

Asset disclosure

A guide to best practice in transparency, accountability
and civic engagement across the public sector

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The collaborative aims to expand the impact, scale and coordination of funding and activity in the transparency and accountability field, as well as explore applications of this work in new areas.

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Asset disclosure

Contributors: Global Integrity

Personal financial asset disclosures remain one of the most potent but under-utilised transparency and anti-corruption tools in the 'good governance' toolkit. The reasons for their under-use are not surprising: accurately disclosing the income and assets of political figures and senior government officials can raise sensitive questions about the sources of personal wealth. Meanwhile, little to no attention has been paid to the establishment of best practices in the area of asset disclosures, and in some situations there may be legitimate privacy and/or security concerns associated with fully disclosing an official's assets or sources of income.

The core objective of any effective asset disclosure regime is to provide a deterrent against bribery, collusion and patronage in the public sector. While effective asset disclosure regimes can

occasionally serve as real-time operational tools for internal government watchdogs (such as through the discovery of irregularities during audits of asset disclosures), their primary purpose is to increase the potential costs facing key public officials who might consider accepting bribes or kickbacks from third parties with interests before the government. Simultaneously, they can inspire public confidence in the leadership by providing concrete evidence that key officials are not 'on the take'.

Despite the lack of agreed international standards on personal asset disclosure requirements, a growing body of work to assess the existence and effectiveness of asset disclosure regimes in countries around the world points to a set of core principles that could be considered by governments seeking to adopt robust, effective disclosure regimes.

Initial steps

Goal

Regular and comprehensive disclosure of assets by all branches of government as well as by senior civil servants.

Justification

The justice sector is completely ignored in many countries' asset disclosure regimes, despite senior judges often being at the centre of corruption and bribery scandals. In other countries, while MPs and ministers are required to disclose their assets, senior bureaucrats and civil servants are not, despite the enormous powers and discretion they wield in both policy-making and procurement. The decision as to which officials should be covered by asset disclosure requirements is a contextual one that depends significantly on the country in question. In some countries, disclosures are limited to when an official enters office and/or exits his or her official position. There have been documented cases where officials have quickly transferred titles of key property and/or other assets to friends and relatives before entering and/or leaving office to avoid disclosing those assets publicly. In many countries, asset disclosures are treated as confidential information and are made available only to internal government watchdogs such as supreme audit agencies, who themselves may lack the capacity or political independence to effectively use the disclosures to monitor the actions of key officials.¹ A better approach is to treat asset disclosures as public information by default.

Recommendations

1. Asset disclosure requirements should cover the leadership of the three branches of government (executive, legislative and judiciary) as well as the senior career civil service/ bureaucracy and should be the same across those four sets of disclosers.
2. Asset disclosures should be regular (at least annual).
3. Asset disclosures should be systematic and should cover a range of key information. Among the information to be disclosed should be:²
 - a. Assets
 - Personal residence
 - Second homes, vacant land, buildings, farms
 - Financial investments (e.g. stocks, trusts, options, warrants, mutual funds, commodities, futures, money owed, savings plans, insurance policies and retirement accounts) and business assets (e.g. private corporations and partnerships)
 - Bank accounts, interest-bearing instruments and cash
 - Vehicles (e.g. cars, boats, airplanes)
 - Other significant movable assets (e.g. jewellery, art, furniture, cattle).

¹ A worst-case example can be found in Tanzania, where requesters of asset disclosures by MPs are only allowed to share information or concerns about the disclosures with the government itself. See <http://report.globalintegrity.org/Tanzania/2007/scorecard/39>.

² This list is drawn from the recent work of Simeon Djankov, Andrei Shleifer and colleagues in surveying disclosure requirements for MPs in 175 countries. The authors used the results to construct the 'universal' ideal set of information that should be made public under a disclosure regime. http://www.economics.harvard.edu/faculty/shleifer/files/Disclosure_by_Politicians_AEJAPP_final.pdf

b. Liabilities

- All debts, obligations, credit cards, mortgages, guarantees and co-signatures.

c. Sources of income

- Financial investments (e.g. interest, dividends, annuities, pensions, benefits)
- Business assets (e.g. corporations, partnerships, farms, rental properties, patents)
- Private sector employment
- Professional services (e.g. consulting and other paid contracts from the private or the public sector)
- Boards and directorships
- Other public sector employment
- Lotteries, gambling, and one-time payments.

d. Gifts

- All significant gifts and benefits received.

e. Potential conflicts of interest

- Unpaid contracts and employment
- Unpaid boards and directorships
- Participation in associations, not-for-profit organisations and trade unions
- Post-tenure positions and employment.

4. The disclosure of information should be precise and should avoid ranges. The requirements for asset disclosures by senior officials in the US federal government, for example, unhelpfully permit officials to merely indicate a range of value for their various assets and sources of income, often within wide bands that undermine that information's precision and utility.

5. Completed asset disclosures should be efficiently archived, easily searchable and publicly available.

Most ambitious steps

Goal

A leaner and more effective system of *random audits* for all submitted disclosures where a preannounced percentage of submitted disclosures would be subject to an audit, with no submitter exempt from the potential of having his/her disclosure randomly selected.

Justification

While regular auditing of all submitted asset disclosures poses a non-trivial burden on government regulators, undertaking random audits of a smaller sub-set would go a long way towards bolstering an asset disclosure regime's deterrent effect. The most powerful tool in the asset disclosure toolbox is the *threat of an audit* of the disclosure. Simply requiring officials to fill out a form poses little risk to an official seeking to hide certain commercial interests and/or sources of income from public view. Auditing that disclosure poses a much greater risk to the official seeking to avoid full disclosure and generates a powerful deterrent effect. Internationally, there are very few cases of asset disclosure regimes requiring regular audits of all submitted disclosures. The majority of countries that do perform audits on disclosures perform them only when irregularities are discovered or suspected, often following media investigations and/or reports issued by local civil society organisations.

Recommendations

1. An ideal system of random audits would have the following characteristics:
 - a. The percentage or volume of disclosures to be audited would be publicly announced ahead of time.
 - b. The random selection of which disclosures to audit would be performed via a transparent lottery/raffle-type system.
 - c. The auditing would be performed by an independent third party, ideally an outside, non-governmental auditor (whether a private auditing firm or otherwise).
 - d. The full results of the audit would be made publicly available immediately following the completion of the audit.
2. Apart from the random auditing of disclosures, a complementary commitment that is crucial to ensuring the effectiveness of a robust asset disclosure regime is public accessibility of the disclosures.
 - a. Public accessibility might take different forms in different contexts. In countries where internet penetration is reasonably high, submitted disclosures should be made available online and should be searchable by basic criteria such as submitter, year filed and government agency or department.
 - b. More ambitious governments could pursue a wholly online submission system for asset disclosures that would encourage greater standardisation and machine-readability of the results, while allowing for robust searching and analysis by the public.³ The costs of implementing such an online system would not be particularly high, and there would likely be strong interest from technologists in contributing in-kind support to help create such a system.

³ For example, it would be interesting to be able to quickly search and learn whether a number of lawmakers had consulting

arrangements with the same government contractor in a country where outside employment was permitted for MPs while in office.

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