

Project :	Anticorruption Policy; Standards of Conduct against misappropriation of Funds.
Subject:	“Does it make sense to join the Cartel of Silence?”
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This published document is considered as a Draft. The Document will be proof read and enhanced.

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1 Starting Points : Anticorruption Policy / Standards of Conduct

The Donors use to establish their Anticorruption Policy / Standards of Conduct as an integral part of “Contracts”. Reference is made to the Asian Development Bank (ADB) Guidance of Anticorruption Policy.

1.1 Involved Parties

The anticorruption policy / Standards of Conduct / requires that all Parties inclusive Donors shall observe the highest standard of ethics.

- 1.1.1 Borrowers
- 1.1.2 Beneficiaries
- 1.1.3 Suppliers of Services & Goods / Materials (steel, cement, bitu, aso) & Royalties
- 1.1.4 Consultants / local Consultants and
- 1.1.5 Contractors/ local Sub-Contractors

1.2 Application in all “Maturity stages” from inception to commissing/transferring

Application in all “Maturity stages” of all Project Cycles from Programming, Identificaiton, Appraizal, Formulation, Procurement, Award, Implementation, Operation / Maintenance, and Transfer (e.g. BOOT). All parties shall abide to the setup rules during the

- 1.2.1 Pro-contractual phases like Programming, Identification phase
- 1.2.2 Formulation stage: Design / Services + Works (Tender Dossiers) strategies
- 1.2.3 “Selection Process / Evaluations for services + works contracts”
- 1.2.4 “Execution / Implementation of all type of projects” and
- 1.2.5 Post-contractual phases (legal warrenty period)

1.3 Pursuance of the Policy

1.3.1 Define of terms – for the purpose of this provision -

“Corrupt practice”, fraudulent practice, coercive practice, collusive practice, abuse, conflict of interest , “obstructvie practice”

- (a) deliberately destroying, falsifying, altering, or conceal of evidence materials to the investigation or making false statements ot investigators to materially impede an ADB investigation;
- (b) making false statement to investigators to materially impede an ADB investigation;
- (c) threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigations
- (d) materially impeding ADB’s contractual righs of audit or access to information.

1.3.2 Reject for an award

Consultant recommended for the award has directly, or through an agent, engaged in integrity violations in competing for the Contract in question

1.3.3 Cancel the portion of the financing

Representatives of the Borrower of ADB financing other donors engaged in integrity violations

1.3.4 Sanctions

Sanctions to a firm or individual, at any time, in accordance with the ADB's Anticorruption Policy and Integrity Principles and Guidelines including declaring ineligible (either indefinitely or for a stated period of time), ... if engaged in integrity violations or other **prohibited practices**.

1.4 Standards of Conduct

1.4.1 Bullying : repeated or persistent aggression or other malicious behavior

1.4.2 Discrimination

Inappropriate differentiation based on characteristics such as race, colour. Nationality, national, social or ethnic origin, religion, or similar beliefs, language, political or other opinion or affiliation, gender, gender identity, sexual orientation, family or civil status, health status, size or physical ability.

1.4.3 Harassment

1.4.4 Integrity means a firm adherence to ADB's Anticorruption Policy, Principles and Guidelines

1.4.5 Misconduct

1.4.6 Respect

1.4.7 Retaliation (detrimental act)

1.4.8 Sexual harassment.

1.5 Missing ! Procedures, support for talented experts to pursue ethical conduct?

The article will throw light on different matters and characters. Please read on about embezzlement, fraud and corruption.

By the way, have you every checked the CPI2020 list – published by transparency? CPI stands for Corruption Perception Index. The CPI-List can be download via this internet path:

<https://www.transparency.org/en/cpi/2020/index/nzl>

Full list

https://images.transparencycdn.org/images/CPI_FULL_DATA_2021-01-27-162209.zip

2 Does it make sense to join the Cartel of Silence?

The following provocative statement about misappropriation of Funds, embezzlement, fraud or Corruption shall make you think.

2.1 "PROVOCATIVE" DECLARATION

2.1.1 Donors want to increase their amounts of disbursed monies, esp. their loans

2.1.2 Governments / implementing agency officials want to increase their low income by bribes

2.1.3 Engineers / Consultants with low income want to increase their unexpected wealth status

2.1.4 Contractors are interested to boost Contract Price by different actions.

2.1.5 Auditings, Monitoring & Evaluations, Mid-Term Review serve as an ALIBI Function only

2.1.6 Tranquelize the TAX Payers by Courtesy Reports.

2.2 Stake in the baksheesh business : "Financially" + "Physically" + "early Fatigue / collapse"

2.2.1 Financial damage for the Borrower due to "Award" + "Variations" (Embezzlement+Fraud)

A _ Award Stage: **Mr. 2% Mr 3% Mr. 5%** will have his contribution for his **last call support**.

B _ Implementaiton Stage: **9-12% second income out of Variations – unjust Quantity increases** under the Premise 1: **30% Baksheesh** are given out of each evaluated claim and variation value and

Premise 2: Donor financed Projects overrun regularly the awarded Contract price with an average **increase of 30-40%** of the Accepted Contract Amount (ACA). > Rouch YIELD computation for the “beneficiaries” of unethical conduct: 30-40% Contract Price increase yields in a 30% share of baksheesh >>> (30% or 40% ACA increase) * 0,30 baksheesh contribution = 9-12% second income out of the Accepted Contract Amount

A + B = The impact during the Award Stage and Variations / unjust Quantity increases during implementation sums up to **5% + 12% = 17% (seventeen percentage)**

2.2.2 Unjust enrichment due to **Physical Material flow + Material Trading**

C _ Unjust enrichment due to physical material movements to “friends and neighbours” and **financial actions / material trading** due to change of **Specification / Technical Specification**.

Perhaps you do know the formula 50% - 100% - 100%. It means 50% build-in of the material, 100% measured (as-built drawings) and 100% paid by the IPC / IPF. 50% of the other material sent to others.

C1 ... **Material**: The not-built-in material is delivered by paper trail to site, but sent to “friends and neighbours”. Sample: 220 kg reinforcement steel per m³ (designed by Consultant on recommendation by E), but only built in 170 kg steel per m³ (23% less). Similar with Cement : plan 400 kg, actual 350 kg (13%). So you can calculate the **VALUE of unjust enrichment: 50 kg steel + 50 kg cement per m³ concrete** + other material types, like water proofing system, shotcrete quality, structural steel. Earthworks operations are also the best to forge the lab-tests of Load Plate Bearing Capacity, the material class, the **double payment for cut-spread, borrow to fill** despite one operation only.

C2 ... **As-Built-drawing**: The as-built drawing shows i.e. more replacement material or more borepile lengths as actual constructed. The Contractor shows double happiness for the joint forgery.

sum C _ Financial impact for the donor: assume 15%-20% labour prime costs, 25%-30% equipment costs and **30%-35% Material prime costs** + 20% Indirect Costs for P&G for the entire project in “developing countries with low labour/engineer costs” with 15% - **25% material chopping** (inclusive not even built in) brings a second income between min 35%*0,15=4,5% up to **max 32% * 0,25 = 8,0 % of the ACA**.

2.2.3 Financial damage due to **early fatigue / high MAINTENANCE costs & possible collapse**

D _ After Defect Notification / Liability Period: The diverted material flow (50% site / built in and 50% to “friends and neighbours”) has definitely an impact to workmanship / Quality of the constructed infrastructure. The recognized sub-standard will fatigue the structures at an earlier stage, even a collapse may occur after 7-10-15 years. Anyway **the “lack of supervision with conniving actions”** (Consultant and/or Employer) will cause a “double loss-issue” / tremendous recurring **maintenance costs for the Borrower/Taxpayers** in the Country.

2.2.4 Total: **“Mr.5% + Variation + Material management” = 25%** during Implementation only.

Wrap up of total Chopping of money (1.7.1, 1.7.2 and 1.7.3) => Last Call Mr. 5% + Variation 12% + Material Management 8% = **25% ACA-loss of the works budget / substandard workmanship - during construction stage** -, not considering the recurrent increase of maintenance cost due to the lack of workmanship >>>>> Who looks for an “optimizer”? Downward or Upward?

If Contractor, Engineers and Employer connive, than ... DAAB-Decisions are not required.

If the parties work in groups or in a total cooperation-chain, than no Disputes will arise. Variations will be done by instructions, Quantity increases / change of Employer’s documents / design agreed without formal procedure and Claims are resolved with other means, “adaption” of documents or by unethical conduct.

Conclusion:

If almost no referrals are submitted to the Dispute Boards for Avoidance and Adjudication, it might indicate, that issues on site are solved by by-passing the Contract Law. **On the other side, a low number of dispute referral to a Dispute Board does not indicate a well-managed project**, if the Contract price is being increased up to 130%-140% * ACA and the project completion time is prolonged up to 170% of the original Implementation time.

Apparently Sole Dispute Board (DB), Dispute Adjudication Board (DAB), Dispute Avoidance and Adjudication (DAAB) members, appointed by Employer and Contractor, serves as a **mere ALIBI**-function.

2.3 Illegit Methods to realize “SECOND INCOMES” - during all Project Cycle Stages -

These following compilation of subjects is based on observations attained within state / parastatal entities, project management institutes, consulting firms and construction industry in North-/West-/South-/East-Africa, West-/Zentral-/Ost-Asia, Middle/Near East, and some European States, ... over a period of 35 years professional life. Maybe the knowhow-transfer will help the reader, how he would be able to proceed / to join the Cartel of Silence or to fight against the system of “**unjust enrichment**” for restitution!

Due to time constraint to publish the document for the OLAF-presentation / European Anti-Fraud Office on time, we just compiled the occurrences which impacts fraud and corruption actions. Hence this document is not well formulated / proof read. However, we hope the documents will **provide comprehensive KEYWORDS** to identify probable cause-effects of unethical, collusions, and fraudulent conducts.

2.3.1 Conceptual / preliminary Design

A _ Designers are dependent from the Employers. Hence they follow the Employer’s approach about the technical and economical “minimum” set of requirements in the Conceptual / Preliminary design. It is said, the involved parties **plan ahead about their benefits**: high value of contract = high value of supervision contract price = high value of unexpected wealth. This can easily be controlled to select the most “beneficiary” horizontal and vertical alignment with the appropriate major structures (bridges, tunnels, culverts, retaining walls) and their “foundations” with sheet piling or bore piles
B_ with deliberately missing operations / extent of scope of works – or incompetence of the Design firm.
C_ High values of “Provisional Sums” up to 10% of the Contract price for “probable defined” portion of f works – without price structure - reflects the lack of design, however it indicates the “flexibility” to execute the works for “new price / new rate” and to please the specific local sub-contractors.

2.3.2 Predetermined obsolences Specifications for supply, materials and construction methods

A _ The Tender Dossiers are being produced with predetermined obsolences / inconsistencies / ambiguous in the Particular Conditions of Contract, Specifications, Drawings, Method of Measurement of Payment, and Bill of Quantity-Schedule. This strategy either due to **incompetence or due to cunning methods** to enable the Parties for a broad range of “flexibility”.

B_ Designers might on Employer’s tip to select material characteristics / strengths in steel, cement, bitumen, construction methods / shotcrete for slope protections, tunnel linings, water proof systems, other changes of suppliers, local subcontractors, which may cause plenty of “variations” mostly with the aim to increase the Contract Price.

C_ Particular Conditions of Contract points out, that it is advisable to **supply material locally**. The Objective to change the design and specification of the Employer’s documents (Procurement Tender Dossier) is obviously > (C1)The Government gets additional income of VAT / GST – what cannot be blamed in the first glance, but (C2) the involved Parties are doing this change in specification not altruistic – they want to have their commission payment share of xx %, of course.

D _ Change in “design / specification” shall have the impact, that the local supplier shall be paid with **100% local currency** in compliance with the Evaluation guidelines of SC12, and not in line with the contractual Schedule of Payment Currencies, e.g. 30% Euro 30% USD and 40% Local currency.

2.3.3 Preparation for ambiguous Bids / Works – distorted Quantity structure -

A _ Scope of Services and Scope of Works : The scope of services and scope of works show sometimes discrepancies / disparities in proper task force and proper Quality framework, caused either by different level of knowledge and skills, and/or **varying motives**.

B _ Conditions of Contract:

B1 ... The Particular Conditions of Contract does not describe the **Contractor’s working periods** and the number of SHIFTS per day / per week for them a clear / inconsistent manner.

B2 ... Ambiguous general formulations (e.g. according to Labour Law) leads to amendments in the service contracts and discussion about which Party shall pay. The Employer shall clearly indicate in the

Contract the **ambiguous descripton** of the Working hours / shifts

B3 ... The Employer shall properly investigate the locations of the access to site, in order not to impede the Contractor's operations

B4 ... Other keywords to complicate the contract administration :

purchase **material** in the country // indices and coefficients and **source of statistical** publications // **stand-by of a Contractor's design** team (!) for a Red/Pink FIDIC Contract for Contraction // a.s.o. which leads unnecessarily to irritations.

C _ Specification and Method of Measurement and Payment (MOM) documents and BoQ-items show harsh discrepancies. For example, high values of ancillary / auxiliary permanent work items should be split in two BoQ-pay items. Later on the Parties introduce a new rate / prices for this permanent works, despite the Contractor's initial obligation acc with the Specification + MoM&P, to consider these works in his **intial Contract Price**.

D _ Misleading Site Data are given or not even defined, e.g. soil conditions for slopes and for foundation load bearing capacity (actual contact pressure, allowable LBC and ultimate LBS), criteria for flooding to identy the risk events for prevention measure or Force Majeure.

E _ Bill of Quantities BoQ: **overestimates – underestimates** of Quantities to play with the Unit Rates.

E1 ... The quantities forwarded in the BoQ items should be accurate as much as possible. Huge differences between the actual and shown BoQ-quantities can help to use speculative rates in order to **catch the contract**. This happens, if the Contractor gets a tip from the Employer or Designer about the mismatch of the quantities.

E2 ... Bill of Quantities: Unit rates shall cover the **indirect cost like P&G**, site establishment / mobilization (camps, quarries, Production plants, ...), time-related / running cost, value-related cost, site dismantling / demobilization in plenty of BoQ-items, Qty-Structure (e.g. month / numbers), Unit Rates.

E3 ...a.s.o.

2.3.4 Evaluation and Award Stages for Services and Works Contracts

A _ Sanctioned ineligible firms and individuals by Worldbank are excluded from competition.

[\(PDF\) World Bank Listing of Ineligible Firms & Individuals | Nishank Garg - Academia.edu](#)

Obviously **mere lip service** of the cooperating international organized Donors. These lists seems to be overridden by other political considerations.

B _ Technical evaluations are done not in line of published time frame. It takes time to sort out "flexible" approaches to adapt the scores / points. Unfortunately CVs of the Experts can be brushed up, and this **fake experience** is presented for evaluation.

C _ Nobody should be astonished, when the inadequate competencies and impairment of performance will emerge during the course of performance. It seems Donors and Beneficiaries are not interested to produce quality within the time frame and budget. Financial management approach "is not" the priority #1. And **money does not matter**, mainly the environmental-social-gender-climates issue are met.

D _ Finacial evaluation of Consulting companies. Evaluation results in West- / Central-Asia show, that employees, who are foreseen for an underestimated financial bid, indicates that the low paid employees have either not enough international qualified experiences or they do not know their market value. Even in Africa, **local residence ask at least a Fee of 450 Euro per service days @ 22 wd > circa 10.000 Euro per month**, not included the EU per diem rates 2020 for accommodation, food and sundries.

https://ec.europa.eu/international-partnerships/system/files/per-diem-rates-20200201_en.pdf

E _ Very often the combined scores are wrongly applied with the utmost points to lift all technical points with a factor, that the best technical bidder scores 100% technical point. It helps to trace back the results and no chance for play a game.

F _ **Underestimated Consultant's Service Proposals or Contractor's Work Bids should be rejected** straight away. Saving monies for "tight" supervision will turn out into huge increases of the Construction costs due to the search for a second income of the underpaid servants. The impacts are well know: Connive with all Parties to chop off monies. Donors will pay. The reason, why this document is produced, shall open the

eyes about the alternative search for a second income of the underpaid servants with the well-known impacts of overspending for Works and Services.

2.3.5 Advanced Payments : utilization and proof of payment

A _ Payment deadline of Advance Payments: The advances is FULLY paid to the Consultant and Construction Company.

B _ Mostly the Employer's does not **request proper proof of the utilization of advanced payment** to support the site operations. Mostly headoffices takes the overhead to cover their HO cost and let the Site stay in the rain – to be unable to operate efficient and effectively.

C _ The fully advances amount paid out in one amount arouse desires to satisfy the “flexibility methods”. This procedure is most prone for corruption, which often indicates a deficit of supervision later on.

D _ The Employer / Employer's Personnel **disregards the ownership of Plant** (crushing and screening plant, mixing plant, batch plant, Material on Site) vested due to the advance payments. The ownership over all the plant, equipment, material, camp facilities will cease to exist, if advances are repaid.

E _ Some Companies does not assemble/erect these production plant and buy the construction material - to being incorporated in the permanent works - , but request price escalation on these unlawful actions. “Royalties” are not eligible for adjustment for changes in cost.

2.3.6 Indirect Cost including in Unit Rates > misleading for new rates / new prices

A _ Preliminary and General Provisions: Some Procurement documents does not split up the Preliminary and General (P&G) Works in Bill of Quantity items. The financial Bid says, all indirect costs shall be considered in the Unit Rates. This procedure allows the informed Contractor - with the Desingers “information” / Employer's “recommendations” – to construe his Bid with speculative rates.

B _ This topic **P&G with the included indirect costs** for mobilization, time-related and value-related costs plus de-mobilization in the unit rates is already worth for a one-day workshop to illuminate this non-transparent procedure.

C _ The unit rates (including indirect costs) provided in the BoQ-items are ca. 20% above the “real market price”, which has to be considered for extension of time for completion, e.g. to reduce the unit rates.

2.3.7 Insurance for Works ... Premius / Provisions

A _ Everytime when it comes to insurance companies – esp. with local resided once – the discussion goes on and off, till an agreement is reached.

B _ The coverage of the insurances with its premiums are very prone for commissions (bribes).

C _ Standard insurance contract forms / templates should be drafted by FIDIC.

2.3.8 Deficient preservation of evidences / Insufficient reasonings / monthly progress reports

A _ Failure to preserve of Evidencies

Diaries /Work Registers of the Consultant and Contractor shall be checked to trace back impediments on site.

B _ **Insufficient Reasonings** to change the Contract Rules and Regulations

C _ Monthly progress Reports does no give a well substantiated report about the reasons,

C1 ... why the occurrences happened: delays / disruptions of operations, increases of quantities,

values and status of proceedings of all Variations, values and status of proceedings all Claims,

C2 ... deferred proceedings in conformity with the Contract rules / sequences of defined timings

C3 ... missing records of consultation

C4 ... how the Contractor wants to remedy the retarded rates of progress

C5 ... does the Employer considers accelerations to meet the time for completion by extra payments.

If the Contractor pretends having no experiences in Contract administraton, the Engineer shall respond according to the contractual rules. The Engineer has enough **obligations and liabilities** to push the

Contractor. Some Consultants find all ways to delay the progress of inspections, administrative documents, quality control, ... in order to get some acceleration monies or other goods / bribe.

2.3.9 Shift of Design responsibility to Contractor

A _ Usually the Employers is responsible for **Design and Specification** of a Red Book / Pink Book Conditions of Contract for Construction for building and engineering works, designed by the Employer.

B _ The Consultant should do the design review and adapt the required design changes. But mostly the Employers / Employer's Personnel shifts their obligations to the Contractor, because they misuse the cultural conduct of Asian Contractors, because they do not fight – they suffer silent.

C _ The Contractor is taking over this tasks – mostly without claiming compensation - , because he does not want to jeopardize the business relation. On the other side, he has also interested to steer and control the “changes” for measurement and payment for his advantage.

D _ This procedure may cause problematic warranty issues, if the Conditions of Contract have not been amended.

2.3.10 Provisional sum – works

A _ Provisional sums are provided in the Procurement Documents / Bill of Quantity-Schedules with a huge amount. This indicates, either a **deficient design or the intention to award** specific construction works to local contractors during the construction stage.

B _ The selection of a selected subcontractors out of three offers will show high unit rates for “design” and “build” – with less deviations in the financial offers - . What does this indicate? The local subcontractors have already considered their shares to the decision-making parties.

C _ The Consultant will not fight with the Employer about a reasonable price evaluation. The overspending for the design and works pays the Fund giver / indirectly the “stupid” tax payers.

2.3.11 Consultants' Bids - Sub-Contracting Local Consultant

A _ The local consultant allegedly align their service offers (financial package) to the main consultant. So the technical and financial proposals can be assess and simulated, with which technical scores the “identified consultant” will score the utmost points to being awarded.

B _ All Local Consultants are the link to the Borrowers / implementing agencies and a quota of coordinating the Contract Awards are organized and hence the flow of monies is also easy to arrange.

C _ In addition the value for unjust enrichment is more favourable with the Contractors. The value of consulting with all design works, and administration sums up to 10% of Contractor's Contract Price.

2.3.12 Reluctance to sort out Variations issues: meager reasonings and formal Determinations

A _ Variations can easily be organized to increase the contract Price with earthwork quantities due to wrong application of the method of measurement, and **exaggerative excavation** of soil below foundations and extensive usage of bore piles for the foundations.

B _ Variations are instructed without proper reasonings, why the change of the Employer's Documents / Design and Specification is required. No proper substantiations are provide, however the Employer has to endorse the Engineer's “determination” e.g. by instruction, which entitles the Contractor for payment – just or unjust – given.

C _ Asian / Chinese and other Contractors are very grateful, to provide a share of 30%. This share is **given with great joy**, exp. if the Contract says, that the Preliminary and General Cost / all indirect cost shall considered in the Unit rates, either deliberately foreseen in the procurement documents or due to unlikely incompetence.

D _ Think about it. If the P&G items are not priced, the unit rates are **overpriced** for increased quantities – executed within the contractual time for completion - .

2.3.13 Reluctance to sort out Claim issues : meager reasonings and formal Determinations

A _ The Contractor does not comply to the **time bars and substantiations** of the claim. The Contractor are usually not submit their monthly claim request for continuing effects.

B _ The Engineer does not request further particular in order to assess the monthly cause and effect of the events / circumstances. Hence the Employer's personnel breaches the contract.

C _ Due to this procedure – no consultations between the parties - close to the occurrences – are taking place. Hence it is very difficult to defend claims for the sake of the Employers / Borrowers.

D _ Usually this procedure helps the Contractor to increase his Contract Price, to the joy of other beneficiaries as well.

2.3.14 Quantities and Valuation of Material on Site

A _ The Contractor does not provide a full picture about the deliveries, consumption and stock at the end of each month. At least the following goods shall be monitored: sand and aggregate with three sizes, cement, bitumen, steel, steel reinforcement, fuel for plants / crushing+batch+mixing plant and for equipment on site (diesel and petrol) with lubricants. And explosives, if required.

B _ The **consumption of the material** provides good performance indicators of their operations on site. reduced to one or two kinds of material

C _ The non-transparency of the **goods movements** and missing documentary proof of the value of the material should not be accepted. The Contractor has to divulge through vouchers the payments to the Material on Site in order to get 80% of the value paid on a monthly basis.

D _ Why he wants to not disclose this issue: He does not want to disclose the discrepancy between actual price and the “evaluated new rate / prices” for the material. The **overspending** for the works can be well distributed to the involved Parties with their sub-contractors. There are plenty of ways to distribute the monies to the “beneficiaries”. Gold and Diamonds have also a value.

2.3.15 Non-accurate Measurement / forged as-built drawings

A _ The method of measurement and payment for permanent earthworks is most suitable to increase the Contract price artificially. (i) dig deeper, but the as-built drawing shows even a deeper level, (ii) replace the material with higher quality, (iii) non application of **NET quantities for “size of structure” without the working space for excavation**, load, haul, spread, dispose, ... (iv) inconsistent description of “material re-used” with the opportunity to haul the material to the place of utilization / fill.

B _ Due to ambiguous (deliberately done) descriptions, the Contractor **measures the same quantity twice** (cut to spoil, cut to fill), and to pay twice, if the Consulting lacking to monitor this critical operations.

2.3.16 Adjustment for Changes in Legislation and Cost (AfCiL / AfCiC)

A _ The procurement documents do not clearly define proper cost indices for the defined Labour categories, different types of Goods / Equipment (e.g. main operation equipment, Material (e.g. cement, steel, bitumen), Transport, Formwork ... with the source of publications with easy access for the foreign and local currencies, to identify the economical development.

B _ Monthly adjustments are not done, with the effect, it is difficult to trace back later on, the eligible or non-eligible proportions of the monthly turnover for application of the price escalation.

C _ In addition, it is assumed, the computation of the price escalation / adjustment for **changes in cost is wrongly applied** – with a result up to 30-50% of the Accepted Contract Amount - .

2.3.17 Interim Payment Applications / Interim Payment Certificates (IPC)

A _ The Structure of the IPC is not complying with the Conditions of Contract to **compute the Retention monies properly**, to consider advances and repayments in the IPC, to add/deduct Plant and Material on Site / 80% Value on stock (the reluctance of disclosure the value is mentioned in this document), additions / deductions e.g. Provisional sums, and Claim Amounts (which are not properly formal determined by SC03.5) sums up to the net amount plus VAT / GST to arrive to the GROSS amount.

B _ **Wrong application of the IPC structure**, e.g. add the value of “100% Material on Site” in the category permanent works, and deduct the 5% or 10% retention money, does not comply with the Contract. What does this mean? The Contractor gets unlawfully more money paid (100% MOS minus 10% retention = 90% MOS) as he is entitled (80% MOS, no retention is being applied) in conformity with the IPC-

Structure – defined in the Condition of Contract. But these very often observed discrepancies are the fault of the Engineer (certify) and the Employer (endorse payment).

C _ Note: It is advisable to **compare the initial Bill of Quantities with the Quantities of ALL completed single major structures** (Bride sub-structure / super structures, culverts, Tunnel main operations, water proofing, Highway earthworks, pavement, access / feeder roads, Interchanges) with interim / final BoQ-items of the IPC / ahead FPC (Final Payment Certificate). The deviations / disparities and discrepancies should be enlightened by Formal Variations or Claim-Determinations pursuant to Sub-Clause 03.5 (Red / Pink FiDiC book).

2.3.18 Engineers do not monitor the change in Contract Price on a monthly basis

Why do Employer's not request the "development on the Contract Price on a monthly basis" due to discrepancies in wrong computed design quantities and real measured quantities (Quantity increase without constitute a Variation Order), Variations due to change in design (levels, dimensions) and specifications (material trade), Claim proceedings in compliance with the typical sub-clauses of the Contract and at the time of occurrences (breach of contract are very often observed). Obviously timely transparency about the causes and price effects on the adjusted Contract Price is not the intention of conniving parties, to prevent complete, clear and substantiated data on a monthly interval. May this the reasons, why Employer's are reluctant to claim for damages due to breach of contract, lack of supervision & organizational negligence by the Consultant / Engineer, in order not to blame each other.

2.3.19 Auditors deployment serves as an Alibi with their courtesy reports only.

Apparently the Auditors, Monitorer@Evaluators, Lender's Monitorers deployment serves as an alibi function for all involved stakeholders. The reports of the Auditors turns out as courtesy reports, which are milked-and-watered by the influencers / clients to "adapt to Quality Assurance / Quality Control" to satisfy the actors but not the real observations on the ground to account on such reports.

2.3.20 Tranquelize the TAXPAYERS worldwide by courtesy reports.

Taxpayer trust that the Contract Law is applied and appropriate assessments have been done properly – without conniving -, to justify the increase of (a) duration of the Contract implementation up to 70-80% and (b) adapted Contract Price up to 50% of the original agreed Award Price / Accepted Contract Amount. This appears to be a popular fallacy of the taxpayers.

EU Project are allowing an **increase up to 49% without any Amendment** of the Financing Agreement.

2.3.21 If Contractor, Engineers and Employer connive, than ... DAAB-Decisions are not required

If the parties work in groups or in a total cooperation-chain, than no Disputes will arise. Variations will be done by instructions, Quantity increases / change of Employer's documents / design agreed without formal procedure and Claims are resolved with other means, "adaption" of documents or by unethical conduct.

Conclusion: If no referrals are submitted to the Dispute Boards, it might indicate, that issues on site are solved by by-passing the Contract Law. **On the other side, a low number of dispute referral to a Dispute Board does not indicate a well-managed project**, if the Contract price is being increased up to 130%-140% * ACA and the project completion time is prolonged up to 170% of the original Implementation time. Apparently Sole Dispute Board (DB), Dispute Adjudication Board (DAB), Dispute Avoidance and Adjudication (DAAB) members, appointed by Employer and Contractor, serves as a mere ALIBI-function.

3 How to prevent Fraud and Corruption threats?

To prevent fraud and corruption is a worldwide topic. A lot of honest people want to identify and prevent misuse of funds, in order to decrease the taxpayers exploitations – worldwide - . The Authors have compiled some ideas for a fight against fraud and corruption.

3.1 Donors-Borrower's sphere of influence : FINANCING AGREEMENT / Decision

3.1.1 Fixed Price, not Lump sum price only

The Donor and the Borrower agree in their Financing Agreement / Decisions a **fixed amount of Loan / Fund**. Any change in Contract Price due to design changes, variations, claims for Extension of Time has to be fully paid by the Government.

If the government will be responsible to **pay 100% of the extra scope of services and works**, the Employer / Employer's Personnel will defend and defeat any change request based on contractual events / circumstances with doubtful reasons / grounds – and will have no chance to connive with the respective Parties.

The Donor pays the “fixed amount” of investment to the Borrower, nothing else.

The Employer shall be responsible for additional / extra expenses due to all type of actions:

- A _ Design Errors caused by all type of Variations
- B _ Claims due to Procurement Errors / contra perfer
- C _ Claims due to Breach of Contract (e.g. Late possession of site / right to access of Site)
- D _ Claims for Unforeseen Physical Conditions, Exceptional Events / Force Majeure
- E _ Claims for Prolongation of Time for Completion and extra payment for late completion
- F _ Claims due to Adjustments for Changes in Legislation and Cost / price escalation
- G _ Additional expenses for stakeholders, consultants and contractors
- H _ Extra Administration costs of the Ministry and Authority / Implementing Agency in general and for extension of time for completion in particular.
- I _ Cost Estimate shall be done by a international, independent, neutral Experts to assess the market price of the projects ... to provide decision making data : reject underestimated bids and reject overpriced bids.

J _ Donor's Auditors / Monitors / and other means of Review will not be required for Audits, Monitoring & Evaluation Missions, Mid-Term Reviews, Result-oriented Monitoring (ROM) missions. The agreement about the fixed price of loan / fund, will force the Employer, Employer's Designer, Employer's Personnel, Engineer to do their utmost efforts to investigate / examine all the appropriate Site Data, unforeseeable soil conditions (UPC) and unexpected risks events (to define them properly). With this approach, the Contractors will be able to consider all risks in the financial Bid to prevent an adjust of Contract Price.

3.1.2 Type of Delivery to Award of services and works for a Fixed Price

- A _ The are different approaches to provide a more **degree of certainty of final price and completion date**, if the Contractor is fully responsible for the Design, delivery and Execution like in Design+Build / EPC / Turnkey Projects.
- B _ The Contractor has to provide a fully equipped facility, ready for operation in compliance with the Employer's requirements / conceptual or preliminary design and **functional descriptions for fit of the Purpose and unforeseeable circumstances (fully examined site data) with defined exceptional risks in the specification**.
- C _ Or the Employer will approach the delivery as and **Output- and performance based Infrastructure Contracts / OPRC**, similar Desing + Build + Operate / Maintaine and Transfer after 12-18 years from commencement date. The in
- D _ Another option might be Public Private Partnership / PPP with debts and/or equities finances. However such PPP projects might discriminate the social low casts, exploit the poor users.
- E_ This type of delivery with **FIX Price** will reduce all methods of conniving about design drawings, material characteristics / material trading, sub-contracting, unaccurate methods of measurement and payments a.s.o. resulting in a certainty of agreed intital contract price upon award of Contract.

3.1.3 Auditors shall contracted direct as Individual Consultants

A _ The Auditors shall be contracted directly by the DONORS. They will responsible for one “MASTER” only and not to other parties like Frameworkcontract Consortia. These Parties are somehow dependent from the award of FWC.

B _ The independent Auditors shall have no obligations to align the Reports with the Contracting Authorities / Borrowers, Implementing Agencies, and the Framework Contractors / FWC under the term

“Quality Control”.

C _ Conclusion: Under these circumstances, neutral Reports will tell tales out of school, and will not be diluted with factoids.

3.2 Employer’s Influence with DESIGN Approach (BIM – three dimensional)

3.2.1 Vertical and horizontal alignment shall be balance out technical and financial impacts

The Employer and the Designer can draft several alignments to find out the optimum balance between quantity movements, lengths of road, bridge, and tunnel sections. Hence it is recommended to use Building Information Modelling (BIM) – three dimensional design software with the computation of exact, accurate quantities.

3.2.2 Establish well investigated Site Data with proper soil explorations

After identified the two or three alternatives, the Desinger shall explore the critical Site data, which might impact sub-surface conditions, hydrological / climatic conditions, access to site, transport, logistic, anyway a proper “survey report” shall be done, not limited to geotechnical soil examination and geodetic measurements, quarries, borropw pits, spoil areas, but also to administration and legal system, taxes, licences, logistic, utilities, shipping + importation restriction, foreign workers, accommodation facilities, medical services, accountability of the payment behaviour of Employers.

3.2.3 Design Review + Cost Estimates to be done for Alternative 1,2,3 to meet VFM-demand

A _ The proper and complete description of all permanent works in the BoQ-items will secure a more precise Cost estimates. Anyway Employer and the Designer are able to carry out proper sensitization meetings to inform the public to identify the best route, bottlenecks, other objections based on technical, society-related, environmental and financial issues.

B_ A design review, risk management analysis and Cost Estimate shall be reviewed by an external expert, appointed by the Donors directly.

C _ The Quantity structure should be safeguarded by terrestrial laser scans and BIM – design.

D _ The Employer shall have well informed data to be able to select the best project alternative to meet the value for money / VFM – requirement.

3.3 Employer’s Influence to PROCUREMENT documents with Consultant

3.3.1 Preparation of consistent Tender Dossiers

A _ All documents which form an integral part of the CONTRACT shall be consistent and not ambiguous. The reference system of the BoQ, Method of Measurement, Design Drawings and Specification shall be congruent without deviations to reduce the risk of “contra proferentem” / to allow the Contractor to claim.

B _ The BoQ shall describe all required permanent works for measurement and payment sufficant and completely, that the contractor has not to consider “hidden non-paid temporarilyactivities” for the derivation of the financial offer / Contract Price.

C _ If contractor understand/perceive the Contract documents in a different ways, one Contractor might either act as gamblers to resolve the ambiguities with his means or the other Contractor may tackle this issues seriously and takes care as a prudent businessman and consider the hidden works in his bid offer. This wrong understanding / perception of the Tender Dossier should definitively be circumvented (averted), otherwise the serious and accountable Contractor will miss the Award of Contract.

3.3.2 Contract shall properly describe the different indirect costs

A _ The Specification, the Method of Measurement doc and the Bill of Quantity shall properly describe the Bill of Quantities with Preliminary and General (P&G) Items [physical works] (in direct costs to break down) for Mobilization spread e.g. over six months (~70%) from start of Letter of Acceptance (LoA), time-related / running costs per month over the contract period from date of Commencement Order, value related costs per month over contract period, De-mobilization (~30%) one month ahead of Request for Performance Certificate.

B _ The Indirect costs should be limited to a maximum of 25% of the financial Bid, in order to control the Costs for Extension of Time for Completion and to prevent intelligent “financial management”.

C _ The priced detailed P&G Structure of the competitors will give good impressions about the Contractor's approach of the break down of price structure (single bills and the unit rates)

3.3.3 Reduce Provisional works with DESIGN and Construction Work

A _ The provisional works for contracted "scope of works" should be minimized. The Employer and the Designer should have a clear picture of the intended use of the finished structure for the purpose to demolish, to repair, to build, to operate, and maintain the "procured / awarded" scope of Works, not being blamed for non-transparent actions.

B _ The same applies for Daywork-items like Labour, Material, and Equipment usage outside the Contractual obligations and liabilities.

3.3.4 Advance Payment Procedure / Payment Schedule (financial matter)

A _ Advanced Payments are very often misused by the Head office of the Consulting firm and Construction Industry. The money is not allocated for site mobilization, for purchase of the required transport and equipment with the objective to commence operation for construction of the permanent works.

B_ Due to this observation the Contracting Authority shall **disburse the advances** according to a **payment plan linked to the progress of site mobilization**, proof of deliveries and proof of payments for investments in equipment, plant and materials and mobilization for the task force (superintendence and work force). The payment plan for the financial management of the Mobilization might look like this:

> B1 **Max 80% of advances for site mobilization** out of the 20% Advanced Payment Amount (0,2 ACA). Contractor's Mobilization plan for period 0-3, 3-6, 6-9 months, showing his planned spendings.

Payment will be done corresponding with the acceptance of orders, and the next instalment will be paid, when proof of payment for the previous instalment will be submitted.

Period 0 (Installment 1) starts with the LoA / Letter of Acceptance plus 30 days, with a frequency of 3 months up to 6 or 9 months. The plausible payment plan shall be submitted with the Financial Bid.

> B2 For operation the contractor shall produce enough earnings to cover up his "entire production costs).

> B3 **Residual value of 20% of advances out of the 20% Advance Payment** Amount (0,2 ACA) is paid **for site demobilization**: three months ahead of the expiry date of the DNP / DLP.

The Tender Dossier shall request a line of balance for a period of 4 months operation costs at least - under financial capabilities – and the financial risk for the advanced payment is secured by a bank guarantee.

Note: Physical works being rendered must be paid

All the physical executed works for mobilization (temporary structures) of the different Camp locations, offices, erection of crushing & screening plants, production plants, construction to quarry access roads, other construction works should be foreseen as BOQ items, that the Contractor is able to submit an invoice on a monthly interval – for his executed works - .

3.3.5 Fee Structure of international and local Experts / Specialists

A _ **Service Force**

A lot of experts they work below the market price, because they have no other choices or they have not enough international experiences. Hence the Honorarium / Fee + Salary Structure for "international" (out of the neighbouring countries – already declared international) and national Experts.

B _ Why shall an engineer from neighbourin country with less purchase power gets a different wages or different Fee as an international expert? The EU does not pay their Member of Parliaments in a discriminating manner.

C _ The Donor's / Implementing agencies should provide provisions in the Procurement Document about **minimum remunerations for Consulting firms and Construction companies for the Personnel**. Freelancers have to request usually 65% on top of an employee's salary to cover all their medical aid, social costs, acquisition costs, tools/equipment, wear & tear of equipment, holidays not paid, sickness not paid, insurances, pension fund contributions with the equilibrium:

10.000 Euro Salary = 16.500 Euro Freelance Basic Fee

Consultant's Remuneration Categories Structure Cat 1 - Cat 4

Qualification	Minimum Requirement		Profit consideration, discretion by Consultant
Categorie No.: professional experiences in Years	Buying Rate per month Employee = Salary	Buying Rate Free Lance (fac 1,65)	Sales Price / Contract Price per month inclusive surcharges
Cat1 : over 20 years	Min 10.000 Euro	Min 16.500 Euro	Ca 20.000 – 25.000
Cat 2 : 10-20 years	Min 8.500 Euro	Min 14.00	Ca 17.000 – 22.000
Cat 3 : 5-10 years	Min 7.000 Euro	Min 11.550	Ca 14.000 – 19.000
Cat 4 : up to 5 years	Min 5.000 Euro	Min 8.250 Euro	Ca 10.000 – 15.000

These four Categories does not consider e.g. the additional payment of the EU per diem rate 2020 for the presence in the beneficiary country. International qualified Expert Services are offered up to 40.000 Euro per month inclusive per diem. Arbitrators of course more: 3.000 Euro per day plus Incidental Exp.

D _ The **overheads / surcharges** shall be the responsibility of the Proposer / Bidder to add on top of the salaries / free lance fees–honorarium his overheads of 130-150% plus (flight, per diem, Employer’s liabilities for the Employee, social charges, ...) on the defined salary structure subject to Cat 1 to Cat 4.

E _ The Experts have to sign a declaration of availability, indicating their employed category, and a statement that their **salary is above the minimum amount of the respective category**.

F_ Work Force : A similar structure should be prepared for the works like Superintendence Cat 1 + Cat 2, Cat 3, Cat 4, minimum wages for operators, skilled labours, unskilled labours, administraton employees. This would help, that people will not get exploited and **international competition** is not only reduced on the financial **exploitation** of the “employed” / “free lance” work force.

G _ Note: An European Member of Parliament receives all the same “income” – without thinking about the purchase power in the single state. An EU-MP from Bulgaria get the same “EU-income” as a German MP- with the huge difference of minimum wage of a labours (1,50 Euro per hour) and in Germany (12 Euro per hour), means the **MP of Bulgaria is 8 times overpaid**.

But EU-legislation presses / squeeze out the EU-specialists / serive providers with the EU-consulting firms abroad, e.g. not providing per diem against local residents. In principle, the political cast want to save monies for accommodation and food allowance of approx. 200 Euro per presence day times 30 days = 6000 Euro per service month on the back of the EU-service providers. He can live under circumstances, which may even jeopardize his health status, because he cannot afford a proper accommodation standard with the Fee only. Maybe the quality of the services is not of essence. The matter of all EU investmenst are based – res ipsa loquitor - on financial management and political objectives.

H _ Apparently **EU-tax payers should request negative adaption / deductions** of “EU-income plus EU per diems rates” of all EU-Bureaucrats and EU-political functionaires. The EU Service providers are recognized as lazy and idle to change the system. The question will arise, why should the service provider on the field mission fight against corruption, if he receives an **unfair and unjust treatment** by the political cast. If the objective of equal treatment of the **working class** shall be introduced worldwide, then the EU-political cast shall lead by example.

3.3.6 **Infringed rights of EMOLUMENT of Engineer’s or Contractor’s staff hampers the progress**

It may happen that the Contractor or Consultant offers competent engineers to capture the award of Contract. Later on the Contractor or Consultant wants to blackmail the staff / free lancers to push them byside to replace them with low paid – mostly incompetent engineers, who do not know their market value / market price - .Such procedures should be sanctioned by easy procedures: employed staff / free lancer complains about delayed payment to “Employer of the project” in copy to “Employer of the staff member / freelance”. If the Contractor / Consultant does not respond with payment within 3-5 days, the Employer shall pay to the Staff member DIRECTLY the “service rate” according to the service / works Contract unit rates and not the salary / free lance rate. In addition the Employer will deduct 500 Euro per “breach of contract” case from the Culprit. In case of replacement, EU use to reduce the Contractual rate in line with the “judgement grid” of the technical evaluation: e.g Expert X scored 10 points during Award-

Evaluation; replaced Expert's scores 8 Points only in line with the initial Evaluation Grid, the Monthly Rate will be reduced by $8/10=20\%$ i.g. 25.000 Euro Expert X >>> $25+0,8 = 20.000$ Euro for replaced Expert.

3.3.7 Team Configuration of Contract Specialist to safeguard COMPLIANCE / Conformity

The Contract Specialist should be organizational linked between the Employer's PIU and the Engineer's Team to provide contractual services close to the time of occurrences. Besides it will help to improve the institutional capacity building process for the implementing agency / authority.

3.3.8 Entire BoQ Structure shall be observed

The Structure shall be split up in (a) P&G / indirect cost, (b) permanent works, (c) all **Provisional Sums** in a separate Bill to minimize the amounts and to monitor it properly (d) dayworks (?) (e.) sum of all Bills (f) physical contingencies either caused by Variations (design changes) or by "Increase of Quantities 50-100-100" and claims caused by the typical claim sub-clauses / reasons (g) contingencies for adjustments for legislation and costs (h) Net value of the Financial Bid (i) VAT and (j) Gross amount of the financial Bid.

3.3.9 Independent review of the Cost Estimate of the Service and Works Contract

The EU "revision of prices" are more fair as the FIDIC price escalation with their general indices. The EDF-conditions of Contract apply their (a) proportional formula with social charges, equipment and fuel pump price and their (b) mono-material formula for cement, bitumen, and reinforced steel and their conversion factors / transformation factors referring to the actual production of the permanent works. However sometimes, the conversion factors are not set in the contract and allows the Contractor / Consultant to "agree" about this conversions factor. This shall be fixed in the procurement documents for which type of Concrete and steel strength and bitumen the conversion factor is allowed to being computed. Other type of materials are not entitle the Contractor to apply price escalation.

"FIDIC" entity shall take the appropriate actions to discuss the current formula and to adapt the formula in the Sub-Clause "Adjustment for Changes in Cost" to represent the actual production on site during the respective production month.

Currently the FIDIC price escalation is provided in general for all type of materials, despite no material has been utilized during the whole month. Why do you apply the indices for material price escalation? The EU system is considered as fair and just.

3.4 Influence for AWARD for Consulting and Works Contracts

3.4.1 Technical Evaluations

Voting Team Members should be comprising out of Ministry of Development, Experts appointed by Donors, Implementing Agency, Ministry of Finance.

The appointed professional Expert in Procurement of the Donor/Financing Authority shall have the right to report "**Dissenting Opinions**" about the technical and financial evaluation conclusions.

3.4.2 Financial Evaluations

All voting members of the different entities shall proper apply the guidelines of the procurement / award rules of the Donors and compute the correct formula to get the combined points of the technical and financial evaluation.

The evaluators shall do proper comparison of the "packages of sub-Consultants" to identify price rigging and "unit rate analysis" to identify speculative rates/prices, esp if the Designer with / without the involvement of the Employer have included wrong quantities, to "reduce§ the bid price without risks", e.g. shown BoQ quantity will more lesser as the actual quantity to carry out, with the effect the Contractor who connives with the Parties will put his marginal price to win the bid. Hence it is important to do BIM-Design with exact, accurate Quantity Schedule to prevent "speculative, marginal price-structures in the unitrates"

The professional Expert, appointed by the Donor/Financing Authority shall have the right to report "**Dissenting Opinions**" about the technical and financial evaluation conclusions.

3.5 Influence of ALL Parties during IMPLEMENTATION / Execution Stage

3.5.1 Issues about absence of Compliance + Transparency + ethical conduct

All the above mentioned issues - in the preceding project cycles – have an impact during the course of implementation and defect notification / liability period.

Please refer to the item2 [Does it make sense to join the Cartel of Silence] and item3 [How to prevent Fraud and Corruption threats?] of this document to collect enough food for thoughts for the own actions.

3.5.2 Contract Administration does not meet Compliance / Conformity of the Contract

The Contract Administration between Employer and Engineer lacks in the Compliance process for Variations / design change, Claim, Management, Change in Specifications (Material, appointments of sub-consultants & sub-Contractors), Methods of measurement and payments (price escalation wrongly applied). The non-transparency conduct might have plenty of reasons and be identified as a matter of “pretention of skill shortage”, “fear of decision-makings due to wrong organizational set-ups, or “intransparence to cover up unethical conduct, fraudulent practices”, “plain incompetence”, aso. Therefore it is advisable to attach the Contract Specialist in the organizational chart between “EMPLOYER” and “ENGINEER” to provide qualified advice on time, to prevent information flow between the Parties. A proper time schedule for the missions shall be set forward – linked to the DB member missions between 70 – 140 days, say all 3,5 months). This attitude will also help to deal with the Site-matters in a **transparent manner** and especially **on time** to avoid Breach of Contracts and to **elucidate the reality on the ground**.

3.5.3 Method of measurement and payment (50% – 100 – 100%)

A _ Due to the fact, that it is difficult to monitor the real earthworks activities for highway construction and bridge construction (dig deeper underneath the foundations, produce as built drawing with even deeper elevations, and replace with more costly material, or increase piling quantites in numbers and lengths) according with the saying to show the simple trick / extreme method to make money:

B _ BUILD 50% wit **low cost** material + **MEASURE 100%** with **high cost** material + **PAY 100%** pursuant to the Contract requirements in order to meet the Compliance !

C _ Check the Interim Payment Structures with the BoQ-items and the deviations of additional items, different rates and different quantities. Identify auxiliary / ancillary works without using the variation procedure / to increase quantities and new rates / prices for permanent works. This temporary works / ancillary works should have been already be included in the referred Unit Rate / Contract Price in conformity with the Specifications, Method of Measurement and Payment / Bill of Quantity Schedules. **Prevent overspending by paying twice.**

D_ Laserscan may be accurate to calculate the surface of the landscape ahead and after the project, however if everything is covered up, there is no chance to trace back disparities.

3.5.4 Price Escalation : eligible ./ non-eligible

Attention shall be given about the application of price escalation. Material bought directly from suppliers at the , **royalties are not eligible for price escalation**. Hence it is important to monitor the material flow on site. Some Contractors and Consultants are reluctant to provide the transparence in this respect.

3.5.5 Proper structure of the Interim Payment Certificates (IPC)

The Structure of the IPA / IPC is clearly defined in the Contract. Very often the **Material on Site** delivery, utilization, stock are not monitored for cement, steel, structural steel, bitumen, produced aggregates with the own production plant on site (paid by advanced payment – ownership Employer!).

The reasons might be intransparency. Please refer to paragraph / item 2.2. and others.

3.5.6 Employer's reluctance to ask for indemnity Claims / reinstatement of loss or damage

In previous times, Germany Architects / Consultants could be sued, if the project overrun the foreseen budget (original rough cost estimate) with the maturity stages of the infrastructures:

(i) at the stage of conceptional design: 25%-30%; (ii) preliminary design 20%, (iii) detailed design / final design 10% and (iv) after the award of Contract 5% of the ACA.

This procedure compelled the Parties to establish the best efforts to defend any change in Contract. The Parties have to produce best arguments to change the structural design / specification / material propositions - trading / dimensions of the structures, quantities, claims, ... with appropriate substantiate

records to be able to trace back the cause – effect reasonings of any change (decrease/increase) of Contract Price.

Therefore ethical Employer's should consider **damage for breach of contract, lack of supervision and organisational negligence** to take the necessary actions to prevent additional payments and extension of Time for Completion.

Usually the Consultant has to cover this risks by an insurance policy (e.g. professional liability, third party, employer's liability and workers compensation, motor vehicles, aso) up to an insurance coverage

(i) **professional liability insurance** up to 110% / 200% of the ceiling amount of contract
(ii) insurance against **loss and damage**, (iii) **Third party liability** up to a certain amount (iv) Employer's liabilities and worker's compensation insurance of the Experts and Sub-Consultants, (v) motor vehicle liability insurance.

Maybe claims for damages are mostly considered private investors only. Donors / IFIs have enough **money retrieved from the taxpayers**.

Who has ever experienced that an Employer has requested from the **Engineer a compensation for loss and/or damage suffered** (increase of Contract Price) caused due to lack of supervision / breach of Contract / organisational negligence?

Some Employer provide even a success honorarium for early completion of projects for Contractors, under the condition to keep the Budget / awarded Contract Price and the Consultants are not preventing the Contractor to run smoothly his operations. The Consultant's contract is time-bound and can easily adapted.

3.5.7 Control of Money flow > IBAN / Swift to prevent money laundry

All **sub-contracts** shall disclose the bank date and prove of the received payments.

If local supplier and sub-contractors are being contracted, the currency shall determined in 100% of the local currency and **paid in the local currency only**. All sub-contractors have to be paid with 100% of the Local Currency and the fixed Forex Exchange rate, 28 days ahead of latest submission of the Proposal / BiD. A split up according to the initial agreed payment schedule in foreign and local currency shall be prevented.

3.6 Restructure Monitoring & Evaluation Approaches and Methodologies

With the proposed actions to Financing agreement, other project cycle stages, EU organisations are able to save a lot of budget. We are sure, the **current tracking** of the project – with their courtesy reports – are a waste of monies (e.g. 300 Millionen alone for FWC), and we are sure, a minimum amount of misuse of funds have been identified, sanctioned and recovered. The EU should publish the "Success-Story" of the FWC-Audits with a Success-performance Factor ... We are sure or doubt even. whether 1/3 of the own 300 Mio budget will be recovered. It is proposed to appoint the individual consultants directly, that they are not in a conflict of interests / morality with TWO masters (Client and their Employer / Consulting firm).

3.7 POLITICAL Will for legal enforcement to protect Whistleblowers & Crown witnesses

The political will must be transformed in stringent Law, which is being enforced by the execution and legislation, that Whistle blowers and Crown Witnesses are properly protected.

3.7.1 Whistleblowers = **10-15% award** for recovered fixed and current assets

3.7.2 Crown Witnesses = **Impunity** and **refund of 90%** of recovered assets to the IFI.

4 Do you want to become an US-Dollar or EURO multi-millionaire?

Your legitimate actions will lead to a legal income of millions. Are you interested in?

4.1 Are you in principle for rule of law and equity / fairness / justness?

A _ Do you think it is the political will to abolish mafia-like structures to maintain their unexpected money flow from their lobbyists / corporatists?

B _ Are you convinced that **mafia-like structure** with the objective of unjust enrichment must be abated?

C _ What is your personal intention to fight against corruption?

4.2 Under which premises would you act as a Whistleblower and Crown Witness?

Whistleblowers and Crown Witnesses might get into problematic situations.

A _ What do you expect from the legislations, execution and legislation to get a full support if you feel prepared to reveal misappropriation / misuse of FUNDS as a honest tax payers?

B _ Or do you look for more legal loopholes to increase your “incremental” income instead to join the Cartel of Silence with billions of money flow for unjust enrichments to balance out potential negative impact to your professional career.

C _ What other alternatives do you haunt to achieve your goals?

4.2.1 Pre-Condition 1 : Whistleblower 15% award of recovered assets

Whistleblower **10% - 15% award** of the recoverd fixed or current assets, gold & diamonds, cash, shares of companies worldwide.

4.2.2 Pre-Condition 2 : Crown Witness with impunity and 90% bribe recovery

Crown Witnesses gets **impunity, and they have pay back 90%** of the taken bribes of this own advantage. It may look much, but with his information, the Crown Witness will provide a lot of additional information to recover as a Whistle blower a lot of money from other culprits.

It is better to recover for the FUNDS 85-90% of the assets instead of ZERO Euro or US-Dollar-Cents.

4.2.3 Pre-Condition 3 : Other more effective and efficient methods

Do you have even better ideas to prevent misuse of taxpayers monies for the **unjust enrichment** of corrupt **political** cast and parasitic lobbyists / corporatists?

4.3 Do not forget the Sharks and Crocodiles

The awards and Impunity is one side, but what shall **happen with idenfied culprits?**

In West-Africa they had a system to ask the thieves to decide: long sleeve or short sleeve?

It means, if you decided for long sleeve, they cut the writs, if you decided for short sleeve the cut the upperarm. These animalistic actions – live with handicaps – to the end of your life, brings the community, / society to another approach. Do not let suffer the culprits for a long time. Ask the culprits, what do you prefer: “Crocodile or Shark”?

So push the Culprits in the crocodile or shark basin. Some people will react with a thin skin / shit storm, but the punishment method may produce fear to stop **stealing tax payers** monies.

5 Awaiting your points of view > Katharina@gub21.de

If you like to exchange our views, please send your thoughts to Katharina@GuB21.de

We are going to treat your correspondence and content strictly confidential. We expect this from your side, too.

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Note:

The four Experts offer independent FINANCIAL and TECHNICAL audits, monitoring and evaluation missions for Donors, Borrowers, Ministries, Employers, Engineers and Contractors.

We **perform** with excellency and deliver qualified results.

We **act** with care and diligence as prudent business persons.

We assume, that our team requires a period of 4-6 weeks, in order to scrutinize all aspects.

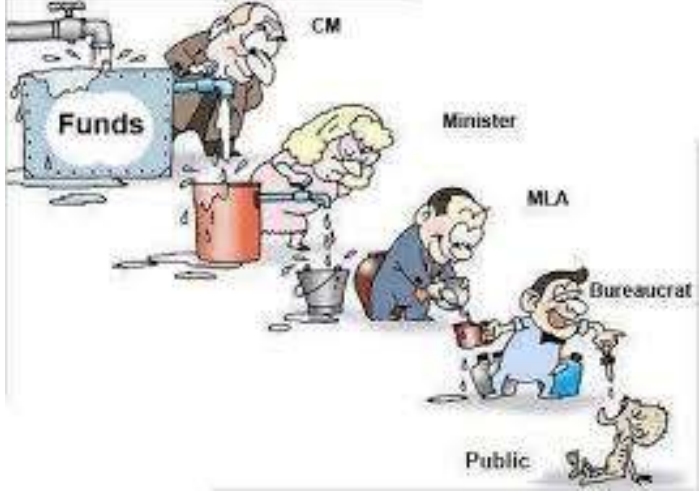
The **all inclusive monthly rate of each expert** will sum up between 20.000 – 25.000 Euro.

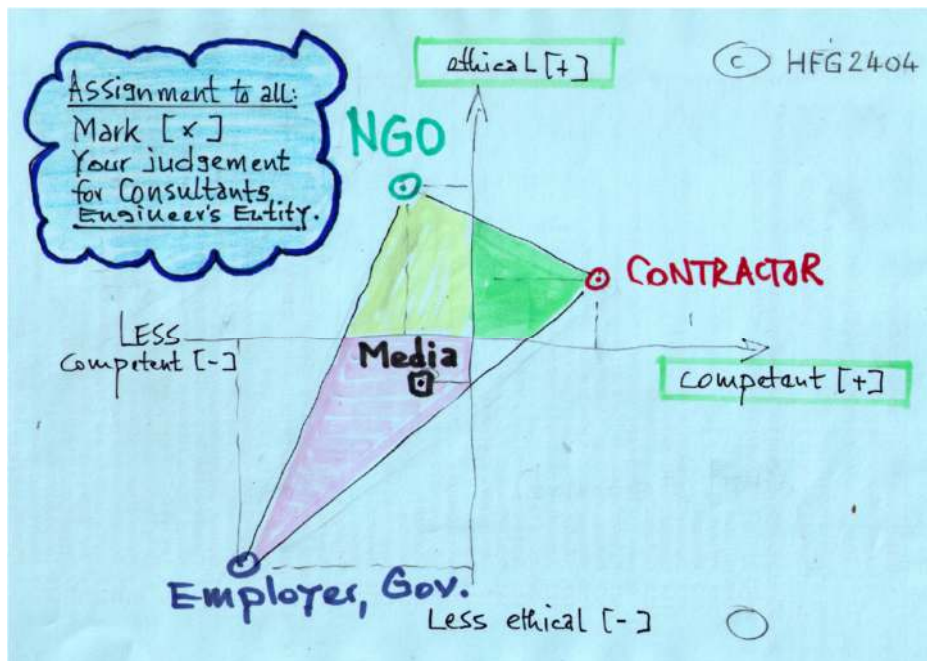
This **all inclusive rate covers** premium flights, OMC / operation and maintenance costs of transports, basic FEE (including all social, medical and pension fund contributions, holidays not paid through, sickness not paid, acquisition costs, insurances) per diem rates, and other incidental expenditure budget like consumable, internet connection, wear and tear of tools/equipment.

>>> Contract price for a four week mission: 4 experts @ 20.000-25.000 Euro per month = 80.000–100.000 EUR

PS: We look for Sponsors and Programmers to implement a **Digital Contract Administration – Application**
www.AiD21.de/DCA_APP.pdf

Kleptocracy: money flow from top to bottom in all capitalistic, communistic or mixed-societies.

<p>Billions of Taxpayers >>></p> <p>To which class do you belong?</p> <p>Public ! Satisfied to receiving some drops at least? Avoid / Evade Tax payment by 25%</p>	 <p>The cartoon depicts a funnel of money starting from a box labeled 'Funds' on the left. A character labeled 'CM' (Chief Minister) is at the top, pouring money into a red bucket. Below him, a 'Minister' pours into a smaller bucket, followed by an 'MLA' (Member of Legislative Assembly) and a 'Bureaucrat'. At the bottom, a tiny 'Public' is shown with a single drop of money in a small cup.</p>
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Digital Contract Administration – Application www.AiD21.de/DCA_APP.pdf