42nd Meeting of the Committee of Experts of the MESICIC

Cooperative Republic of Guyana

BEST PRACTICE - CONFLICT OF INTEREST

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OVERVIEW

- The Audit Office
- Overview of the Code
- Reasons and Importance of the Code
- Design and Methodology of the Code
- Implementation of the Code
- Lessons/Challenges
- Expected Outcome
- Monitoring

THE AUDIT OFFICE

- Article 223 of the Constitution of Guyana establishes the Auditor General and the Audit Office.

- The functions of the Auditor General is to audit the public accounts of Guyana, all officers and authorities of the Government of Guyana, including, the Commissions established by the Constitution, the accounts of the Clerk of the National Assembly and of all courts in Guyana.

- The Auditor General has access to all books, records and any documents relating to those accounts.

- Pursuant to Article 223 the Auditor General has **full autonomy**.

- **Sub-article(4) of Article 223** provides that in the exercise of his or her functions, the Auditor General shall not be subject to the direction or control of any other person or authority.

- The **section 5 of the Audit Act 2005** further states that the Auditor General shall, in accordance with Article 223(4) of the Constitution, act independently in the discharge of his or her functions.

- The clear intention of both the Constitution and the Audit Act is to ensure the independence and functional autonomy of the Auditor General and staff of the Audit Office.

Overview of the Code

- Conflict of Interest Code sets out the expectations, standards, guidelines and processes which may be applied to real or perceived situations of conflict of interest.
- The Code requires each Staff to disclose any outside involvement or financial interests which make or are likely to make demands that are not consistent with the staff’s official responsibilities, or which can inhibit the staff’s capacity to discharge assigned duties in an objective manner.

Reasons and Importance for the Code

The current Audit Act was passed in 2004 and replaced the Financial Administration and Audit Act of 1961.

The 2004 law provided for several reforms to improve independent auditing of public finances.

One of the many reforms were provisions relating to conflict of interest, ethical conduct and empowering the Auditor General to make regulations and craft standards including the Conflict of Interests Code.

The Audit Office and its employees have an obligation to maintain the independence of the Office, so that its opinions, conclusions, judgments and recommendations will not only be impartial but will be viewed as impartial.

Employees must ensure they maintain the trust and confidence of members of society and a key component of this is ethical behaviour.

The Code seeks to assist Staff in measuring whether or not their personal affairs could or do place them in a situation of conflict of interest with their responsibilities of the Audit Office, and to provide direction on how such conflict can be resolved.

Code is Grounded in Law

Audit Act	Audit Regulations
Section 6 of the Act - ▪ The Auditor General shall not have a direct or indirect official role in any private or professional entity or activity that he or she could profit from or influence through his or her powers as Auditor General. ▪ The Auditor General shall declare to the Public Accounts Committee any commitments, obligations or investments which may present a real or perceived conflict of interest.	Regulation 9 Staff of the Audit Office shall be provided with the Conflict of Interest Code which they shall observe. Staff of the Audit Office are also required to take the Oath of Professional Conduct.

Design and Methodology of the Code

- Based on existing international standards-
  - the International Code of Ethics for Professional Accountants issued by the International Federation of Accountants (IFAC)
  - The INTOSAI Standards issued by the International Organisation of Supreme Audit Institutions

  [Staff are required to observe the above]

- Simplified approach/Plain language

- Use of examples

Structure of the Conflict of Interest Code

- Objective and principles
- Reducing/eliminating conflict of interest
- Assets
- Outside Activity
- Gifts/relationships
- Confidentiality
- Misuse of property
- Non-Compliance

- The **Objective of the Code** is to sustain and enhance public confidence in the integrity, independence and competence of the Audit office, its officers and employees, through:

  - employment of suitably qualified and trustworthy personnel
  - ensuring that employees can conduct their audits objectively and report findings, opinions and conclusions without fear of any type of degree of repercussion
  - provision of safeguards against real, potential or perceived conflict of interest
  - provision of guidelines for resolving any conflict of interest which may arise

- Officers and Employees must observe **principles** such as-

  - that private affairs are managed in such a manner that public confidence and trust in the integrity, objectivity and independence of the Audit Office is not compromised
  - that the manner in which they discharge their responsibilities can successfully withstand the closest scrutiny
  - that no advantage is taken of, or benefit derived from, information obtained in the course of discharging their official duties and responsibilities
  - neither direct nor indirect use, nor permission for the use, of government property or facilities of the Audit Office or those of audited entities for other than officially approved activities

Reducing/Eliminating Conflict of Interest

- avoid or withdraw from activities or situations that would pose a real, potential or apparent conflict of interest in respect of duties and responsibilities assigned.
- provide the Auditor General with a written statement on ownership of assets or participation in any other business or employment activity which may be construed as compromising independence of action.
- where necessary, divestment of the assets may be involved, except that such divestment may not be effected through transfer to a family member or other non-arm's length individual.

ASSETS

- non-exempt assets or interests and liabilities which must be declared in a written statement to the Auditor General may include the following:
  a. real property that is not an exempt asset
  b. assets that are beneficially owned, which are not exempt and are administered at arm's length
  c. secured or unsecured loans granted to persons other than to immediate family members
  d. any other assets or liabilities that could give rise to real, potential or perceived conflict of interest due to the particular nature of the officers and employees duties and responsibilities.

- Assets which are exempt from declaration:
  a. residences, recreational property and farms used or intended for use by employees or their families;
  b. household goods and personal effects;
  c. works of art, antiques and collectibles;
  d. automobiles and other personal means of transportation;
  e. cash and deposits;
  f. annuities and life insurance policies
  g. pension rights

Outside Activities

it is the responsibility of the employee to confidentially, report to the Auditor General any **outside activity** that could impose demands inconsistent with the former’s official duties and responsibilities or could compromise the objective discharge of those duties and responsibilities.

The Auditor General can decide whether a conflict of interest exist and require that such activity be curtailed or terminated, as appropriate.

Gifts and relationships

The following is prohibited-

- Accepting gifts except for the routine catering which the entity may provide for its own employees.
- Special treatment must not be given to any entity.
- Auditing transactions or activities in which there is a personal interest.
- Offering to any entity or its representatives assistance in dealing with the Audit Office without its prior permission.
- Any relationship with managers and employees in the audited entity and other parties which may influence, compromise or threaten their ability to act and be seen to be acting independently.
- Relationships which involve the risk of corruption, or which may raise doubts about their objectivity and independence.
- Actively seeking employment with an entity that the staff are examining.

Confidentiality

Officers and Employees should not use information received in the performance of their duties as a means of securing personal benefit for themselves or for others.

They should not divulge information which could provide unfair or unreasonable advantage to other individuals or organizations or use such information as a means of harming others.

Misuse of Property

- Officers and Employees should not utilize any property, machinery or equipment of the Audit Office outside of their official duties except with the specific authorized consent of an appropriately designated Officer.

Failure to Comply

- Any staff who fails to comply with the Conflict of Interest Code will be subject to discipline action as recommended by the Executive Management Team or other Review Team, appointed by the Auditor General.
- Disciplinary measures: Oral warning, written warning, final warning, suspension and dismissal.

Implementation

- The Conflict of Interest Code is implemented before any audit commences.
- During the onboarding stage, a staff receives their letter of appointment along with the Code and other standards. This follows regulations 5 and 9 of the Audit Regulations which mandates that the Auditor General shall issue to the officers and employees of the Audit Office copies of the auditing standards and Conflict of Interest Code.
- Staff must sign the 'Declaration in relation to the Conflict of Interest' declaring that they have read, understood and are prepared to abide fully with the provisions of the Code and accept sanctions for not abiding.

- Each staff is required to disclose, in confidence, any activity or financial interests which may lead to a conflict of interest.

- The Auditor General provides direction and guidance for resolving cases of potential conflicts of interests.

Lessons/Challenges

Reputational risks

- Understanding and upholding professionalism is a key lesson and benefit learnt from implementation of this best practice.
- In a small population of less than 800,000, the possibility of people being related is higher than in larger populations.
- Setting standards and guidelines with regards to conflict of interest situations can reduce the challenge of reputational risks.
- If conflicts of interest are managed properly, it can limit potential corruption, whether actual or perceived.
- Conversely, failure to implement the Conflict of Interest Code and act in the best interest of the Office, may lead to public embarrassment and exposure of the Office and a lack of trust by the public in the integrity of the Office.

Expected Outcome

- To ensure that the credibility and integrity of the audit process and the Office is not compromised by conflict of interest situations involving staff.

Monitoring

I. The Auditor General is responsible for implementing and monitoring adherence to the Conflict of Interest Code. Section 14 of the Audit Act gives the Auditor General the power to discipline staff.

II. Parliamentary Public Accounts Committee of the National Assembly has general supervision over the functioning of the Audit Office. [Article 223 of the Constitution and section 45 of the Audit Act]

III. Integrity Commission-The Auditor General must make declarations of assets to the Commission and abide by Code of Conduct of the Commission.

Thank you

QUESTIONS?