Government of Seychelles

Code of Governance for Public Entities

VERSION 2

Version 1: **September 2009**

Version 2: **April 2010**

Republic of Seychelles

Preface

This Code of Governance aims to provide practical information to boards and CEOs regarding the government's policies on good governance for all public entities in Seychelles aimed at improving overall decision making and internal control particularly at board level. The principles of good governance – openness, integrity and accountability – are not just optional extras they are the fundamental foundations on which effective organisations are built. In the public sector, governance is as important, or even more important, than in the private sector.

Some of the public entities within Seychelles will already apply almost of the aspects of good governance practices outlined in these Guidelines, but they may find it useful to benchmark their current practices against these standards. All public entities should be able to use these Guidelines to develop an appropriate action plan to introduce these standards over the next few years regardless of size, intention or current structure.

This guideline has been specifically adapted to suit the Seychelles environment from the guidelines regarding governance developed by the professional accountants associations in the African region and organisations such as the World Bank, OECD, IFAC, and Commonwealth Association for Good Governance and the World Bank. These guidelines are used in countries such as Angola, Botswana, Ethiopia, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Uganda and Zambia.

Version 1 of the guidelines were developed and distributed to CEOs and boards in September 2009 as a precursor to the Public Enterprise Monitoring Act which was enacted in November 2009. Following the introduction of this new law, it was necessary to update the guidelines to ensure that they fully reflect the law and the current policies in relation to board appointments, consequently, this is Version 2 of the code of governance.

These guidelines were developed by the Public Enterprise Monitoring Division through a collaborative approach involving the Auditor General, the Public Officers Ethics Commission, the Public Accounts Committee, the Ombudsman and several of the chief executives of the major public entities.

This guideline to good governance compliments other policies and guidelines that have been developed to improve the governance, monitoring and control of the public entities in Seychelles aimed at improving efficiency and minimising risk to government.

Useful Definitions

In this guideline "Public entities" means public enterprises that are commercial in nature and also public entities that provide some kind of service and are dependent on government funding. This includes councils, boards, funds, agencies and institutions which may be semi or fully autonomous.

Where this guideline refers to a "Chief Executive" it is the term used to describe the head of staff or most senior manager of a public organisation; these include chief executive officer, general managers, directors, vice chancellors or principals.

Reference to a “Chief Financial Officer” means the individual who is responsible for the management and control of the financial affairs in the public organisation.

Reference to a “Responsible Ministry” refers to the Ministry that acts as a shareholder.

“PEMD” means the Public Enterprise Monitoring Division which is a division in the Ministry of Finance which monitors all public entities either through the Public Enterprise Monitoring Act 2009 or through delegated authority from the Principal Secretary of Finance for the Public Finance Management Act.

The term “governing body” means the board of directors or the group of individuals who are responsible for decision making at the highest level

Executive Summary

Public entities have been established with financial resources from tax-payers. This means that the main stakeholders in these organisations are members of the public, whose taxes have been invested in these entities. Consequently, it is necessary to ensure that there is sound governance within these organisations and the introduction to these Guidelines sets out the case for having good governance, and the need for further improvements to the quality of governance of public entities.

The term ‘governance’ is used, rather than ‘corporate governance’, purely because the word ‘corporate’ may be interpreted as a private-sector term.

The Introduction explains the governance framework, including the respective roles of the National Assembly, Cabinet, PEMD, the Responsible Ministry, the Ministry of Finance, the external auditors and the governing body. The three fundamental principles of corporate governance, openness, integrity and accountability, are also introduced and explained.

The remaining chapters set out recommendations, derived from these fundamental principles, on standards of behaviour (chapter 2), organisational structures and processes (chapter 3), internal control (chapter 4) and external reporting (chapter 5).

Appendix 1 is a good governance checklist for governing bodies and chief executives, Appendix 2 provides further information on external reporting and disclosures Appendix 3 refers users of this guide to useful websites for further reading and Appendix 4 provides guidance in relation to one of the complimentary policies relating to Community Service Agreements.

1. Introduction

IMPORTANCE OF GOVERNANCE

Governance is concerned with structures and processes for decision making, accountability, control and behaviour at the top of organisations. In some countries, ‘corporate’ may be interpreted as a private-sector term so to avoid any possible confusion, the term ‘governance’ is used in these Guidelines to describe what is commonly referred to in the private sector as ‘corporate governance’.

In Seychelles, the public sector and in particular the public entities play an important role in society and effective governance can encourage the efficient use of resources, strengthen accountability and improve management and service delivery. Public entities will remain important in Seychelles for years to come and with the public ownership of strategic assets such as infrastructure, water supply and other key industries effective governance is essential for maintaining confidence in these public entities and thus enabling them to meet the government’s objectives.

As we move along the path of structural reforms in Seychelles, many of our multilateral and bilateral partners who offer us assistance will also insist on good governance in this particular sector and there is an increasing social awareness for the government to be participatory, transparent and accountable in the conduct of their affairs.

CURRENT SITUATION

As a result of the economic reform program which started in 2008 the following changes have occurred:

1. Some public entities which operated on a commercial basis have been restructured, privatised or liquidated
2. Some functions previously performed by government are now performed on a semi autonomous basis by boards and agencies.
3. The PE Act introduced in late 2009 establishes a list of public entities which the government consider to be commercially focused.
4. PEMD was established to help the Responsible Ministers and minimum reporting standards have been introduced.
5. A board of directors training course is now available through SIM and directors of commercial public entities should attend (through provision in PE Act), whilst directors of budget dependent public entities are being encouraged to attend.

Improvements in the management and administration of many public entities are essential and in the past there may have been an emphasis on external or independent auditing of financial statements but we are now also emphasizing effectiveness of internal control systems. Boards are being strengthened so that all members know what the role and responsibilities are including their legal responsibilities (fiduciary duties).

SCOPE OF THE GUIDE

In the interests of good governance, the governing body and chief executive of each public organisation should ensure that they read these Guidelines.

For commercial public entities which are listed in Schedule 1 of the PE Act, the organisation must adopt some kind of code of governance. These guidelines can be used as that code or the organisations board of directors can develop their own specifically adapted to their industry. For assistance in researching other codes of governance a useful website is http://www.ecgi.org/codes/all_codes.php which lists many of the codes of governance used around the world. No matter what code is used, it will be necessary for the board of directors to discuss their code of governance as part of their annual report which is then subsequently provided to the Responsible Minister and laid before the National Assembly in June every year.

It is important to note that given the wide variety of public entities in operation in Seychelles, not all of the points in this guideline will suit all entities equally so a certain amount of discretion is required when adopting these guidelines. In any circumstances where these recommendations cannot be applied directly, the basic principles of governance – **openness, integrity and accountability** – should be followed.

Boards are encouraged to contact PEMD to ask for assistance in understanding governance or establishing their own code of governance.

IMPORTANT NOTE ON BALANCING COMMERCIAL OBJECTIVES AND SOCIAL SERVICE OBLIGATIONS

Many public entities in Seychelles have both commercial and social objectives. According to the PE Act, commercial public entities must be successful businesses striving for profit. If they are then asked to provide the government with some form of social service that is free of charge or below market rates, then this produces a conflict with their main objective. Therefore it is necessary for Responsible Ministers to instruct the boards in writing to provide the social service so that the boards understand what they need to do and can then plan ahead. This policy supports the concept of governance where the boards will be accountable for the public entities performance, they must make decisions based on integrity and there needs to be transparency in the decision making. Verbal requests from Ministers is not considered to be sufficient, requests must be in writing.

When a Responsible Minister asks a commercial organisation to provide a social service at below market rates the Responsible Minister should:

- ❖ Make a written request to the board of directors in line with the Cabinet endorsed community service agreement policy which is further detailed at Appendix 4 to this guide
- ❖ The board should consult and inform their stakeholders on the strategies put in place to balance their organisations' commercial and social obligations; and
- ❖ Once a year when the governing body compiles its annual report it will need to report on the extent to which they have achieved both their commercial and their social objectives.

OVERALL RESPONSIBILITY FOR THE GOVERNANCE FRAMEWORK

The overall roles and responsibilities of ministries, oversight bodies, shareholders and other stakeholders of the public entities often overlap but generally the following rules will apply:

<u>National Assembly</u>

The National Assembly has the right and responsibility to hold all public entities to account for the effective management of their financial affairs, the proper and efficient use of resources entrusted to them and the results achieved.

From 2011 onwards, both the planned or expected income and expenditure of public entities will be laid before the National Assembly by the Minister of Finance for all commercial public entities. In addition, the borrowing requirements of public entities will be noted in the budget which is in line with the Public Debt Management Act. As such, the National Assembly will have more information about the public entities than ever before and their role in the governance framework will increase.

Once the National Assembly have the annual reports of the public entities, they will review the financial management and control exercised by public entities through the Public Finance Accounts Committee. On occasion, the Public Finance Accounts Committee may seek assistance from the Auditor General. From 2011 onwards, the work of the Public Accounts Committee will include:

1. Receiving the annual reports of the commercial public entities in line with the PE Act.
2. Receiving the reports from the Auditor-General where he is the auditor of a public organisation.
3. Undertaking hearings, including questioning of the Chairman of the Boards, Chief Executive Officer or other relevant officers which may also involve questioning the external auditor.
4. Reporting findings back to the National Assembly.

President

The President has the right to appoint and dismiss members of the governing bodies and chief executives. He can source directors from anywhere and has the option to establish a board nomination committee to assist him find the most suitable candidates. The President also appoints the CEO of all of the public entities.

Cabinet

The Cabinet has a responsibility to protect, preserve and exercise authority actively over public entities by ensuring that:

- the legal framework establishing and determining the operations of the publicly owned corporations is clearly defined
- Policies are introduced to deal with common risks between the public entities
- Strategic direction is established for the enter public organisation sector
- The governing body of each public organisation is held to account and is held responsible for the sound governance of the organisation.

The Minister of Finance

In addition to reporting to Responsible Ministers, public entities should also consult with the Ministry of Finance through PEMD on matters relating to major issues relating to the control and management of public funds and resources as the Ministry of Finance has responsibility for setting and monitoring the overall financial plans of government.

Responsible Ministers

All of the public entities have a Responsible Minister, generally it is just one minister. In the case of a public organisation which is a company, the Responsible Minister is the shareholder. It is the Responsible Minister who should be informed by the board of directors of anything that may materially affect the public organisation. The Responsible Minister also approves the board remuneration and appoints the external auditors.

In the regulatory environment, good governance is synonymous with robust accountability for performance. There should be regular and open communication to the Responsible Minister by participants directly responsible for the performance of the public entities, including PEMD, the governing body and the chief executive.

PEMD (Public Enterprise Monitoring Division)
It is the responsibility of the PEMD to monitor the governance arrangements in all public entities and then recommend improvements to the Responsible Ministers and Cabinet. PEMD obtain regular reports from the public entities and analyse these, PEMD may recommend the adoption of some kind of policy that supports good governance.

PEMD are responsible for promoting:

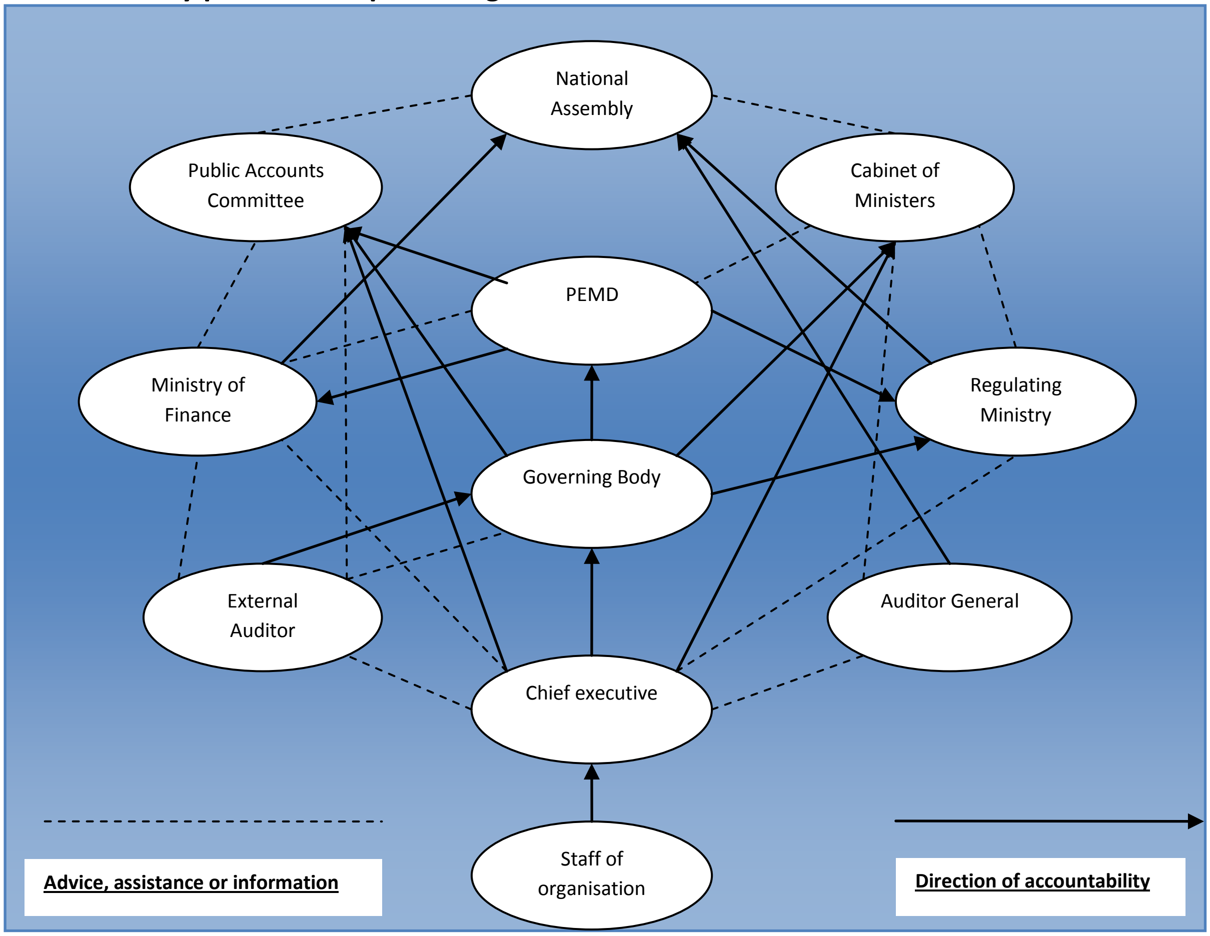
- Clear non conflicting objectives for each public organisation so that the boards and the Responsible Ministers understand where the organisation is headed.
- Proper and open selection, induction and development of members of governing bodies of public entities
- The development of medium-term corporate plans for each of the major public organisation so that the boards think three years ahead

Governing bodies and chief executives
Governing bodies and chief executives of public entities have a responsibility to ensure good governance in their own organisations as all of the entities will be held accountable for the soundness or otherwise of the governance practices of each public organisation. Adherence to good governance forms part of the annual reporting obligations. The members of the governing body of a public organisation are appointed by the President after consultation with the Regulating Minister and the Minister of Finance. The governing body and chief executive are responsible for authorising the acquisition and use of financial resources, and for approving, overseeing and monitoring the implementation of the budget or financial plan. The governing body are responsible to the PEMD, to the line ministry and ultimately to the National Assembly for the regularity, probity and efficiency with which it achieves its objectives (for more details see Chapter 3).

External Auditors
The Auditor-General represents the wider public-sector interest in public entities and thus has a wider scope compared with an auditor in the private sector. The audit of public entities, as for other public-sector entities, should be of the whole of the financial management of the organisation, including specific consideration of probity and regularity, rather than of its accounts alone (see Chapter 5 for further details).

The financial statements of all public entities should be subject to an independent audit. In the case of public entities that are registered companies, this is usually undertaken by private-sector auditors and in the case of other public entities is undertaken by the Auditor General. The audit reports should be primarily addressed to Cabinet rather than to the public organisation itself.

Accountability process of a public organisation to Government



PRINCIPLES OF GOVERNANCE

These are three basic principles that reflect governance in the public-sector context, as shown in the following table:

Openness	Openness is required to ensure that stakeholders can have confidence in the decision-making processes and actions of public entities, in the management of their activities, and in the individuals within them. Being open through meaningful consultation with stakeholders and communication of full, accurate and clear information leads to effective and timely action and stands up to necessary scrutiny.
Integrity	Integrity comprises both straightforward dealing and completeness. It is based upon honesty and objectivity, and high standards of propriety and probity in the stewardship of public funds and resources, and management of an organisation’s affairs. It is dependent on the effectiveness of the control framework and on the personal standards and professionalism of the individuals within the organisation. It is reflected both in the organisation’s decision-making procedures and in the quality of its financial and performance reporting.

<u>Accountability</u>	Accountability is the process whereby public entities, and the individuals within them, are responsible for their decisions and actions, including their stewardship of public funds and all aspects of performance, and submit themselves to appropriate external scrutiny. It is achieved by all parties having a clear understanding of those responsibilities, and having clearly defined roles through a robust structure. In effect, accountability is the obligation to answer for a responsibility conferred.

These fundamental principles are reflected in each of the dimensions of the governance of public entities:

- standards of behaviour – how the governing body, chief executive and senior management of the organisation exercise leadership in determining the values and standards of the organisation, which in turn define the culture of the organisation and the behaviour of everyone within it
- organisational structures and processes – how the governing body, chief executive and senior management within organisations are appointed and organised, how their responsibilities are defined, and how they are held to account
- control – the network of various controls established by the governing body, chief executive and senior management of the organisation to ensure:
    - the achievement of the organisation's objectives
    - the effectiveness and efficiency of operations
    - the reliability of internal and external reporting
    - compliance with applicable laws and regulations and internal policies; and
- external reporting – how the governing body and chief executive and senior management of the organisation demonstrate their financial accountability for the stewardship of public money and the organisation's use of resources.

From these fundamental principles of openness, accountability and integrity it is possible to derive a set of recommendations on governance.

2. Standards of Behaviour

INTRODUCTION

The reputation of the organisation depends on the standards of behaviour of everyone working within it, whether senior managers, staff or agents contracted by it. Therefore, effective procedures and safeguards must be put in place to ensure that all management and staff:

- are committed to the highest standards of personal behaviour; and
- maintain open and honest relationships with the public, with people from other organisations, and with other employees and officers of the organisation.

The Public Officers Ethics Commission has recently released a Handbook relating to standards of behaviour and ethics so this governance guideline should be read in conjunction with that Handbook. In addition, this guideline elaborates some of points contained within the Handbook.

LEADERSHIP/PROFESSIONALISM
The highest standards of behaviour should be demanded of all staff of public entities. Governing bodies, chief executives and other senior managers have a special responsibility to demonstrate and practice the standards they expect of others within the organisation. They should demand and show through their work that whenever there is a choice between ethical behaviour and choosing other means to operate, that their social conscience and the good name of the organisation always come first.

The governing body and chief executive of each public organisation have a leadership role – their actions should set high standards:

- formally by communicating the code of conduct and ethics to all employees, and
- informally through personal adherence to the highest standards of behaviour and through the setting of a good example.

Staff must exhibit a high degree of competence and best practices in their respective professions and should strive to strengthen their capabilities and encourage professional development of others.

CODES OF CONDUCT AND ETHICS
Every employee of every public organisation regardless of reporting obligations to the Department of Public Administration should adopt the formal Code of Conduct and Ethics released by the Public Officers Ethics Commission which defines the standards of behaviour that the governing body, chief executive, senior managers and all other staff are required to follow.

On appointment, members of the governing body, the chief executive, senior managers and staff of the organisation should undertake to uphold and abide by this code of conduct and ethics. They should be made aware that failure to follow the code may lead to disciplinary action and in appropriate circumstances could result in their dismissal.

OPENNESS AND OBJECTIVITY
Openness is more than structures and processes. It is also an attitude and belief among key players, staff of public entities and other stakeholders that information is to be shared and is not owned by any particular organisation – it is a public resource.

Governing bodies and chief executives should establish appropriate mechanisms to ensure that senior managers and other staff of the organisation are not influenced by prejudice, bias or conflicts of interest.

Governing bodies and all staff of public entities who are involved in the decision-making process should be, objective and should put the interests of the organisation and society generally above their private interests. This imposes an obligation to be fair, honest and free of conflicts of interest.

CONFLICTS OF INTEREST/IMPROPER INFLUENCE
The governing body, chief executive and employees of public entities are required to observe not only the law, but also other relevant rules on disclosure of personal interests. In disclosing interests, complete openness should be observed. The appearance of a conflict of interest could be as damaging as the existence of a real conflict, and public office holders should do their utmost to ensure that in all

their activities, both professional and private, even the appearance of a conflict of interest does not arise.

On first appointment and at least once a year thereafter, all members of the governing body should, in good faith, disclose to the rest of the governing body any business or other interest that is likely to form a potential conflict of interest. This may include, for example:

- relevant business or political interests
- significant shareholding, share options and/or other interests in organisations with which the public organisation may do business and
- any gifts, monies, commissions, benefits or other favours extended or received from a party in respect of, or in relation to, any business dealings with the public organisation.

In meetings of the governing body or senior managers, participants should also formally declare whenever they have a personal interest in the subject being discussed. Whenever a conflict of interest is established, or an interest appears to conflict with public office, the person concerned should play no further part in the relevant discussion, decision or action.

This reporting is in addition to any reporting requirements to the Public Officers Ethics Commission.

GIFTS, HOSPITALITY AND ENTERTAINMENT/ILLICIT ENRICHMENT

Staff of public entities should never offer or accept any payment, bribe, favour or inducement. However, gifts, hospitality and entertainment should be offered or accepted only if there is a genuine need to impart information or represent the organisation and the hospitality is appropriate. To resolve any doubts about the appropriateness of offering or accepting hospitality or a gift, the person concerned should follow the Code of Conduct and also the guidelines below:

- He or she should consider whether the offering or acceptance of any such gifts or hospitality could be regarded as normal and reasonable. 'Normal and reasonable' is defined for this purpose as no more than the organisation would be prepared to offer in equivalent circumstances. Organisations should provide guidance as to what may be considered appropriate. Staff must not exceed such guidance without the specific and written authority of the governing body, chief executive or other designated senior manager. Where there is no guidance, the person should ensure that any hospitality or gift is not of a level or an amount which would lead any person to believe that he or she might be influenced by it.
- The person should ensure that a full record is kept of all hospitality or gifts offered, given or accepted above a minimum limit. This record should be held centrally and be made available to the organisation's auditors and at meetings of the governing body.
- The person should decline the gift if there is any doubt as to the objectivity and openness of making or accepting such an offer.

INTEGRITY AND HONESTY

All staff of public entities should conduct themselves in accordance with the highest standards of behaviour to maintain the organisation's good reputation. In particular, staff should be trustworthy in the handling of public funds. They should clearly demonstrate:

- integrity and honesty in handling money, assets and resources entrusted to them

- care in safeguarding property, assets and confidential information to ensure it is not stolen, abused, damaged or destroyed
- proper observance of the organisation's rules and procedures, particularly when handling or accounting for its financial affairs
- economy to avoid waste and extravagance; and
- personal honesty, for example, when making orders or paying for goods and services, in claiming expenses and ensuring that official assets and resources are not used for private advantage.

ACCOUNTABILITY

Accountability can be interpreted as a means of enabling a public organisation to explain and report to the National Assembly on the regularity and efficiency with which it pursues its objectives and the extent to which it achieves them.

Accountability to the National Assembly should address:

- the stewardship of assets and resources
- the equitable appointment and treatment of employees
- the financial performance, that is, the efficient use of resources in the delivery of agreed services; and
- non-financial aspects of performance, including accountability for the achievement of the organisation's objectives and the quality of services provided.

ETHICAL RELATIONSHIPS

All staff should uphold the reputation of their organisation by treating the general public and people from other organisations:

- in a helpful and courteous manner
- on a timely, reliable and, where appropriate, confidential basis; and
- in an open, fair and efficient way.

All staff should have a general duty to treat colleagues:

- openly, honestly and courteously
- with consideration for others' health, safety and personal welfare; and
- without harassment, discrimination or abuse of any kind.

The governing body and chief executive should seek to establish an open climate and culture in which staff can have confidence in the fairness and impartiality of procedures for registering and dealing with their interests and concerns. Similarly, it is the responsibility of the governing body, chief executive and senior management to ensure equality of opportunity and to establish open and fair procedures for making appointments and for determining terms and conditions of service.

The governing body and chief executive should nominate one of the most senior managers of the organisation to be responsible for investigating any concerns raised by members of staff about standards of conduct.

SUPPLIERS
All staff should take care to maintain the reputation of the public organisation for honouring contracts and other agreements to which it is a party. This implies building trust through fair, open and consistent dealing. Staff involved with suppliers should display high standards of competence, ethics and integrity.

Individuals should be aware of the risks involved in contracting and purchasing relationships. Suppliers should be selected on the basis of quality, suitability and value for money. Staff should be fair, straightforward and honest in their dealings with suppliers. They should take care at all times to avoid becoming, or appearing to become, obliged to an individual supplier, e.g. by accepting gifts, hospitality, entertainment or other inducements. When dealing with suppliers, staff need to:

- ensure that value for money is achieved
- comply with the organisation's internal rules and procedures and the public procurement legislation and regulations of the tender board
- ensure that the procurement process is operated with due regard to openness, accountability and integrity
- ensure that quality standards are met and procedures followed, and be diligent in ensuring that suppliers comply with the standards specified; and
- pay for supplies within the time agreed.

3. Organisational Structures and Processes

INTRODUCTION
The governing body and the chief executive has responsibility for establishing effective organisational structures and processes to ensure:

- proper accountability for public money and performance
- clear communication with stakeholders; and
- clarity about roles and responsibilities of key players, and in particular the relative roles and responsibilities of the governing body, chief executive and director of finance.

ACCOUNTABILITY FOR PUBLIC MONEY AND PERFORMANCE
The governing body has responsibility for ensuring that the organisation keeps proper financial records and accounts, and maintains an effective system of internal control (see also Chapter 4). The governing body also has the responsibility for:

- developing and agreeing the strategic and operational objectives and plans for the organisation
- holding the chief executive and other senior officers to account for the extent to which the organisation has achieved its objectives and the efficiency it has displayed; and
- the extent to which the organisation complies with relevant laws, rules and regulations.

COMMUNICATION WITH STAKEHOLDERS
There is a presumption that as much information as possible about the activities of public entities, including policy decisions and actions, should be in the public domain, with information being withheld only when it falls within strictly defined criteria. Nonetheless, the confidentiality of personal and commercially sensitive information should also be respected at all times.

ROLES AND RESPONSIBILITIES

The governing body's responsibilities

Governing bodies should meet regularly at least four times a year and more frequently if necessary.

The governing body has responsibility for the stewardship of the entity, including:

- the adoption of a strategic planning process which should include:
  - the vision, mission, annual and longer term objectives and agreeing plans to achieve them
  - overseeing the delivery of planned results by monitoring performance against agreed strategic objectives and targets, and ensuring corrective action is taken when necessary and
  - ensuring that adequate formal reports to the relevant minister, regulatory body and Cabinet are produced when required
- at least an oversight of the appointment, remuneration, development and succession of the senior management, including the chief executive
- confirmation of the appointment and dismissal of the head of internal audit and, if relevant, the external auditor
- the formal approval and adoption of the annual report of the entity, including its financial statements
- the implementation of an effective communications policy
- the establishment, monitoring and maintenance of an effective system of internal control and
- the identification and monitoring of the principal risks and opportunities the entity faces and assurance that appropriate systems are in place to manage these risks (this includes safeguarding the public reputation of the entity).

Delegation and reserved powers

Where it has power to do so, the governing body may decide to delegate responsibility for specified matters to individual members or establish separate committees. However, there will be matters that the governing body specifically reserves for its collective decision, to ensure that the direction and control of the entity remains firmly in the governing body's hands and to safeguard against misjudgements and possible illegal practices. These matters are likely to include issues of key strategic objectives and targets, significant decisions involving the use of financial and other resources, and personnel issues, including key appointments and standards of conduct.

The governing body should allow managers to manage, but should hold them to account and ask them to explain their actions. The governing body should formulate a definition of materiality on matters such as acquisition and disposal of assets, investments, capital projects, authority levels, and so clearly specifies levels of delegation.

To ensure that the direction and control of the entity is firmly in their hands, governing bodies should establish and maintain an up-to-date framework of delegated or reserved powers that includes a formal schedule of those matters specifically reserved for their collective decision.

Procedures
To support them in carrying out their duties, governing bodies of public sector entities should establish clearly documented and understood management processes for policy development, implementation and review; decision making, monitoring, control and reporting; and formal procedural and financial regulations to govern the conduct of their own operations. This should include a list of matters which must be decided by the governing body itself and a scheme of delegation of other issues.

Procedural regulations to govern the conduct of the governing body's operations are also needed; these normally include the procedures for:

- ❖ giving notice of meetings to members of the governing body, including procedures for non-executive members to call meetings
- ❖ voting by members
- ❖ recording attendance; and
- ❖ recording decisions of the governing body.

Meetings of the governing body
It is imperative that members of the governing body of each public organisation devote adequate time to their role. It is, however, often difficult to find individuals with the necessary knowledge and experience who are also available for the necessary amount of time.

Good practice with regard to the meetings of governing bodies includes the following criteria:

- ❖ The governing body should meet as regularly as required by needs of the public organisation, but at least once every three months.
- ❖ The members of the governing body should be involved in the development of the agenda for each of their meetings.
- ❖ Agenda papers for each meeting should be issued to the members of the governing body at least two weeks before the meeting.
- ❖ Agenda papers should be tabled at meetings of the governing body only in exceptional circumstances.
- ❖ Members of the governing body are expected to prepare themselves adequately in advance of their meetings.
- ❖ The governing body should prepare a work plan or calendar as a guide to its activities.
- ❖ The minutes of each meeting should be recorded accurately, issued in draft to the members of the governing body within two weeks of the meeting date and stored safely.

The chairman of the governing body
The role of the chairman should include responsibility for providing effective strategic leadership to the governing body and ensuring that the governing body successfully discharges the overall responsibility for the activities of the entity as a whole. The role of the chairman should be to:

- ❖ provide leadership to the governing body, ensuring that the individual governing body members work together as a cohesive team to enable it to carry out its responsibilities effectively

- enable all governing body members to make a full contribution to the governing body's affairs
- facilitate training and appraisal of individual governing body members
- ensure that there is an effective process of review regarding the performance of the governing body as a whole
- ensure that key and appropriate issues are discussed by the governing body in a timely manner
- ensure that the governing body, in reaching decisions, takes proper account of statutory and other requirements
- ensure that members of the governing body have access to relevant information on which to base their decisions and
- ensure that the minutes of meetings of the governing body accurately record all decisions taken and, where appropriate, the views of individual governing body members.

Non-executive members of the governing body
Non-executive members of governing bodies should provide an independent judgement on issues of strategy, performance, resources and standards of conduct. Apart from any fees they may receive as members of the governing body, it is appropriate that they be independent of management and free from any other relationships which may materially interfere with their role. Their duties, terms of office, remuneration and the review thereof, should be clearly defined and documented, and publicly recorded.

In the public-sector context, non-executive governing body members are those governing body members (including, where relevant, the chairman) who are independent from management, free of relationships and other interests which reasonably be perceived to materially interfere with the exercise of judgement that is in the best interests of the entity.

Executive management
The chief executive officer and chief financial officer are key managers and have particular responsibilities for which they should be held accountable by the governing body.

The chief executive
The chief executive should have line responsibility for all aspects of executive management. He or she should be accountable to the governing body for the ultimate performance of the organisation and implementation of the governing body's policy. Even if the chief executive is not a member of the governing body, he or she should attend all its meetings, although he or she may be excluded for certain items which the governing body wishes to discuss in private.

The chief executive should also be responsible to the governing body for ensuring that the governing body's procedures are followed, and that all applicable statutes and regulations and other relevant statements of best practice are complied with. The chief executive should be appointed by the President.

The chief executive should be responsible for:

- providing leadership to senior managers and other employees and planning, directing and controlling day-to-day operations
- interpreting and implementing government policy and the decisions of the governing body
- ensuring the development of suitable business plans, operational plans and budgets for approval by the governing body
- ensuring that procedures are followed, and that all applicable statutes and regulations and other relevant statements of best practice are complied with
- the appointment, development and succession of senior managers, or at least for providing appropriate advice on these issues to the PEMD or line ministry
- developing and recommending the human resource policies and plans for the governing body's approval
- ensuring that senior managers have access to all relevant information and that there is effective communication between them and the governing body
- ensuring that key and appropriate issues are discussed by senior managers in a timely manner
- ensuring that there is an effective process of review of the performance of senior managers
- ensuring that the organisation has and maintains an effective, efficient and transparent system of internal control, including internal audit and risk management; and
- ensuring that the quality of services provided by the organisation is appropriate.

The Chief Financial Officer

A senior executive, whether a member of the governing body or not, should be made responsible for ensuring that appropriate advice is given to the governing body on all financial matters. This officer should also be responsible for the financial management of the organisation.

Generally speaking, the Chief Financial Officer should be a fully qualified professional accountant and a member of a recognised accountancy body. Membership of such a body will require compliance with professional (that is ethical and technical) standards over and above any requirements imposed by statute and regulations, and other relevant statements of best practice.

The Chief Financial Officer should also be responsible for:

- keeping proper and accurate financial records and accounts, including selecting and applying appropriate accounting policies
- ensuring the effective, efficient, economical and transparent use of the financial and other resources of the organisation concerned
- ensuring arrangements for safeguarding assets, and the management of the liabilities of the organisation
- taking effective and appropriate steps to collect all revenue due to the organisation concerned; and
- prevent wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with legislation.

REMUNERATION POLICY
In many countries, the salaries of chief executives, senior managers and other staff of public entities are set centrally by the department of public administration. This should help to ensure objectivity and consistency across the public service. In Seychelles there are some public organisation under the control of the public sector pay structures and some that are not.

Some public entities may in the future be completely separated from the public sector pay structure and able to set the salaries of their own staff. In this case, public entities should establish a formal and transparent procedure for developing their staff remuneration policy. No staff should be involved in deciding their own remuneration.

In these circumstances, governing bodies should establish a remuneration or compensation committee with responsibility to give independent advice. Such a committee should make recommendations to the governing body and chief executive, within agreed terms of reference, on the remuneration for senior managers; and determine on their behalf specific remuneration packages for each senior manager, including pension, gratuity and bonus rights and any other compensation or fringe benefit payments. Any changes to salary scales and salary increases should be subject to ratification by the governing body.

DISCLOSURE
Governing bodies of public-sector entities need to make publicly available the names of all governing body members, together with their relevant other interests. If public-sector entities are to be accountable to their stakeholders it is important that the identity of the members of the governing body be publicised, together with information about both how and why they came to be appointed.

The annual report of a public organisation should contain a statement on the remuneration policy and details of the remuneration and all benefits of each of the members of the governing body. The report should form part of, or be annexed to, the organisation's annual report.

Separate and full disclosure should be made in the annual report of:

- the names and brief background details of the Chairman, chief executive and other members of the governing body
- the total fees or remuneration paid to each member of the governing body, including the chief executive, including, for example, any house, car, health, education or pension contributions
- details of all expenses paid to each member of the governing body, and any car, office, computer or mobile telephones, etc. made available to any member of the governing body or senior manager; and
- the total remuneration package of the senior managers within the organisation.

Separate figures should be shown for salary, fees, other benefits and other performance-related elements. The basis on which performance is measured (for performance-related remuneration) should also be explained.

COMPLAINTS AND WHISTLE-BLOWING PROCEDURES
Complaints and whistle-blowing procedures are essential for the good governance of all organisations. Complaints procedures should ensure that complaints from users and other stakeholders external to the

organisation are adequately monitored, investigated, resolved and appropriately reported. Whistle-blowing procedures aim to ensure that all significant staff concerns over the management of the public organisation are adequately dealt with by the organisation, to minimise the need for staff to report their concerns to anyone outside the organisation, including the media. The following procedures do not affect the option for employees to report complaints or concerns to the Public Officers Ethics Commission.

Complaints

All public entities should have a formal complaints procedure with the objective that all complaints are dealt with promptly and effectively and, where possible, to the satisfaction of all concerned. Such a complaints procedure should include the following aspects:

- the complaints procedure should be published, with copies made available on request and reference made to it in the organisation's annual report
- the existence of the complaints procedure should be advertised at each of the organisation's public enquiry points, with the name and contact details of the person to whom complaints should be raised
- where possible, any complaint should be dealt with, as soon as it is raised, by the person who receives the complaint
- where this is not possible, the complaint should be referred to the head of department or dedicated complaints officer, and this officer should investigate the complaint and provide a response as promptly as possible
- if the person raising the complaint is still not satisfied he or she should be provided with the contact details of a director or the chief executive, who will consider the complaint
- if the complaint is still not resolved the opportunity should be provided for the complaint to be considered by the governing body or its complaints panel and
- the internal complaints procedure should not prevent complaints being referred to the relevant PEMD, ombudsman, Member of Cabinet, minister or other relevant official, and details should be provided of how to make such external complaints.

Complaints should be used as a method of identifying aspects of the service provided by the public organisation which need to be improved. A regular report should be provided (at least annually) to the governing body giving the number of complaints received and an outline of how each was ultimately resolved.

A complaints register should be maintained, which records each formal complaint received by the organisation. This should include all written complaints and any complaints which are not resolved by the person who first receives the complaint. The complaints register should be available for inspection at all meetings of the governing body.

Whistle-blowing procedure

Each public organisation should develop clear procedures for staff to voice concerns or complaints about maladministration, breaches of the law or ethical concerns, in an environment where they will be supported and protected from reprisals.

Staff should normally be expected to raise such concerns with their supervisor or manager. If this is not appropriate, however, staff should be provided with the contact details of a senior manager or the chief executive to whom they can provide details of their concerns in confidence. They may also raise appropriate concerns with internal audit or the fraud investigation officer. This officer should investigate the case and provide an indication of his or her response and the action planned, which should be taken within a fixed period of time.

Such concerns should be treated confidentially and staff should be provided with the assurance that they will not be penalised if they raise concerns in good faith through the appropriate channels. If there is a need to break this confidentiality, the person who raised the concern should be consulted.

This whistle-blowing procedure should ensure that in most cases concerns are dealt with within the organisation. There will be cases, however, when it would be appropriate for concerns to be raised externally, for example, with the external auditor, the Auditor-General, the Public Officer's Ethics Commission or law enforcement agencies.

4. Internal Control

INTRODUCTION

The governing body and chief executive of a public organisation should ensure that a sound framework of internal control is established, and operates in practice, and that a statement on its effectiveness is included in the organisation's annual report.

Internal control is defined as a process, effected by an organisation's governing gody of directors, management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Control is effective to the extent that it provides reasonable assurance that the organisation will achieve its objectives reliably. Internal control can be judged effective if the governing body, chief executive and senior managers have reasonable assurance that:

- they understand and can predict the extent to which the organisation's agreed operational objectives are being achieved and that all its resources are being used for these purposes
- published and internal financial statements and reports are reliable and are produced regularly; and
- applicable laws and regulations are being complied with.

Care should be taken to provide staff with the skills required to implement and maintain an adequate internal control process, and to ensure that staff responsible for securing significant changes in the process are suitably experienced.

Objectives change over time and therefore management should assess periodically the effectiveness of control in the organisation and communicate the results to the governing body and chief executive.

Procedures and control activities should be revised from time to time to ensure their continuing relevance and reliability, especially at times of significant change. The effectiveness of internal control should be reviewed and tested regularly. These reviews should cover all control activities, including those related to finance, operations, budgetary control, compliance and risk management, and governance. They may be undertaken by the organisation's Internal Audit section and responsibility for ensuring sound internal control should remain with management, specifically with the governing body and chief executive.

BUDGETING AND FINANCIAL MANAGEMENT

Governing bodies and chief executives should ensure that that effective and efficient budgeting and financial management procedures are in place.

Budgeting

Budgeting is an essential element of the financial planning, control and evaluation processes of public entities. By its nature it is a means of allocating resources to achieve objectives. It is a management tool for planning, as well as a means of controlling funds to ensure that, as far as possible, the stated objectives can be met. Plans are inevitably not implemented exactly as intended, and any material differences should be clearly explained to the governing body. Whenever possible, the governing body should give prior approval for significant departures from their agreed budget.

The income and expenditure of all public entities should be approved by the governing body and if the public organisation is dependent on funding from the Consolidated Funds, then budgets will be approved by the Minister of Finance.

Budgeting will be more successful if it is linked to a medium-term framework (a plan that usually covers a period of three to five years) containing measurable statements of the objectives of the public organisation, policies and priorities, strategies for achieving the objectives, and a resource framework (projections of revenues and ceilings) to plan for the period. It is often impossible to achieve the objectives within one year, thus it is necessary to plan ahead to ensure that the best use is made of resources.

Emphasis should be placed on identifying objectives, priorities and activities (or outputs and outcomes). The format of the budget documents should provide a clear explanation of the rationale for the proposed allocation of resources.

To be effective, budgeting should be integrated with accounting. If a similar basis of accounting is adopted for budgeting purposes and financial reporting, it will provide a framework of accounting information to provide a more rational basis for planning and controlling expenditure and for decisions about financing. Cash-flow budgeting is an essential element of effective cash management, and therefore a forecast of the timing of cash inflows and outflows will always be needed.

Regular monitoring of actual financial performance against the budget is vital. The figures for revenue or expenditure reported against budgets should be reliable and readily available for discussion and management action, and projections revised where necessary. The governing body should receive, at least quarterly, budget reports comparing actual payments and receipts with the agreed budget. Such reports should be issued within a month of the end of each quarter and contain explanations of any material divergences from the agreed budget.

Financial management
The objectives of financial management should be to:

- ❖ support senior management in the allocation of financial resources in line with strategic policy objectives
- ❖ facilitate and ensure the regularity and propriety of the organisation's financial affairs
- ❖ minimise and detect fraud, irregularity and corruption; and
- ❖ encourage value for money by monitoring the extent to which the organisation's outputs are provided economically, efficiently and effectively.

Financial management should include cash and asset management as well as the formulation of medium-term and long-term financial objectives, policies and strategies, in support of the operational plan of the organisation. It includes the planning and control of capital expenditure, working capital management, and funding and performance decisions. It includes financial and management accounting functions, and the internal control environment, as well as supporting financial information systems.

Financial management will be more effective if it has strong high-level support that is complemented by:

- ❖ medium-term contracts, supported by performance agreements, for members of the governing body, the chief executive and other senior managers
- ❖ clearly defined objectives and specified outputs for each department
- ❖ clearly defined responsibility for the governing body, chief executive and other senior managers for resources committed and outputs produced; and
- ❖ strategic planning and operational plans.

The governing body and chief executive should have:

- ❖ flexibility in the use of resources within clearly defined limits
- ❖ discretion to determine cost allocations; and
- ❖ full responsibility to determine staffing requirements and remuneration.

A sound financial management system should be supported trained and competent informed by an efficient, preferably computerised, management information system. There should be guidelines, manuals or instructions setting out the procedures and regulations with which financial management and reporting must comply. These documents should be reviewed every two or three years (or when significant change has occurred) and updated accordingly.

The governing body, chief executive and other senior managers should receive sufficient relevant and reliable information to enable them to monitor the operations of the organisation. The information system and its operators should ensure that full and proper records are kept of the affairs of the public organisation. Information systems should be designed in such a way as to measure costs and the key performance indicators considered essential by the governing body, chief executive and other senior managers, in their assessment of the organisation's success or failure. The accounting system that produces the financial statements should be integrated with other management systems (e.g. cash and debt management, and budgeting).

The governing body's ability to manage the financial affairs of the organisation will be improved if:

- the Chief Financial Officer is a member of the top management team and attends all meetings of the governing body
- it has assurance over the accuracy of the organisation's financial records through, for example, the undertaking of regular reconciliations between the cash book and the bank statements; and
- it is able to monitor the extent to which the organisation complies with statutory and regulatory requirements and appropriate accounting standards.

OPERATIONAL REPORTING

The objectives of most public entities are to provide non financial goods and services. Thus the management of these organisations' operations is vital to the efficient achievement of their objectives. For this reason:

- the governing body should be provided with regular reports on the extent to which its operational objectives are being achieved
- appropriately defined non-financial performance indicators should be established so as to facilitate effective assessment of the corporation's performance
- reporting of these performance indicators should be tailored to the particular levels of responsibility so that the governing body members are provided with high-level summary reports for decision making purposes and operational managers are provided with greater details appropriate to their managerial responsibilities; and
- implementation status reports should be included to enable the monitoring of progress, with all significant initiatives approved by the governing body.

STAFF TRAINING

The governing body and chief executive should ensure that training programmes are in place so that all staff are competent to perform their work. Sound recruitment policies, acceptable conditions of employment and appropriate training programmes can contribute to the competence of staff. The quality of management in a public organisation is directly related to its ability to obtain and retain experienced managers, accountants and other specialist staff. Salary levels in public entities should be sufficient to attract and retain staff of the right calibre.

Key managers should be proficient in the following areas:

- strategic planning
- formulation of output objectives, performance measures and operational plans
- organisation (people and structure, operational processes and technology)
- performance measurement, financial and performance reporting
- management of funds, working capital and other assets
- managing reliable and relevant accounting and information systems
- procurement and contracting for goods and services and
- management and motivation of staff.

An assessment of the performance of staff should ensure that individual performance is linked to the operational plan of the public organisation. Incentives should be given for good performance to ensure continued improved efficiency, and sanctions should be instituted for non-performance or sub-standard performance.

Staff should be appropriately supervised and their performance evaluated against an appropriate profile. Training should be tailored to fit the immediate requirements and career aspirations of staff. The training programme should integrate formal training with on-the-job training. Management training opportunities should be provided to all staff to ensure that they perform competently. Staff with specialised responsibilities require appropriate additional training.

INTERNAL AUDIT

In larger commercial public entities, there is generally a need for an Internal Audit section. Internal auditing is an independent objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. The governing body and chief executive should ensure that an effective internal audit function is established and maintained as part of the organisation's framework of internal control.

Acceptable standards should be applied by the internal audit function, in particular relating to independence, professional proficiency and audit approach. The *Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors are the most authoritative international standards for internal auditing see http://www.theiia.org/iia/index.cfm?doc_id=1499.

Internal Audit should be objective, and, as far as possible, operationally independent of the organisation's management. The head of Internal Audit should report directly to a senior manager, preferably the chief executive, with direct access, as necessary, to the governing body, chief executive and chair of the audit committee if one has been established.

An effective internal audit function should include the systematic review, appraisal and reporting of the adequacy of the systems of managerial, financial, operational and budgetary control and their effectiveness in practice, including, at a minimum:

- the adequacy of established regulations, guidance, policies, plans and procedures
- the appropriateness of organisational, personnel and supervision arrangements
- the extent of compliance with the above
- the adequacy of accounting for assets and interests and the extent that these are safeguarded from losses of all kinds arising from waste, extravagance, inefficient administration, poor value for money, fraud or other cause
- the appropriateness, reliability and integrity of financial and other management information and the means used to identify, measure, classify, report and act upon that information
- the economy and efficiency with which resources are employed
- the integrity of computer systems, including systems under development
- the adequacy and effectiveness of risk management and governance processes and
- the follow-up action taken to remedy previously identified weaknesses.

The Internal Audit section should have relevant documented procedures (e.g. an audit charter and manuals) and other guidelines. Internal Audit should undertake independent reviews of internal controls (rather than just the transactions) under the direction of an audit committee, there should be management support for Internal Audit and the creation of a climate where managers and those responsible for Internal Audit co-operate for their mutual benefit and Internal Audit should develop a constructive role as an aid to risk assessment and a proactive approach to contributing to good management and effective internal control.

AUDIT COMMITTEES

If appropriate, and with particular reference to commercial public entities, the governing body should establish an audit committee, with the responsibility for independently reviewing, on behalf of the governing body, the organisation's framework of control and its internal and external audit processes.

To be effective, the audit committee should be independent of the organisation's senior management. To achieve this:

- it should be established as a high-level committee, and its members should be given written terms of reference that adequately detail their membership, authority and duties
- the terms of reference of the audit committee should be agreed by the full governing body (or may be provided by the PEMD) and they should be reviewed and revised as necessary every three years
- the majority of members of the committee should not be employed by the organisation; they may include senior managers from other public entities or from the private sector
- the governing body, chief executive, director of finance, the head of Internal Audit and the external auditor should normally attend meetings of the audit committee and have direct access to the chairman as they require; other relevant senior managers should also attend as necessary
- the head of Internal Audit and the Auditor-General should bring all their significant findings to the attention of the audit committee
- to ensure that there are no unresolved issues of concern, the audit committee should have private discussions with the head of Internal Audit and the external auditor at least once a year, without the chief executive and other senior managers being present and
- the committee should have explicit authority to investigate any matters within its terms of reference, the resources it needs to do so, and full access to any information it deems necessary. The committee should be able to obtain outside professional advice and, if necessary, invite outsiders with relevant experience to attend its meetings.

The effectiveness of the audit committee will largely depend on its having a capable chairman who has the confidence of the governing body, chief executive, the organisation's head of Internal Audit and the external auditor. The chairman of the audit committee should be independent of the senior management of the organisation. The chairman of the audit committee should not be the chief executive and should neither fulfil a management role within the organisation nor any other role that may conflict with his or her role as chairman of the audit committee.

Members of the audit committee should be appropriately qualified, and receive sufficient information, advice and training to enable them to carry out their roles effectively. Members should have experience of managing organisations of a similar size and complexity. At least one member of the audit committee should be an experienced financial manager, preferably a qualified accountant. The names and terms of office of the members of the audit committee should be provided in the organisation's annual report.

The functions of an audit committee should include:

- reviewing the extent to which managers implement and maintain an adequate internal control process (including the adequacy of policies and practices to ensure compliance with relevant statutes, directions, guidance and policies) and management's ability to monitor compliance with relevant standards or codes of governance
- reviewing, with management, the adequacy of the financial information relied on to manage the organisation
- reviewing, with senior managers and those persons relationship with the organisation's external auditor
- ensuring that the Internal Audit function is properly resourced and has appropriate standing within the organisation
- recommending or approving the hiring or removal of the head of Internal Audit and, where appropriate, the external auditor (in recognition of the wider accountability of public entities to Cabinet, the Auditor-General may be appointed as the external auditor or may be responsible for appointing the external auditor)
- reviewing the activities of the Internal Audit function, including recommending authorisation of its annual work programme to the governing body
- reviewing the approach, scope and results of both Internal Audit and the external auditor, for example, monitoring the extent to which Internal Audit adopts a pre-audit approach and authorising any non audit work undertaken by the external auditor
- reviewing, commenting, asking for updates in relation to risk management
- monitoring, on behalf of the governing body, all aspects of the organisation's relationship with the Auditor-General; this should include:
    - reviewing the audit report and other communication with management, as well as actions taken by management on recommendations included in previous communications and
    - ensuring that adequate safeguards are in place to prevent possible conflicts of interest and guard the Auditor-General's independence
- providing advice to the governing body and chief executive and/or relevant accounting officers on the above aspects of their work; and
- holding formal meetings as required at least four times a year.

COMPENSATION COMMITTEES

The governing body may also wish to establish a Compensation committee, to review and recommend for approval by the governing body the compensation of the chief executive and review and approve the compensation of the other executive officers and oversee and advise the governing body on the adoption of policies that govern the organisations compensation programs, including benefit plans and hiring of expatriate staff. This is particularly relevant for those public entities that do not report to the Department of Public Administration.

To be effective, the remuneration or Compensation committee should be independent of the organisation's senior management. To achieve this:

- it should be established as a high-level committee, and its members should be given written terms of reference that adequately detail their membership, authority and duties
- the terms of reference of the remuneration or compensation committee should be agreed by the full governing body (or may be provided by the PEMD) and they should be reviewed and revised as necessary every three years
- the majority of members of the committee should not be employed by the organisation; they may include senior managers from other public entities or from the private sector
- the governing body, chief executive, director of finance, the head of personnel and the external auditor should normally attend meetings of the committee and have direct access to the chairman as they require; other relevant senior managers should also attend as necessary
- to ensure that there are no unresolved issues of concern, the committee should have private discussions with the head of personnel at least once a year, without the chief executive and other senior managers being present and
- the committee should have explicit authority to investigate any matters within its terms of reference, the resources it needs to do so, and full access to any information it deems necessary. The committee should be able to obtain outside professional advice and, if necessary, invite outsiders with relevant experience to attend its meetings.

The Compensation Committee should be chaired by a non executive director and the members should be appointed and may be replaced by the governing body. It is the responsibility of the Committee to provide an oversight of the organisations broad remuneration plans, policies and practices, with a view to assisting the governing body to ensure that:

- The level and composition of remuneration of senior executives and Directors is sufficient and reasonable and, in the case of senior executives is linked to organisation and individual performance
- The integrity of remuneration strategies and practices is safeguarded
- Independent reviews of remuneration proposals are undertaken as required
- The organisation complies with relevant legislative requirements

The duties of the Committee shall include reviewing and, where appropriate, making recommendations to the governing body on remuneration, compensation and benefits, including:

- Executive remuneration policies
- The remuneration packages of executive management including short and long term remuneration targets and outcomes, including performance targets
- Employment contracts of executive management
- Incentive policies and schemes including benefits
- Termination payments for executives
- Executive and Board development programs
- Expatriate recruitment
- The consistency of the organisations remuneration policies, recruitment practices, training and development processes with strategic goals and objectives

- The terms and conditions of appointment of Directors, including the retirement allowances and remuneration framework for Directors

FINANCE AND INVESTMENT COMMITTEES

The governing body may also wish to establish a Finance and Investment committee, to review the financial management and investment practices of the organisation. This is particularly relevant if the public organisation has surplus funds to invest or major purchases to make. Specifically the Finance and Investment Committee should:

- Develop and maintain appropriate practices for maintaining the organizations financial records.
- Provide appropriate reports for the governing body and helping the governing body understand the financials of the organisation which may include providing a regular narrative summary which condenses in plain English the financial condition of the organisation.
- Reviewing annual budgets for the governing body in a timely manner.
- Provide direction, oversight and advice with respect to matters involving the investment management of any funds at the disposal of the organisation, including the formulating of investment policies and implementation strategies with respect to the organisations investments.
- Review annually the Statement of Investment Policy and monitor the implementation of the Investment Strategy, including assets mix, assessment of risk in respect of investment management, performance against appropriate, aggregate benchmarks, and specific investments outside of the delegated limits
- Review and evaluate Management's procedures for monitoring compliance with the Statement of Investment Policy and Investment Strategy
- Where appropriate recommend to the governing body the engagement of one or more independent, external investment advisors, as well as one or more professional portfolio managers to invest the funds against agreed to performance objectives
- Retain, as required, independent counsel, accountants or other specialist to advise the Finance and Investment Committee
- Respond to any matter that may be referred to the Finance and Investment Committee by governing body, and act according to the nature of the referral.
- Respond to any matter that may be referred to the Finance and Investment Committee by the governing body, and act according to the nature of the referral.
- On an annual basis, review the Finance and Investment Committee's mandate and terms of reference

All or some members of the Investment Committee shall be financially literate and at least one member shall have accounting or related financial management expertise.

RISK MANAGEMENT

The governing body and chief executive should ensure that effective systems of risk management are established as part of the organisation's framework of internal control.

Risk can be defined as the chance of something happening that will have an impact on the achievement of objectives. It can be expressed in terms of consequences and likelihood. Risk can have either a beneficial or a detrimental impact on the achievement of agreed objectives.

Risk management can be viewed as a process of:

- understanding the organisational objectives
- identifying the risks associated with achieving the objectives
- assessing the risks, including the likelihood and potential impact of specific risks
- developing and implementing programmes/procedures to address identified risks and
- monitoring and evaluating risks and the programmes/procedures in place to address them.

The governing body, chief executive and other senior managers should identify internal and external risks so they can react to (or initiate) changes in an appropriate and timely manner.

Other staff should also understand the types of risk which are acceptable to the governing body, chief executive and other senior managers. In turn, the governing body and chief executive should understand what risks are acceptable to the relevant ministry or to PEMD. Risks that have been accepted by the organisation should be documented and communicated to the governing body, senior managers and relevant staff.

5. External Reporting

ANNUAL REPORTING

Governing bodies should publish an annual report (including their financial statements), presenting a balanced and understandable account of the organisation's performance, achievements, financial position and prospects.

To discharge their accountability for public resources, governing bodies should ensure that they publish their annual report promptly (within at most 6 months of the financial year end).

The report should include:

- audited financial statements and the auditor's report
- a statement of the aims and objectives of the organisation, the performance measures against which future years' performance will be judged and a comparison of the actual performance achieved in the year covered by the annual report with the performance measures as determined in the previous financial year
- a statement of the organisation's fees policy for members of the governing body and the remuneration policy for the chief executive and other senior managers, including details of their remuneration packages; and
- a statement that presents an objective, balanced and understandable commentary on the organisation's financial performance and position, its non-financial performance, and on its future ability to meet liabilities and commitments.

To demonstrate their commitment to high standards of governance, governing bodies should include in their annual report a statement that they have complied with relevant standards or codes of governance. This statement should identify the standards or codes adopted as well as those standards or parts of codes with which they have not complied, should disclose for what part of the period such non compliance continued, and give reasons for any such non compliance.

The governing body should include in its annual report a statement explaining (as a minimum) its responsibility for:

- approving the budget to provide authorisation for the acquisition and use of financial resources
- preparing and providing financial statements that fairly present the state of affairs of the organisation as at the end of the financial year and the results of its operations for that year
- maintaining an effective framework of internal control, risk management and appropriate governance procedures
- maintaining adequate accounting records and ensuring the consistent use of appropriate accounting policies, supported by reasonable and prudent judgements and estimates; and
- ensuring adherence to applicable accounting standards unless departures are fully disclosed, explained and quantified.

The annual report should also include a statement explaining the external auditor's responsibility for reporting on whether the organisation's financial statements are presented fairly.

It is good practice for an annual meeting to be held at which the annual report is presented. Members of the governing body, the chief executive, the Chief Financial Officer and the organisation's external auditor should attend the meeting and should be available to answer questions. The meeting should be advertised to:

- users and customers of the organisations services
- employees and their trade unions and
- the general public through the media.

PERFORMANCE MEASURES

The public sector is under intense pressure to improve its operations and deliver its products and services more efficiently and at the least cost to the taxpayer. Performance measurement is a useful tool in this regard, since it formalises the process of tracking progress toward established goals and provides objective justifications for organisational and management decisions.

The governing body and chief executive should establish and report relevant performance measures to demonstrate that all resources have been procured economically and are utilised efficiently and effectively.

To improve performance, it is also necessary to measure performance in non-monetary terms. Without information about what is being delivered (outputs), what it is costing (inputs), and what is achieved (outcomes) it is impossible to make efficient resource allocations within the public sector. Performance measures should include responding to accountability requirements, improving service delivery, and reducing costs, while maximising output and increasing productivity in the organisation. Performance measures usually work best when those people involved in the activity being measured have themselves been involved in creating the measures.

A basis of comparison is needed for performance measures. The most usual bases are:

- comparisons with previous years
- comparisons with similar organisations and
- comparisons of actual results with targets.

Where comparisons over time are made by a particular organisation, then a consistent basis of measurement should be used. Performance measures usually assess:

- economy – this refers to the acquisition of the appropriate quality and quantity of financial, human and physical resources at the appropriate time and place, and at the lowest possible cost
- efficiency – this refers to the use of resources so that output is maximised for any given set of resource inputs, or input is minimised for any given quantity and quality of output provided
- effectiveness – this refers to the extent of the achievement of set or predetermined outcomes, objectives or other intended effects of programmes, operations, activities or processes; and
- appropriateness – that is, whether the objectives or outcomes of programmes, operations, activities or processes address the real needs of customers.

EXTERNAL AUDIT

The governing body and chief executive should ensure that an objective and professional relationship is maintained with the organisation's external auditor. As previously stated the governing body should be responsible for monitoring the relationship between the organisation's senior management and its external auditor.

In monitoring the organisation's relationship with its external auditor the governing body's responsibilities should include:

- considering, where relevant, the appointment of the external auditor, the audit fee, and any questions of resignation or dismissal
- considering the objectives and scope of any non-financial audit or consultancy work proposed to be undertaken by the external auditor, and reviewing the remuneration for this work
- discussing with the external auditor before the audit commences the scope of the audit and the extent of reliance on the Internal Audit section and other review agencies
- discussing with the external auditor any significant issues arising from the review of the financial statements (in the absence of senior managers where necessary) and any other work undertaken or overseen by the audit committee

Public-sector external auditors have a wider range of responsibilities for reporting on the activities of public entities than do auditors working in the private sector, covering not only the financial statements, but also compliance audits, value-for-money audits and public-interest issues. The external auditor should be more concerned with financial management in general than with just the truth and fairness of the accounts.

The prime role of the external auditor is to provide independent assurance that the financial statements of the public organisation provide a true and fair view of the financial affairs of the organisation. The auditor may also undertake a number of additional roles: one of these is to provide a management report which should be addressed to the governing body. This provides details of weaknesses found in the organisation's systems of internal financial control and recommendations to overcome such weaknesses. This management report can be an important source of information for the governing body on the soundness or otherwise of its organisation's internal control systems.

Independent assurance function of external auditors

The Auditor-General is usually appointed as the auditor or given responsibility for the audit of all public entities by statute; this is in recognition of the auditor's wider responsibility, beyond the governing body, to the government. The exception to this is where the audit of public entities who is registered as a company is audited by a private-sector audit firm.

Relevant, reliable and audited financial statements are a key aspect of good governance and accountability. Public entities should prepare their own financial statements. The external auditor provides assurance through the expression of an independent opinion on whether these statements provide a true and fair view of the financial affairs of the particular organisation (financial audit). External auditors must not be involved in the recording of any transactions as their role is to simply review the work done by the public organisation.

The financial statements of public entities may include information that is different from, or additional to, that contained in the financial statements of private-sector organisations, for example, comparison of expenditure in the period with limits established by Cabinet in its budget. In such circumstances, appropriate modifications may be required to the nature, timing and extent of audit procedures, and the external auditor's report.

The external auditor may also be required to report on whether or not:

- expenditure has been applied for authorised purposes and conforms to the authority that governs it (regularity auditing/compliance auditing) and
- due regard has been paid to securing economy, efficiency and effectiveness (performance auditing/value-for-money auditing).

Appendix 1
Good Governance: A Checklist for Governing Bodies and Chief Executives

This checklist is intended to assist governing bodies in identifying potential strengths and weaknesses in governance arrangements. Where the checklist uncovers weaknesses in the governance arrangements, the governing body will need to give further consideration to the specific areas identified.

STANDARDS OF BEHAVIOUR
Leadership

1. Has the governing body taken steps to ensure that its members exercise leadership by conducting themselves in accordance with high standards of behaviour?

Codes of conduct

2. Has the governing body adopted a formal code of conduct defining the standards of behaviour that individual governing body members and all employees of the organisation are required to follow?
3. Does the governing body periodically review adherence to the code of conduct?

Objectivity, integrity and honesty

4. Has the governing body established appropriate mechanisms to ensure that members of the governing body and employees of public-sector entities are not influenced by prejudice, bias or conflicts of interest?

ORGANISATIONAL STRUCTURES AND PROCESSES

Statutory accountability

5. Has the governing body established effective arrangements to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice?

Accountability for public money and performance

6. Has the governing body established appropriate arrangements to ensure that public funds and resources are:
    - properly safeguarded?
    - used economically, efficiently, effectively, appropriately and with due propriety?
    - used in accordance with the statutory or other authorities that govern their use?

Communication with stakeholders

7. Has the governing body made an explicit commitment to openness and transparency in all the activities of the organisation?

Roles and responsibilities

8. Is there a clearly defined division of responsibilities at the head of the body to ensure a balance of power and responsibility?
9. Does the governing body:
    - meet regularly?
    - effectively lead and exercise control over the entity?
    - monitor the executive management?
10. Do members of the governing body receive induction training on the first occasion of their appointment, and subsequently as necessary?
11. Has the governing body established appropriate arrangements to ensure that it has access to all such relevant information, advice and resources as are necessary to enable it to carry out its role effectively?
12. Has the governing body established a framework of strategic control (or scheme of delegated or reserved powers)?
13. Does the governing body keep the framework of strategic control up to date?
14. Does the framework of strategic control include a formal schedule of those matters specifically reserved for the collective decision of the governing body?
15. Has the governing body established clearly documented and understood management processes for:
    - policy development, implementation and review?
    - decision making, monitoring, control and reporting?
16. Has the governing body established formal procedural and financial regulations to govern the conduct of its business?
17. Where the governing body is responsible for making appointments to the governing body itself, has it established a formal process to ensure that such appointments are made:
    - in accordance with specified criteria?
    - on the basis of merit and the individual’s ability to carry out a defined role within the organisation?
18. Where the governing body is responsible for making appointments of its own members, are such appointments dealt with by the governing body as a whole?
19. Is the role of the chairman formally defined in writing, and does it include responsibility for providing effective leadership to the governing body and for the activities of the entity as a whole?
20. Are non-executive governing body members:
    - independent of management?
    - free from any other relationships that may materially interfere with exercising an independent judgement on issues of strategy, performance, resources and standards of conduct?

21. Where the governing body is responsible for making appointments of its own non-executives members, are the appointments for a fixed term and are reappointments subject to a formal appraisal process?
22. Does the chief executive have line responsibility for all aspects of executive management?
23. Is the chief executive accountable to the governing body for the ultimate performance of the organisation and the implementation of the governing body's policies?
24. Are the duties, terms of office, remuneration and the review thereof, of non-executive governing body members defined clearly?
25. Has the governing body made a senior executive responsible for ensuring that appropriate advice is given to it on all financial matters and for maintaining an effective system of internal and financial control?
26. Has the governing body made a senior executive responsible for ensuring that governing body procedures are followed and that all applicable statutes and regulations, and other relevant statements of best practice, are complied with?
27. Has the governing body established a formal and transparent procedure for developing policy on executive remuneration and for fixing the remuneration packages of its individual members?
28. Has the governing body established procedures to ensure that none of its members is involved in determining his or her own remuneration?
29. Does the annual report of the governing body contain a statement on the remuneration policy and details of the remuneration of its members?

CONTROL

Internal control

30. Has the governing body taken steps to ensure that an effective framework of internal control:
    - is established?
    - operates in practice?
31. Does the governing body include, in the organisation's annual report, a statement on the effectiveness of its framework of internal control?

Budgeting and financial management

32. Does the governing body ensure that procedures are in place to ensure effective and efficient budgeting and financial management?

Staff training

33. Has the governing body established training programmes to ensure that staff are competent to perform their work?

Internal audit

34. Has the governing body taken steps to ensure that an effective internal audit function is established as part of the framework of internal control?

Audit, Compensation and Finance and Investment committees

35. Has the governing body established audit, compensation and finance and investment committees, comprising independent members with responsibility for the independent review of the framework of control and of the external audit process?

Risk management

36. Has the governing body taken steps to ensure that effective systems of risk management are established as part of the framework of internal control?

Public Officer's Ethics Commission

37. Does the governing body ensure that all staff of the organisation support the work of the POEC?
38. Does the governing body also regularly consider the extent that the work of the organisation is coordinated with that of the POEC, to ensure that the incidence of fraud and corruption is minimised?

EXTERNAL REPORTING

Annual reporting

39. Does the governing body publish promptly an objective, balanced and understandable annual report?
40. Does the annual report contain a statement on whether or not the organisation has adopted specific standards or codes of governance?
41. Does the governing body ensure that the organisation's financial statements comply with the relevant accounting standards?

Performance measures

42. Does the governing body develop and report on relevant performance measures?

External audit

43. Has the governing body taken steps to ensure that an objective and professional relationship is maintained with the external auditors?

Appendix 2
Disclosure

INTRODUCTION

Openness is one of the three pillars of good governance (the others being integrity and accountability). Thus public entities should be as open as possible with their stakeholders. This appendix summarises the main disclosures which should be provided promptly to these stakeholders.

The governing body and chief executive should each make an explicit commitment to openness and transparency in all the activities of the organisation, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so. Openness is more than structures and processes. It is also an attitude and belief among key players, politicians, staff of public entities and other stakeholders that information is to be shared and is not owned by any particular organisation – it is a public resource.

In any communication with the stakeholders, the governing body and chief executive should ask themselves the following five questions.

- Is the communication open, honest and transparent?
- Is it relevant and substantial or merely a communication of form?
- Is the communication prompt and clear?
- Does it fairly and comprehensively set out the position? And 89
- Are details provided to enable individual stakeholders to obtain specific additional information?

THE ANNUAL REPORT

Governing bodies should publish an annual report (including their financial statements), presenting a balanced and understandable account of the organisation's performance, achievements, financial position and prospects. The annual report should be published promptly within at most 12 months and preferably 6 months of the financial year end.

The annual report should include:

- the audited financial statements and the auditor's report
- a statement of the aims and objectives of the organisation, the performance measures against which future years' performance will be judged and a comparison of the actual performance achieved in the year covered by the annual report with the performance measures as determined in the previous financial year
- a statement that presents an objective, balanced and understandable commentary on the organisation's financial performance and position, its non-financial performance, and on its future ability to meet liabilities and commitments
- a statement of the organisation's fees policy for members of the governing body and details of the total fees, expenses and any facilities made available to each member
- the remuneration policy for the chief executive and other senior managers, including details of their total remuneration packages

- details of any changes to the composition of the governing body during the year, including the appointment of new members, renewals or extensions to appointments and any removals
- brief details of the background of any member of the governing body who served at any time during the year
- the number of full meetings of the governing body and the number of committee meetings held, committee composition and the details of attendance of each member of the governing body
- brief details of any significant complaints which have been made against the organisation; and
- where non-financial information was subject to external validation, details in this regard.

The annual report should also include a statement that the governing body has complied with relevant standards or codes of governance. This statement should identify the standards or codes adopted, as well as those standards or parts of codes with which they have not complied; should disclose for what part of the period such noncompliance continued; and give reasons for any such non-compliance. The governing body should also include in its annual report a statement explaining (as a minimum) its responsibility for:

- approving the budget to provide authorisation for the acquisition and use of financial resources
- preparing and providing financial statements that fairly present the state of affairs of the organisation as at the end of the financial year and the results of its operations for that year
- maintaining an effective framework of internal control, risk management and appropriate governance procedures
- maintaining adequate accounting records and ensuring the consistent use of appropriate accounting policies, supported by reasonable and prudent judgements and estimates and
- ensuring adherence to applicable accounting standards unless fully disclosed, explained and quantified.

The annual report should include a statement explaining the external auditor’s responsibility for reporting on whether the organisation’s financial statements are presented fairly. The annual report should be made available to staff, users of the organisation's services and the general public. A summary of the annual report and financial statements should be advertised in the main national newspapers as soon as it is published. Full versions of these documents should be made available to the public on request at no, or a minimal, charge. These documents should also be published on the Internet.

Disclosures in the annual financial statements

The following details should be included in the organisation’s financial statements:

- the amounts paid to the external audit for audit and separately for non-audit services, including a description of the nature and amounts paid for each of the services undertaken
- an outline of the organisation’s structure

- a review of financial performance
- internal and external factors influencing the organisation's performance
- significant events which may affect the organisation's future performance
- judicial proceedings filed or likely to be filed against the organisation
- significant post-balance sheet events
- discussion of relations with stakeholders, referring to significant changes
- financial and other effects of directions from the PEMD and
- a description of social service obligations.

ANNUAL GENERAL MEETING

It is good practice for an annual meeting to be held at which the annual report is presented. Members of the governing body, the chief executive, the director of finance and the organisation's external auditor should attend the meeting and should be available to answer questions.

The meeting should be advertised to

- users and customers of the organisations services
- employees and their trade unions and
- the general public through the media.

DISCLOSURES TO THE PEMD

The following details should be promptly reported to the PEMD and, as appropriate, to the Ministry of Finance and the relevant line ministry:

- details of the quarterly financial statements, including a comparison with the annual budget and cash flow statements for the following 12 months
- the results of any governing body assessments of the organisation's performance
- information having a material effect on the organisation's value and
- capital and current budgets, and corporate and borrowing plans.

DISCLOSURES IN CORPORATE PLAN

The organisation's corporate plan should be submitted to the PEMD for review and submitted to Cabinet through the relevant ministry. The plan should include:

- where and how resources will be used, where they will be obtained, and what the organisation expects to accomplish
- the organisation's proposed strategy and how it will be achieved
- the organisation's vision, value and mission statement
- a justification to support proposed capital expenditure programmes
- assumption made by the governing body on the organisation's business environment
- the organisation's contributions to job creation, rural development, urban renewal, poverty alleviation, empowerment of women, skills and management development, and education and
- benchmark standards or baseline data against which the organisation is compared in future periods.

OTHER DISCLOSURES

The governing body should also ensure that the following aspects of external reporting are adequately and promptly implemented.

- The long-term corporate strategies covering a period of five years and which should be tabled in Cabinet.
- The governing body should submit its five-year corporate strategy, including business plans and budgets to Cabinet for information, through the responsible minister (after review by the PEMD).
- The governing body should submit its annual reports through the responsible minister (after review by the PEMD) for tabling in Cabinet. These reports should highlight the corporation’s achievements, any constraints and measures it has put in place to overcome these constraints.

Appendix 3
Further Information

KENYA

Commonwealth Association for Corporate Governance, *CACG Guidelines Principles for Corporate Governance in Kenya and a Sample Code of Best Practice for Corporate Governance*, 2000, http://www.ecgi.de/codes

Private Sector Corporate Governance Trust, *Good Corporate Governance in State Owned Corporations*, 2002. ISBN 9966-9969-0-15.

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Department of Statutory Corporations, *Code of Conduct for Boards of Directors of Statutory Corporations*, September 1999.

SOUTH AFRICA

Institute of Directors in Southern Africa, *The King Report on Corporate Governance for South Africa 2002* (King II Report), ISBN 0-620-28851-5.

http://www.iodsa.co.za

Department of Public Enterprises, *Protocol on Corporate Governance in the Public Sector,* September 2002, http://www.dpe.gov.za

Office of the Auditor-General, *Public Entities: Best Practice Guide On Corporate Governance,* September 2003, http://www.agsa.co.za

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The National Board of Accountants & Auditors, Tanzania *Statement of Recommended Practice No.3 on Governance in the Public Sector – An Accounting Officer's Perspective*, 2002.

UNITED KINGDOM

Cadbury Committee, *Report of the Committee on the Financial Aspects of Corporate Governance* (Cadbury Report), December 1992.

http://www.ecgi.de/codes

The London Stock Exchange, *The Combined Code: Principles of Good Governance and Code of Best Practice*, 1998, http://www.ecgi.de/codes

UNITED STATES

Committee of Sponsoring Organizations of the Treadway Commission (COSO), *Internal Control – Integrated Framework*, September 1992 (July 1994 edition).

Available from the Institute of Internal Auditors http://www.theiia.org

INTERNATIONAL

Commonwealth Association for Corporate Governance, *Principles for Corporate Governance in the Commonwealth Towards Global Competitiveness and Economic Accountability*, 1999, http://www.ecgi.de/codes

Commonwealth Association for Corporate Governance, *CACG Guidelines: Corporate Governance in Government Companies, Best Practice Guide No. 3,*

June 2002.
The *CACG Guidelines* may be found on the following websites:
http://www.cacg-inc.com
http://www.cbc.to
http://www.combinet.net
OECD Principles of Corporate Governance, 2004,
http://www.oecd.org/dataoecd/32/18/31557724.pdf
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Paper 2196, The World Bank, 1999,
http://www.worldbank.org/wbi/governance/pdf/govmatrs.pdf
The IFAC Public Sector Committee, *Governance in the Public Sector: A
Governing Body Perspective*, 2001, http://www.ifac.org
The Institute of Internal Auditors, *Standards for the Professional Practice of
Internal Auditing*, December 2000, http://www.theiia.org or www.iia.org.uk

CORPORATE GOVERNANCE BODIES IN ECSAFA COUNTRIES:

Secretariat for the Corporate Governance Task Force
P.O. Box 1 Blantyre Malawi.
Tel: +265 1 620301
The Tanzania Institute of Corporate Governance Limited
Teleconsult, 5th Floor, Wing B NIC Life House, Dar es Salam.
Tel: +255 22 2111968
Institute of Corporate Governance Uganda [ICGU]
Crusader House, P.O. Box 3034, Kampala.
The Institute of Directors of Zambia
Ms. M. Ncube, Acting Chief Executive, Plot 201 Kasangala Rd, Lusaka, Zambia.
Centre for Corporate Governance
Brokeside Grove, Westlands, Nairobi, Kenya.
Tel +254 20 4440003/4443230/4456013
Fax +254 20 4442724
P.O. Box 13936, Nairobi, Kenya.
Tel: +254 020 440003
http://www.ccg.or.ke
http://www.corporategovernanceafrica.org
EASTERN, CENTRAL AND SOUTHERN AFRICAN FEDERATION OF ACCOUNTANTS (ECSAFA)
Hughes Building, Kenyatta Avenue, PO Box 42423, Nairobi, Kenya
e-mail: ecsafa@africaonline.co.ke www.ecsafa.org
THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS
29 Lincoln's Inn Fields, London WC2A 3EE United Kingdom
www.accaglobal.com

Appendix 4
Community Service Agreements

Generally, a Community Service Agreement will only apply to public entities that are commercial in nature and should be entered into between the government and a Public Commercial Organisations where the government as shareholder requests:

1. The provision of a good or service by a Public Organisation to a consumer or user on any terms other than normal commercial terms; or
2. The entering into an agreement by a Public Organisation on any terms other than normal commercial terms; or
3. The forgiveness or reduction by a Public Organisation of a debt or an amount of money owed to the Public Organisation other than on normal commercial terms.

These agreements will not prevent a Public Organisation from exercising a commercial judgment to make donations to worthy causes or to price goods and services at or below the cost of their production. This measure has been put in place to ensure that where a Public entities is asked to perform a Community Service, the government is aware of the cost, the Public Organisation is held accountable for the delivery of the Community Service, the directions are clear and unambiguous and the Board can adequately plan and report on the delivery of the Community Service.

Generally, a Community Service Agreement will be negotiated between the Regulating Ministers if the performance of the obligation is necessary to ensure:

1. That there is universal access to a necessary good or service; or
2. The promotion of a policy vital to the national interest as declared by the Regulating Ministers; or
3. That there is a proper and timely response to a local, regional, national or international emergency; or
4. The correction of an injustice as declared by the Ombudsman.

When entering into a Community Service Agreement, the Ministers may issue a direction for the performing of a Community Service to a public organisation but this request must be in writing. This request for a Community Service should include the following details:

1. The scope of the Community Service;
2. A description of the function to be performed, service provided or concession allowed;
3. Details of the outcome the Government is trying to achieve from the delivery of the Community Service;
4. The implications of not continuing providing the Community Service;
5. The past or intended results of the Community Service including details of the expected beneficiaries;
6. The activity or program of the Public Organisation that would be affected in the performance of the Community Service

7. The effect on the Public Organisation of providing the Community Service including the total cost of the delivery of the Community Service; and
8. Details of any revenue associated with the Community Service for instance, details of any Government funding that will be provided to the Public Organisation.

Every request containing any estimated funding by Government shall be subject to the budgetary process and submitted to the Ministry of Finance for approval.

Every application for a Community Service shall be forwarded by the Ministers to the board of the Public Organisation for an assessment report which should including their costing of the delivery of the Community Service.

The Public Enterprise Monitoring Division must be informed of any Community Service Agreement request and may review the request and costings.