



# Financial Crime policy and procedures

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## MPP-002 Financial Crime Policy and Procedures

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## 1. BACKGROUND AND PURPOSE

- (a) InfraCo Asia Development Pte. Ltd (**IAD**) and InfraCo Asia Investments Pte Ltd (**IAI**) (together, **InfraCo Asia**) were established by the Private Infrastructure Development Group (**PIDG**) to promote the development of private sector infrastructure in developing countries of South Asia and Southeast Asia. PIDG is funded by six governments (UK, Netherlands, Switzerland, Australia, Sweden, and Germany) and the International Finance Corporation.
- (b) InfraCo Asia has a zero tolerance for fraud, bribery, corruption, money laundering, tax evasion, insider dealing, financing of terrorism and any other activity defined as financial crime (or equivalent) under any applicable legislation or regulation (**Financial crime**) and the fundamental objective of this Financial Crime policy and procedures (**Policy**) is to ensure that InfraCo Asia funds are not used for Financial crime.
- (c) InfraCo Asia expects that anyone representing/working on behalf of InfraCo Asia and/or its Participants must comply with Financial crime laws and regulations, and other similar laws and regulations applicable to its business in each of the jurisdictions in which it operates.
- (d) InfraCo Asia will not conduct business with anyone that does not support its anti-financial crime objectives.

## 2. FRAMEWORK AND APPLICABILITY

- (a) This Policy provides the framework and requirements for identifying, assessing, managing, and reporting instances of Financial crime with respect to InfraCo Asia and/or any InfraCo Asia funded company or Project.
- (b) The Policy applies to InfraCo Asia and participants acting on behalf of InfraCo Asia undertaking activities for InfraCo Asia (**Participants**). Participants include the following:
  - i) **Developer** - developer services provider contracted with InfraCo Asia under a developer services agreement (or similar) with respect to the development of a particular project or portfolio of projects; and
  - ii) **Fund Manager** - fund management party contracted with InfraCo Asia under a management services agreement (or similar) with respect to the development of a particular project or portfolio of projects.
- (c) Where a **Project Company**<sup>1</sup> or **Co-Developer**<sup>2</sup>, or anyone acting on behalf of the Project Company or Co-Developer, is undertaking the activity for a particular project or portfolio of projects that is funded by or invested in by InfraCo Asia, InfraCo Asia expects that these parties must prepare and implement their own Financial crime policies and procedures, and carry out the relevant processes to mitigate the risk of Financial crime for the applicable project or investment activity, in a manner that is consistent with the principles, guidance and standards contemplated in this Policy, and be able to demonstrate that a considered, robust and documented process to mitigate the risk of Financial crime is in place and/or has been undertaken, and to safeguard against the entering into activity that would result in Financial crime.

## 3. LOCAL COMPLIANCE OFFICERS

- (a) InfraCo Asia expects that Participants shall designate a person or persons (**Local Compliance Officer**) within their employ or supervision to act as a compliance lead with respect to applicable Projects and to implement, monitor and enforce this Policy or their own Financial crime policies and procedures for the Projects, in a manner that is consistent with the compliance principles, guidance and standards contemplated in this Policy.
- (b) The InfraCo Asia Local Compliance Officer would be the InfraCo Asia Legal & Compliance Officer.
- (c) Each designated Local Compliance Officer for the Participants shall act as the point of contact for InfraCo Asia in relation to Financial crime matters with respect to their applicable Projects (including monitoring and reporting) and should have a dotted reporting/communication line to the InfraCo Asia Local Compliance Officer.

<sup>1</sup> i.e., a company established to manage, develop, implement and carry out the activities of a project that is funded by or invested in by InfraCo Asia

<sup>2</sup> i.e., co-developer party to or under a joint development agreement/joint venture agreement (or similar) with InfraCo Asia

## 4. FINANCIAL CRIME

### 4.1 Fraud

- (a) Fraud is described as the wilful or dishonest misuse of InfraCo Asia and/or the Participants' resources.
- (b) Fraud may include intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it. Fraud may also include acts of dishonesty, deception, or of omission, the improper use of influence or position and/or the improper use of information.

### 4.2 Money laundering

- (a) Money laundering is the act of engaging in a financial transaction with the intention of concealing the identity, source and destination of funds.
- (b) Money launderers act to conceal the source of illegally obtained money and create the appearance that it originates from a legitimate source. One of the ways in which this is achieved is by giving this money to an intermediary who is already legitimately taking in large amounts of money.
- (c) As money is fungible and a preferred medium of exchange in the criminal world, it increases the criminals' interest to:
  - i) conceal the true ownership and source of funds;
  - ii) maintain control over the money; and
  - iii) alter the form of the money to mask its origins.

### 4.3 Tax evasion

- (a) Tax evasion is the intentional non-payment or avoidance of lawfully assessed taxes, especially through Fraud, or concealment of income.
- (b) Tax evasion may include a false declaration of income.
- (c) Tax evasion also comprises of being knowingly concerned in, or taking steps with a view to, the tax evasion of another, as well as aiding and abetting another person's offence of tax evasion.
- (d) This criminal offence usually requires an element of fraud which means that there has to be deliberate action or omission with dishonest intent.
- (e) Tax evasion facilitation where a person (a) knowingly concerned in, or taking steps with a view to, the tax evasion by another person and/or (b) aiding, abetting, counselling or procuring the commission of tax evasion, is also not allowed. This criminal offence is one done with deliberation and dishonesty.

### 4.4 Insider dealing

- (a) Insider dealing can be defined as a deliberate exploitation of information by dealing in investments having obtained that information by virtue of some privileged relationship or position, with the objective of making a profit or avoiding a loss. This basically means that a person gained an unfair advantage over any third party as a result of having inside information (i.e., material information about a company that is not generally available to the general public)
- (b) InfraCo Asia has a Personal Account Dealing (PAD) policy that is set out in InfraCo Asia's Compliance policy and procedures. InfraCo Asia requires its employees to agree to be bound and comply with the PAD policy (please refer to **InfraCo Asia's Compliance policy and procedures** for more details).

### 4.5 Financing of terrorism

- (a) Financing of terrorism is described as the solicitation, collection or provision of funds or properties with the intention that they may be used to support terrorist acts or organizations.
- (b) Terrorists and its organisations require financial support in order to perform terrorist activities. This is usually done by obscuring or disguising links between them and their funding sources in order to be able to use them without attracting any attention of the authorities.
- (c) Financing of terrorism may involve funds raised from legitimate sources, such as personal donations and profits from businesses and charitable organizations, as well as from criminal sources, such as the drug trade, the smuggling of weapons and other goods, fraud, kidnapping and extortion.

### 4.6 Bribery and Corruption

- (a) Bribery may be defined as the offering, promising, giving, receiving, accepting and/or soliciting anything of an undue advantage of any value (which could be financial or non-financial), with the intention to influence, induce or reward any person/company to obtain or retain an advantage for themselves or any other person, directly or indirectly, irrespective of location (s).
- (b) Corruption is used to describe various types of wrongful acts / abuse of entrusted power designed to cause some unfair advantage or private gain, and it can take on many forms.
- (c) Depending on the timing, purpose and value of the acts/items, bribery/corruption could be involved.
- (d) InfraCo Asia is also very conservative when dealing with Public Officials<sup>3</sup>.
- (e) More details of what a bribe or act of corruption could involve, is set out in **Appendix A: Bribery and Appendix B: Corruption**.

#### 4.7 Facilitation Payments

- (a) Facilitation payments are any amounts of money that is paid to expedite, facilitate or to secure the performance of a routine governmental action (e.g., granting licenses, processing visas/government papers, providing police or other local services etc).
- (b) A facilitation payment can take many shapes and forms, such as cash, gifts, vouchers, tickets, etc and are typically solicited in everyday transactions. More details and examples of facilitation payments may include are in **Appendix C: Facilitation Payments**.
- (c) Facilitation payments are recognised as bribes and are **strictly prohibited**.

### 5. PUBLIC OFFICIALS, GOVERNMENT AUTHORITY & POLITICALLY EXPOSED PERSON (PEP)

**Appendix D: Public Official** sets out more details on what a Public Official, Government Authority and Politically Exposed Person (PEP) means.

### 6. RED FLAGS

**Appendix E: Red Flags** sets out a list of Red Flags to help identify possible bribery and corruption issues.

### 7. GIFTS, HOSPITALITY AND DONATIONS

#### 7.1 Reasonable, justifiable and proportionate

- (a) In many countries where InfraCo Asia and its Participants conduct business, there are generally accepted customs regarding the exchange of business gifts to strengthen business relationships. In addition, during holidays or festivals, it may be customary for gift, hospitality and/or donation to be given on a personal basis.
- (b) The practice of giving business gift, hospitality and/or donation varies between countries and regions and what may be normal and acceptable in one region may not be in another. The test to be applied is whether in all the circumstances, the gift, hospitality and/or donation is reasonable, justifiable and is proportionate. The intention behind the gift, hospitality and/or donation should always be considered.

#### 7.2 Cash or cash equivalents

The above being said, InfraCo Asia makes it clear that the receiving or giving of cash or cash equivalents as a gift to influence behaviour from or by any employee of InfraCo Asia is **strictly prohibited**. This is because such gift, hospitality and/or donation may be perceived as a bribe or a facilitation payment, which could constitute a Financial crime. We also expect the same standards from the Participants.

#### 7.3 What is the procedure?

For giving/receiving and recording of all gifts, hospitality and/or donations, InfraCo Asia expects that the following is complied with:

- (a) Follow Guidelines and procedures

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<sup>3</sup> Appendix D: Public Official

Its employees and its Participants shall follow the guidelines and procedures set out in **Appendix F: Gifts, hospitality and donations Guidelines**;

(b) Prior approval

In some cases, prior approval should be obtained and **Appendix F1: Gifts, hospitality and donations Approval Form** should be completed and submitted to the InfraCo Asia Legal and Compliance function via email at [compliance@infracoasia.com](mailto:compliance@infracoasia.com). The InfraCo Asia finance and communications functions may be copied in the correspondence as deem fit.

(c) Review and provide approval/disapproval

Once submitted, the InfraCo Asia Legal and Compliance function will review all requests for gifts, hospitality and donations and provide approval or disapproval.

## 7.4 Documentation

- (a) All decision-making process undertaken with regard to the receipt and giving of gifts, hospitalities and donations must be documented, labelled and saved clearly with all supporting documentation, subject to the relevant thresholds set out in **Appendix F: Gifts, hospitality and donations Guidelines**.
- (b) Gifts, hospitality and donations should be recorded in InfraCo Asia or each project's gifts, hospitality and donations register (**Gifts Register**) in an accurate, complete and timely manner. Please refer to **Appendix F2: Gifts, hospitality and donations Register** for more details.
- (c) Participants are to submit each project's Gift Register to the InfraCo Asia Local Compliance Officer on a monthly basis.

## 8. REPORTS ON ANY KNOWLEDGE OR SUSPICIONS OF A FINANCIAL CRIME

### 8.1 Who to report to?

- (a) Where an individual has any knowledge or suspicion of a Financial crime, they shall immediately make a report to the relevant Compliance authorities:
  - i) their line manager;
  - ii) their designated Local Compliance Officer (**LCO**) in writing;
  - iii) InfraCo Asia Local Compliance Officer (**ILCO**);
  - iv) email [compliance@infracoasia.com](mailto:compliance@infracoasia.com); and/or
  - v) call InfraCo Asia's Safecall anonymous compliance hotline (more details in **InfraCo Asia Compliance Policy**)
(collectively, referred to as the **Compliance authorities**)

### 8.2 Process

The detailed processes for making a report, evaluating and investigation of reports are set out in **InfraCo Asia's Whistleblowing, Complaints policy and procedures** and **InfraCo Asia's Employment Handbook**.

### 8.3 Protection for reporter

- (a) The Compliance Authorities will remain fair and independent and treat each report with confidence and will protect all personal data in accordance with the applicable laws. Every reasonable effort will be made to protect the individual from any retaliation, discrimination or disciplinary action for reports made in good faith.
- (b) The Compliance authorities will use its best endeavours to ensure that reports received and accepted would be reviewed and dealt with in an appropriate and timely manner, in accordance with InfraCo Asia's evaluation and investigation processes set out in its policies.
- (c) Applicable laws or regulations may require InfraCo Asia to report allegations of the Financial crime to various enforcement authorities or government regulators under certain circumstances.

## 9. EVALUATION AND INVESTIGATIONS

### 9.1 Independent evaluation and investigation

- (a) InfraCo Asia will evaluate and investigate independently and objectively all reports of Financial crime that it receives.
- (b) For all reports, InfraCo Asia will consider what action to take as a result of such investigations, including, where applicable, disciplinary actions against relevant persons (which could include dismissal), termination of relationships and contracts and reports to relevant governmental authorities or regulators if appropriate.

## 9.2 Notification to PIDG

Reports or allegations of Financial crime that are evaluated by the InfraCo Asia Local Compliance Officer / InfraCo Asia compliance function as having or likely to have a medium or above impact or consequence will be notified to PIDG. InfraCo Asia and PIDG would have a discussion and agree on the investigative procedure to be carried out.

## 9.3 Cooperation

- (a) InfraCo Asia expects that InfraCo Asia and its Participants will cooperate fully by providing adequate details and copies of all relevant records and documents, in an accurate, complete and timely manner, in respect of any screening or investigation of issues or misconduct when requested to do so and to maintain the confidentiality of investigative information unless specifically authorised to disclose such information.
- (b) More details in relation to investigations are set out in **InfraCo Asia's Whistleblowing policy and procedures Appendix E**.

## 9.4 Documentation

- (a) The InfraCo Asia Compliance authorities are responsible for recording and filing all reports and documents received by InfraCo Asia made under this Policy, including a record of the investigation and the outcome of those investigations.
- (b) Personal data obtained in these investigations shall only be processed for the specified purposes, unless otherwise permitted under the law, or the party to whom the data relates to, provides their consent in accordance with **InfraCo Asia's Privacy and Personal Data Protection policy and procedures**.

## 10. CONSEQUENCES OF NOT COMPLYING WITH THE PROVISIONS OF THIS POLICY

- (a) Failure to comply with the provisions of this Policy may have serious consequences, which may include internal disciplinary actions, up to and including termination of the contracts, agreements and services without notice.
- (b) In addition, breaches of anti-financial crime laws can have severe financial and reputational consequences for InfraCo Asia and PIDG. Any person/company who is involved and implicated in the breach, risk imprisonment and personal fines.

## 11. INFRACO ASIA'S REGULAR REPORTING MECHANISMS IN PLACE TO AVOID / MANAGE FINANCIAL CRIME

### 11.1 Employee Forms

- (a) As a way for InfraCo Asia to be aware of its employees' interests and of a possibility of any potential conflicts of interests, InfraCo Asia expects for all of its employees to complete and submit relevant forms declaring their interests whilst also acknowledging that they are not involved in any insider dealing.
- (b) More details are set out in **InfraCo Asia's Compliance policy and procedures**.

### 11.2 KYC and Due Diligence

InfraCo Asia has internal KYC and Due Diligence checks that are being done to ensure that the businesses and individuals it deals with are not involved in financial crime and this is set out in **InfraCo Asia's Due Diligence policy and procedures**.

### 11.3 Accounting controls



- (a) InfraCo Asia endeavours in ensuring that its financial, accounting and tax accounting systems comply with generally accepted accounting principles and/or international accounting standards and provide accurate and true reporting of its business affairs. These accounting controls are in place to prevent financial crime and more details can be found in **InfraCo Asia's Financial Controls policies and procedures**.
- (b) The Participants are also expected to comply with the above principles and provide a reporting of any discrepancies in an accurate, complete and timely manner.

#### 11.4 Financial crime updates to PIDG

The InfraCo Asia compliance function submits regular updates to PIDG with the aim of enabling PIDG Group to make an informed assessment of the levels of bribery/financial crime reported, the types of risks presented and the effectiveness of InfraCo Asia's anti-financial crime policies and procedures (more details on reporting InfraCo Asia's compliance exercises and its frequency are set out in **InfraCo Asia's Compliance policy and procedures**).

#### 11.5 Annual certification to PIDG

InfraCo Asia is required to certify its compliance with the PIDG code of conduct and submit this to PIDG by the 31<sup>st</sup> of January each year. This annual process enables InfraCo Asia to consolidate and review its projects to ensure that it complies with anti-financial laws, InfraCo Asia and PIDG's code of conduct and anti-bribery policies and procedures (please refer to **InfraCo Asia Compliance policy and procedures** for more details).

### 12. MONITORING AND/OR AUDITING

- (a) It is envisaged that the Local Compliance Officer of InfraCo Asia and Participants shall act as the point of contact for all Financial crime reporting, monitoring and auditing. Open discussion and collaboration with the InfraCo Asia Compliance Function in regard to anti-bribery concerns and compliance matters is encouraged.
- (b) Ongoing monitoring and auditing by the Local Compliance Officer of InfraCo Asia would be undertaken to identify any suspicious activity.
- (c) InfraCo Asia's Local Compliance Officer reserves the right to conduct monitoring and auditing and InfraCo Asia expects that Participants must provide all reasonable assistance, including access to personnel, property and records, to allow such monitoring and auditing to occur.

### 13. TRAINING AND EDUCATION

- (a) InfraCo Asia shall ensure that all its employees are aware of their obligations in relation to Financial crime and provide training to its employees with respect to Financial crime and their obligations to safeguard against Financial crime.
- (b) InfraCo Asia does this by conducting refresher compliance trainings/awareness for its employees, usually on an annual basis, on compliance and reporting matters.
- (c) All Participants (and, where applicable, Co-Developers and Project Companies) are expected to conduct and undertake their own training and awareness and safeguarding against Financial crime. All Participants are to provide details of these trainings to the InfraCo Asia Local Compliance Officer when it takes place.

### 14. REVIEW AND CHANGES TO THIS POLICY

- (a) The content of this Policy shall be reviewed annually by the InfraCo Asia Compliance Function.
- (b) In particular, the InfraCo Asia Compliance Function may have regard to changes to PIDG requirements, applicable laws, complaints, reports and recommendations made regarding compliance with this Policy, including investigations undertaken and any potential or actual breaches identified.
- (c) InfraCo Asia will take reasonable steps to inform the Participants to whom this Policy applies of changes to this Policy. However, each Participant is responsible for ensuring that it is aware of, and complies with, the current version of **InfraCo Asia's Code, policies and procedures**.

### 15. INTERNAL COMMUNICATION

- (a) InfraCo Asia commits to ensure this Policy will be made available to its employees and Participants using appropriate communication channels. This Policy will also be posted on InfraCo Asia's website.

## 16. CONTACT DETAILS

If you have any questions, please address them to the Local Compliance Officer of your company or to the InfraCo Asia Local Compliance Officer at [compliance@infracoasia.com](mailto:compliance@infracoasia.com).

## 17. RESPONSIBILITY FOR THIS POLICY AND PROCEDURES DOCUMENT

- (a) Preparation: Legal and Compliance, InfraCo Asia
- (b) Review: InfraCo Asia Executive Committee
- (c) Approval: Chief Operating Officer & Chief Executive Officer

## 18. REFERENCE DOCUMENTS

- (a) EU Anti-Money Laundering Directive
- (b) UK Bribery Act 2010
- (c) Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A of Singapore)
- (d) Terrorism (Suppression of Financing) Act (Cap. 325 of Singapore)
- (e) PIDG Code of Conduct
- (f) InfraCo Asia Code of Conduct
- (g) InfraCo Asia Complaints policy and procedures
- (h) InfraCo Asia Compliance policy and procedures
- (i) InfraCo Asia Due Diligence policy and procedures
- (j) InfraCo Asia Employment Handbook
- (k) InfraCo Asia Operating Policy and Procedures
- (l) InfraCo Asia Personal Account Share Dealing policy and procedures
- (m) InfraCo Asia Privacy and Personal Data Protection policy and procedures
- (n) InfraCo Asia Whistleblowing policy and procedures
- (o) This document MPP 002 (Financial Crime policy and procedures) supersedes and replaces the InfraCo Asia Anti-Bribery and Corruption Policy (7 July 2016).

## 19. APPENDICES

- (a) Appendix A: Bribery
- (b) Appendix B: Corruption
- (c) Appendix C: Facilitation payments
- (d) Appendix D: Public Official
- (e) Appendix E: Red Flags
- (f) Appendix F: Gifts, hospitality and donations
- (g) Appendix F1: Gifts, hospitality and donations Approval Form
- (h) Appendix F2: Gifts, hospitality, donations Register template

## Appendix A: Bribery

Just offering a bribe, or agreeing to receive a bribe (whether directly or indirectly through an agent), is enough to commit a breach of anti-financial crime laws and this Policy.

### A. Forms of bribery

- (a) money or cash equivalents;
- (b) gifts, entertainment or hospitality;
- (c) political/ charitable donation;
- (d) facilitation payments ;
- (e) purchase or sale of property or services at inflated or discounted prices;
- (f) cars; jewellery and other material items;
- (g) home improvements;
- (h) provision of travel;
- (i) loans and/or loan guarantees;
- (j) shares;
- (k) intangible benefits;
- (l) inside information;
- (m) stock tips;
- (n) rewards;
- (o) advantage
- (p) kickbacks;
- (q) unwarranted rebates or excessive commission;
- (r) uncompensated use of InfraCo Asia/participant services/facilities; and/or
- (s) anything else of value<sup>4</sup>

### B. Examples of acts of bribery

- (a) Offering a bribe
  - i) You offer a person a trip to an exclusive conference/dinner on the condition that they agree to extend their contract with InfraCo Asia or its Participants for another term
  - ii) Offering small payments to customs officials to expedite passage of goods through a port
  - iii) When an executive asks for a 'kickback' to award a contract (this involves a portion of the contract fee being given back to the individual who made the decision to award the contract)
  - iv) You favour a supplier/partner by expediting services at the expense of other customers or giving preferential allocation of goods or services
  - v) Offering to pay for a child's education in exchange for that person making a decision to award a contract
- (b) Receiving a bribe
  - i) A supplier offers you a ticket to watch your favourite football team and makes it clear that this could be a regular occurrence if you continue to do business with the supplier
  - ii) An anonymous bribe via mail or courier received is also considered an offer of a bribe
- (c) Public officials including government authority<sup>5</sup>
  - i) You offer to pay for a government official's travel to the InfraCo Asia/Participant office if he/she agrees to successfully offer InfraCo Asia/Participant's product/services to the government entity's procurement committee
  - ii) Offering a public official to a lavish meal in order to be awarded a contract/obtain an inspection report/license in your favour/approve planning and safety standards

<sup>4</sup> Anything that would involve the provision of a benefit, favour or advantage of any description (see also Appendix B2 for some examples on red flags)

<sup>5</sup> Appendix B1

- iii) Employing a public official's son/daughter to influence to award of contracts

**C. Tips on dealing with bribery**

- (a) Assess the situation first
  - i) Are they applying a great deal of pressure on you?
  - ii) Would declining the bribe make things more complicated or could lead to a hostile situation?
  - iii) Does this person have power or is part of the same organisation you are in?
- (b) Maintain a clear mind
  - i) A bribe usually comes in a moment when you least expect. Try your best to take note of important details as these can help back up your claim (i.e., who is bribing you, when and where you were approached, what is being offered, what is at stake etc)
- (c) If declining is no longer an option, make no promises and do not commit in any way to what you are expected to deliver
- (d) Notify superior / legal and compliance team immediately and provide a full account of what took place (ideally via email so there is a record of the notification)
  - i) Timing is essential here as choosing to delay notification to the proper authorities could put your integrity or credibility in question
- (e) Save all documentation
  - i) Keep all evidence, communication and documents in its original form
  - ii) Take photographs of the contents and packaging
  - iii) Avoid having others see or get a hold of it
  - iv) Keep all information confidential until an appropriate action is taken as a result of an investigation

## Appendix B: Corruption

- (a) Corruption includes but is not limited to bribery.
- (b) Generally, corruption refers to the wrongful use of influence to procure a benefit for the actor or another person, contrary to the duty or the right of others.
- (c) The following are some examples of acts of corruption:
  - i) Loser's fee: It is usually a condition (express or implied) of a tender that each unsuccessful tendering contractor will bear its own tender costs. It was secretly agreed within the competing contractors that they will each include an agreed additional sum of money (the 'loser's fee') so that whichever contractor who is awarded the contract will then divide this sum of money between all the unsuccessful contractors who will thereby recover their tender costs. This arrangement is not disclosed to the project owner. The project owner believes that the losing contractors are bearing their own tender costs. The project owner is therefore unknowingly paying more than it would have done had the unsuccessful contractors borne their own tender costs
  - ii) Price fixing: A group of contractors who routinely compete in the same market secretly agree to compete on all major tenders whilst secretly agreeing which of them should win each tender. The rest then tender at a higher price so as to ensure that the pre-selected contractor wins the tender and achieve a higher price than if there had been genuine competition for the project. This arrangement is kept from the project owners who believe that the tenders are taking place in genuine open competition, and that they are achieving the best available price.
  - iii) Inflation of resources and time requirements: Contractor deliberately exaggerates the manpower, equipment and time required to complete the project and the project owner pays the excessive contract price.
  - iv) Concealment of financial status: A project owner is in serious financial difficulty and most likely would not be able to pay the contractor in full for work done. The project owner does not disclose its financial status to the contractor at the time of placing the contract as he/she is aware that if they disclose its financial difficulties, the contractor is unlikely to commence work.
  - v) Submission of false quotation
  - vi) False invoicing: deliberate supply of cheaper and inferior materials but invoices contractor for different materials.
  - vii) Excessive repair work: with the intention of securing a higher price, the plumber falsely informs the contractor that several new parts are necessary when a simple replacement part would suffice.
  - viii) Overstating man-day requirements: A sub-contractor falsifies timesheets to bill the contractor for 150 man-days instead of 100 man-days (which was the time required to complete the work).

## Appendix C: Facilitation payments

- (a) Some examples of facilitation payments are as follows:
- i) payment demanded at border crossings, where officials will hold up a company's cargo from entering a market until they receive payment
  - ii) payment to a customs official to speed up the release of goods from a customs warehouse, where no receipt is provided
  - iii) cash payment to a Public Official to ensure that an application is approved more quickly than under the usual approval process
- (b) Typically, a bribe demander will use explicit or implied threats of delay, inconvenience, business cost or some other undesirable outcome.
- (c) Bribes can also be solicited by an official with the inducement of a faster service, overlooking incomplete paperwork, or some other benefit, and may also be offered by the bribe payer to obtain such benefit.
- (d) Payments made in response to genuine threats to life, limb or liberty are payments made under duress, and this may provide a legal defence for the payment.
- (e) Economic or other coercion such as travel delay, however costly or inconvenient, may appear valid reasons for making a payment but are not legal grounds for paying a small bribe.
- (f) What constitutes 'small' is clearly relative. A bribe of \$20 paid to a passport official may seem small to the business traveller, but the average daily wage in the country may be only \$2. A bribe of \$200 in a developed country may be relatively small. A single bribe may be small in itself, but – very often – small bribes are paid regularly and over time the amounts can be considerable and amount to large-scale systemic bribery. A company might easily discover that it is paying hundreds of thousands of pounds each year in so-called facilitation payments or small bribes.

## Appendix D: Public Official, Government Authority and PEP

- (a) **"Government Authority"** means
- i) a Governmental Entity;
  - ii) an instrumentality, board, commission, court, or agency, whether civilian or military, of any Governmental Entity, however constituted;
  - iii) an association, organization, business or enterprise which is owned or controlled by a Governmental Entity; or
  - iv) a political party. "Governmental Entity" means any supra national organization, national, state, municipal or local government (including any court, administrative agency or commission or other governmental authority) or any arbitrator or any quasi-governmental or private body exercising any regulatory, judicial or other governmental or quasi-governmental powers.
- (b) **"Public Official"** means:
- i) anyone who, including those on a temporary basis and with no compensation, occupies a position, is employed by, or exercises a public function in government entity, or controlled directly or indirectly by public entities, whether they be local, national or foreign;
  - ii) an employee, officer or representative of, or any person otherwise acting in an official capacity for or on behalf of, a Government Authority;
  - iii) a member of an assembly or a committee, or employees engaged in the performance of public duties in accordance with applicable laws and regulations;
  - iv) a legislative, administrative, or judicial official, regardless of whether elected or appointed for a country or territory, or a subdivision of a country or territory, or a subdivision of a country or territory;
  - v) an officer of, or individual who holds a position in, a political party;
  - vi) a candidate for political office;
  - vii) an individual who holds any other official, ceremonial, or other appointed or inherited position with a government or any of its agencies;
  - viii) an officer or employee of an international organization (including, without limitation, the World Bank, United Nations, International Monetary Fund and OECD);
  - ix) a person who is, or holds himself out to be, an intermediary acting on behalf of a government official;
  - x) a person who, although not a public officer, is determined by applicable legislation to be equivalent to a Public Official;
  - xi) employees of state-owned companies, including those of states controlled companies; and
  - xii) an official or agent of a public international organisation (such as the World Health Organisation).
- (c) Individuals at any rank or level are deemed to be Public Officials at the following type of organisations:
- i) national, regional, local or municipal government bodies;
  - ii) state owned or state controlled<sup>6</sup> companies;
  - iii) central banks;
  - iv) sovereign wealth funds;
  - v) international organisation, development banks and public health agencies like the United Nations, EU, World Bank, IMF, International Monetary Fund, World Health Organisation, OECD etc);
  - vi) royal families;
  - vii) political parties, party officials and candidates for any level of political office.
  - viii) government authority<sup>7</sup>;

<sup>6</sup> Generally, an entity would be deemed state controlled where a government body has at least one of the following attributes:

- More than 50% ownership
- Voting control
- Board control or
- Other indicia of control (e.g. golden share, government demonstration of control)

<sup>7</sup> A Government Authority could be any of the following or their relatives:

- A political candidate or party official

- ix) a legislative, administrative, or judicial official, regardless of whether elected or appointed for a country or territory, or a subdivision of a country or territory; and/or
  - x) Any other person determined by applicable legislation to be equivalent to a Public Official.
- (d) The following are some examples:
- i) president, prime minister, secretary of state, senator, representative
  - ii) monarchs and other heads of state (kings, queens, sultans, sheiks, and royal family members)
  - iii) secretaries, chancellors, ministers (Minister of Energy, Secretary of Housing, etc.)
  - iv) commissioners, chiefs, and directors of government commissions, agencies, departments, and bureaus
  - v) members of military, quasi-military, or police forces
  - vi) civil servants (assistant or undersecretaries, deputies, vice ministers, clerks, assistants, etc.)
  - vii) foreign servants (ambassadors, consuls general, etc.)
  - viii) senators, representatives, members of parliament, council members (whether appointed or elected)
  - ix) judges at any level of court (including administrative judges)
  - x) mayors, governors, local/provincial/state/county legislators or parliamentarians
  - xi) employees and volunteers for political parties
  - xii) candidates for political office
  - xiii) officials of political parties
  - xiv) employees of intergovernmental and non-governmental organizations (United Nations, Red Cross, North Atlantic Treaty Organization, Organization for Security and Co-operation in Europe, International Olympic Committee, World Health Organization, etc.)
  - xv) employees of state-owned companies (including officers, directors, managers, and lower-level employees):
    - (1) airlines
    - (2) energy companies (Pemex, Petrobras, Total, Rosneft, etc.)
    - (3) construction companies
    - (4) hospitals
    - (5) schools and universities
  - xvi) agents or associates of the above (including law firms, accounting firms, lobbyists, consultants, etc.)
- (e) **"Politically exposed person" (PEP)** means any individual who is or has been entrusted with a prominent public function. More details on PEPs are set out in **InfraCo Asia's Compliance policy and procedures**.

- 
- A representative of a government-owned/controlled organisation
  - An employee of a public international organisation or non-governmental organization (e.g., World Bank)



## Appendix E: Red Flags

Please refer to section 6 of the Financial Crime policy and procedures, on how to make a report if you encounter any red flags.

- (a) Transactions
  - i) A pattern of small payments in repeated situations such as customs, taxation, per diems
  - ii) Expense claims which have no supporting documentation and lack explanation of purpose
  - iii) Expense payments made in round sums
  - iv) Cash advances made to employees for no apparent valid purpose
  - v) Payments made under self-prepared vouchers rather than third party documents
  - vi) Miscellaneous or unspecified sums included in invoices and unchallenged by the company
  - vii) Expenses appear excessive for the activities
  - viii) Evidence of payments that are not recorded in financial records
  - ix) Expenses cannot be satisfactorily explained
  - x) Petty cash use is excessive
  - xi) Free or discounted services
  - xii) Excessive use of third-party agents, intermediaries and consultants
  - xiii) Gifts and entertainments: lavishness, unreasonableness, inaccurate records
  - xiv) Offshore fund transfers
  - xv) Undue urgency for payments
- (b) Logistics movement
  - i) Undue favourable treatment by government officials or private sector companies such as telecommunications or utility companies
  - ii) Speedy entry into a country despite known demands and delays at border controls
  - iii) Movement of goods quicker through ports and customs than competitors
  - iv) Expenses patterns differ between employees in similar circumstances or activities
- (c) Refusal
  - i) refusal or resisting to put terms in writing or insisting on use of side letters
  - ii) refusal or resisting to certify compliance
- (d) Insufficient / absence of information
  - i) No anecdotal evidence or reports are made to top management/executive committee (ExCo)<sup>8</sup> related to difficulties regarding small bribes despite operating in an environment where demands for such payments are commonplace
  - ii) Local contacts and peer companies identify concerns about small bribes demanded by particular government departments, but no reports have been made by your company's employees or intermediaries
  - iii) The agent or other third party does not wish your company's employees to be present at negotiations or interactions with officials
  - iv) The agent or other third party shows lack of commitment or interest in countering small bribes

<sup>8</sup> **Top Management/ExCo:** Person or group of people who directs and controls the organisation at the highest level. Top management also has the power to delegate authority and provide resources within the organisation.

## Appendix F: Gifts, Hospitality and Donations Guidelines

### A. GIFTS

- (a) The following are some examples of what gifts can entail:
- i) courtesy gifts given to strengthen business relationship;
  - ii) corporate gifts bearing company name and logo and are of nominal value (e.g., diaries, table calendars, pens, notepads, plaques);
  - iii) Festive gifts and/or treats given during festive season (e.g., hampers, oranges, dates, cookies, wine, flowers, gift baskets);
  - iv) congratulatory gifts to mark the opening of a business, graduation, wedding etc;
  - v) compassionate gifts include tokens of bereavement, gifts following an illness/accident;
  - vi) any item including pens, hats, t-shirts, mugs, calendars, bags, key chains, portfolios;
  - vii) vendor or potential vendor or supplier-provided food, beverages, meals, or entertainment such as sporting events;
  - viii) small promotional items (such as stationary, caps etc) which are of only minimal value need not be reported. However, repeat invitations below the threshold may constitute a bribe, and so additional care must be taken where more than three invitations or gifts per calendar year are being sought to be provided by any one supplier; and/or
  - ix) product discount or any other benefit if the benefit is not extended to all employees.
- (b) The following are usually not deemed as gifts:
- i) cards, thank you notes, certificates, or other written forms of thanks and recognition; and/or
  - ii) items such as t-shirts, pens, small goodie bags etc employees obtain, as members of the public, at events such as conferences, training events, seminars, and trade shows, that are offered equally to all members of the public attending the event.

### B. HOSPITALITY

- (a) Hospitality is the collective term referring to any form of accommodation, drink, meal, entertainment<sup>9</sup>, cultural or sporting event, thereafter event, recreation and transportation/travel<sup>10</sup>.
- (b) It is recognised that, in the course of carrying out one's duties, there will be on a need on occasion to ensure good relationships with existing and future contractors and stakeholders<sup>11</sup> and that this may involve for example, the receipt of modest working lunches and dinners. These are acceptable where there is a genuine business reason. Hospitality invitations to events which are purely social events should be considered very carefully before accepting; in such circumstances it may be much more difficult to substantiate a genuine business reason.
- (c) The following are some examples of what acts of hospitality can entail:
- i) social entertainment and/or hosting (e.g., tickets to events, invitations to sponsored events, paying for or providing lunch or dinner etc)
  - ii) attendance or speaking at a conference which provides complimentary subsistence, travel and accommodation;
  - iii) bearing the costs of transportation and lodging for stakeholders/partners/officials in connection with a legitimate business purpose (e.g., on-site examination of equipment, contract negotiations or training);
  - iv) attending at a free training course; and/or
  - v) attending a drinks reception to network.
- (d) When using InfraCo Asia funds to provide hospitality to business partners/suppliers etc, the limits of the InfraCo Asia Travel & Reimbursement policy and procedures (or Participant's business development

<sup>9</sup> Entertainment refers to an activity or meal intended to maintain the business relationship where an employee is in attendance, including conference or event passes, or tickets / passes to concert or sporting events

<sup>10</sup> Travel refers to domestic or international trips provided to/received from any third party, where the travel serves a legitimate business purpose above and beyond developing relationships. Costs associated with travel include airfare, hotel accommodations, and ground transportation during a trip

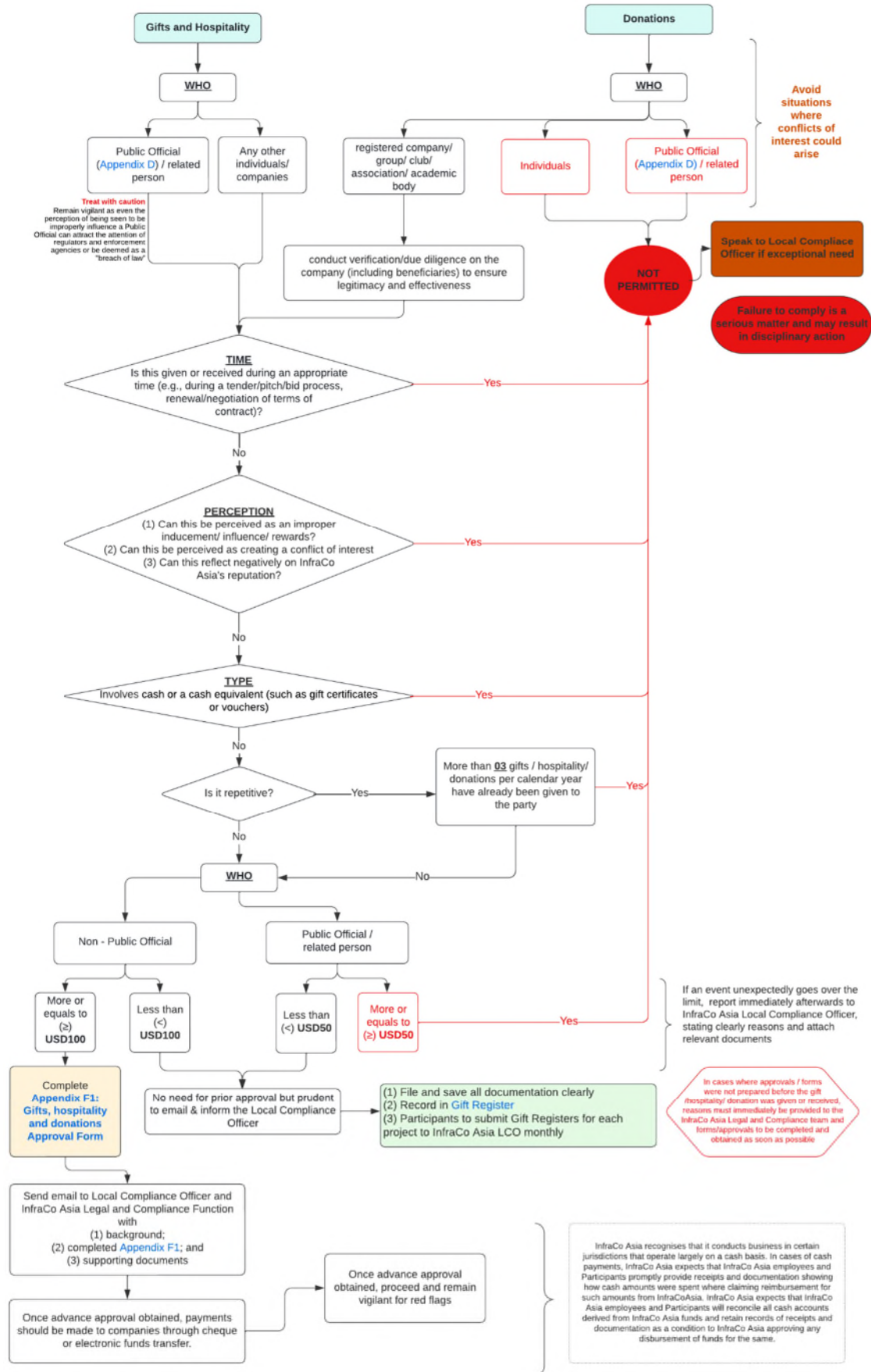
<sup>11</sup> A person or organisation that can affect, be affected by, or perceive itself to be affected by a decision or activity

policy, as the case may be) should also be used as guidance and approved in advance by the InfraCo Asia Legal and Compliance Function. If an event unexpectedly goes over this limit, it should be reported immediately afterwards to the InfraCo Asia Legal and Compliance Function.

### **C. DONATIONS**

- (a) A charitable donation is a gift, hospitality, funding or other contribution that is offered or given to a registered charitable organisation or entity.
- (b) Donations must not be made to individuals. They must be made to incorporated and registered community groups, clubs, associations, not-for-profit organisations, non-government organisations, other community related commercial organisations and/or academic bodies such as universities.
- (c) The following are some examples of donations:
  - i) providing masks and medical supplies during a pandemic;
  - ii) supplying rations for a village
- (d) Under no circumstances are political donations to be made directly/indirectly on behalf of InfraCo Asia.

**Gifts, Hospitality & Donations flowchart (giving and receiving)**



## Appendix F1: Gifts, Hospitality, Donations Approval Form

<b>1. Employee information</b> (details of person asking for approval and filling up this form)		
a. Full Name	Click or tap here to enter text.	
b. Position	Click or tap here to enter text.	
c. Department	Click or tap here to enter text.	
d. Company	Click or tap here to enter text.	
e. Contact number:	Click or tap here to enter text.	
f. Email address:	Click or tap here to enter text.	
<b>2. Details</b>		
a. Project name and number (if any):	Click or tap here to enter text.	
b. Type: (Gift, Hospitality or Donation)	Choose an item.	
c. Giving / receiving:	Choose an item.	
d. Name and contact details of person/company/organisation <b>giving</b> Gift/Hospitality/Donation  (can be more than one):	Name:	Click or tap here to enter text.
	Contact details:	Click or tap here to enter text.
	Company:	Click or tap here to enter text.
	Position / title in company:	Click or tap here to enter text.
	Identification details (if available):	Click or tap here to enter text.
e. Name and contact details of person/company/organisation <b>receiving</b> Gift/Hospitality/Donation  (can be more than one): <b>*please ensure that it is a valid organisation and recommended to have identification documents</b>	Name:	Click or tap here to enter text.
	Contact details:	Click or tap here to enter text.
	Company:	Click or tap here to enter text.
	Position / title in company:	Click or tap here to enter text.
	Identification details (if available):	Click or tap here to enter text.
f. Full description of Gift/Hospitality/Donation	Location:	
	Date:	Click or tap to enter a date.
	Time:	
	Details:	Click or tap here to enter text.
	Justification of this gift/hospitality/donation	Click or tap here to enter text.
g. Total value/cost of Gift/Hospitality/Donation (in USD)  (if the cost is not known, an estimate should be provided) and basis for value determination	USD Click or tap here to enter text. Click or tap here to enter text.	
h. Is InfraCo Asia indirectly or directly associated with the gift/event? (e.g. will InfraCo Asia's names be in any marketing materials?)	<input type="checkbox"/> Yes If yes, please inform InfraCo Asia MarComms function.	<input type="checkbox"/> No
i. Are you aware of any Gifts/Hospitality/Donation given to / received by the same individual / company / organization in the past 12 months?	<input type="checkbox"/> Yes If yes, what was the nature and value? Click or tap here to enter text.	<input type="checkbox"/> No

<b>3. Public Official involvement</b>		
a. Are you aware of any Public Officials being involved in this Gift/Hospitality/Donation?	Choose an item. If yes, please provide details:	
b. Are you aware of any current, proposed or anticipated transaction, contract, exam or business activity between InfraCo Asia and the Public Official or the Government Authority that he/she works for/represents?	Choose an item. If yes, please provide details:	
c. Does the Public Official have authority to award future contracts to, approve licenses for, or examine/regulate InfraCo Asia?	Choose an item. If yes, please provide details:	
d. Is it a donation to a charity?	<input type="checkbox"/> Yes <b>(please proceed to section 4)</b>	<input type="checkbox"/> No <b>(please proceed to section 5)</b>
<b>4. Donations to a charity</b>		
a. Did anyone request for this donation?	<input type="checkbox"/> Yes Please provide details:	<input type="checkbox"/> No
b. Is this a charity registered with the government authority responsible for regulating charities in the relevant jurisdiction?	<input type="checkbox"/> Yes Please provide details:	<input type="checkbox"/> No
c. Does this charity have any history of bribery-related issues or other irregularities?	<input type="checkbox"/> Yes Please provide details:	<input type="checkbox"/> No
d. Does this donation conform to local laws?	<input type="checkbox"/> Yes Please provide details:	<input type="checkbox"/> No
e. Will the costs for the donation / donation in kind be paid directly to the charity via bank transfer?	<input type="checkbox"/> Yes Please provide details:	<input type="checkbox"/> No
f. Could the donation result in a personal gain (monetary or otherwise) to the person requesting the donation (or someone connected to the person)?	<input type="checkbox"/> Yes Please provide details:	<input type="checkbox"/> No
<b>5. Executive Committee (ExCo) discussion/approval</b>		
a. Is there any possible conflict of interest arising from this?	<input type="checkbox"/> Yes Please provide details:	<input type="checkbox"/> No
b. Has this been approved / discussed with InfraCo Asia ExCo or in monthly developer meetings with InfraCo Asia?	<input type="checkbox"/> Yes Please provide details and attach relevant approvals/discussion documents.	<input type="checkbox"/> No

I confirm that, so far as I am aware, the above details are true, complete and correct and that I shall notify my superior of any additions and/or changes in the information given at the time that they arise. I also certify that I do not have a financial interest with the abovementioned parties and that I am unaware of any conflict of interest related to this anticipated transaction with the abovementioned parties.

**Submitted by:**

Print name:	Date:
Title:	Company:
Signature:	

**Superior (Line manager) :**

Approved

Rejected

Print name:	Date:
Title:	Company:
Signature:	
Rationale for Approval/Rejection:	

**Local Compliance Officer:**

Approved

Rejected

Print name:	Date:
Title:	Company:
Signature:	
Rationale for Approval/Rejection:	

**Legal and Compliance Function InfraCo Asia:**

Approved

Rejected

Print name:	Date:
Title:	Company: InfraCo Asia
Signature:	
Rationale for Approval/Rejection:	

**Appendix F2: Gifts, Hospitality and Donations Register**

PROJECT NAME											
Entry No.	Name of employee	Date of disclosure	Type (Gift / Hospitality / Donation)	Date of offer/ receipt	External party details NAME	External party details POSITION	Nature and description	Context of relationship (project company/partner)	Estimated value (in local currency)	Estimated value (in USD)	Actual amt (USD)
1									\$	\$	\$
2									\$	\$	\$
3									\$	\$	\$
4									\$	\$	\$
5									\$	\$	\$
6									\$	\$	\$
7									\$	\$	\$
8									\$	\$	\$
9									\$	\$	\$
10									\$	\$	\$