition to these laws, the Bahamas has signed and ratified the Organization of American States Corruption Convention and is a member of the

Committee of Experts for the Implementation of the Corruption Convention, which commits The Bahamas to a system of peer review of its efforts in implementing the terms of the convention.

The Public Disclosure Act provides for statutory declarations of income, assets and liabilities by all candidates for election to parliament in The Bahamas as well as annual declarations by those elected and appointed legislators. Some public servants are also required to make said declarations.

### **QUESTION 2 B**

**If the above answer was in the affirmative, briefly state the objective results that have been obtained in the application of the respective agreements or conventions, 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.**

- No information available

## **SECTION II**

### **FOLLOW UP ON THE RECOMMENDATIONS FORMULATED IN THE NATIONAL REPORT IN THE FIRST REVIEW ROUND**

In accordance with Article 29 of the *Rules*, please provide information, in the standard format attached to this questionnaire, on progress in implementation of the recommendations formulated in the report adopted by the Committee with respect to your country in the framework of the first review round (Annex entitled “Standard format for presentation of information on progress in implementation of recommendations formulated in the national report in the first review round”).

- Response to be supplied as soon as possible.

**SECTION III**

**INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE**

(a) **State Party:** The Bahamas

(b) **The official to be consulted regarding the responses to the questionnaire is:** Mr. Bernard Turner

**Title/Position:** Director of Public Prosecutions

**Agency/office:** Office of the Attorney General and Ministry for Legal Affairs

**Mailing Address:** Office of the Attorney General and Ministry for Legal Affairs  
PO Box N-3007  
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**Email Address:** attgenbt@batelnet.bs

(c) **State Party:** The Bahamas

(d) **The official to be consulted regarding the responses to the questionnaire is:** Mrs. Cheryl Grant-Bethell

**Title/Position:** Deputy Director of Public Prosecutions

**Agency/office:** Office of the Attorney General and Ministry for Legal Affairs

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