

**Ethics in Government Program  
As Mandated by Public Law 28-76**

**Legislative Mandate**

**OPA Report No. 06-08  
July 2006**



OFFICE OF THE PUBLIC AUDITOR

# **Ethics in Government Program As Mandated by Public Law 28-76**

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Distribution:

Governor of Guam  
Speaker, 28<sup>th</sup> Guam Legislature  
Senators, 28<sup>th</sup> Guam Legislature  
Director, Department of Administration  
Director, Bureau of Budget and Management Research  
U.S. Department of Interior  
Office of Inspector General – Pacific Field Office  
Guam Media via e-mail



OFFICE OF THE PUBLIC AUDITOR

July 11, 2006

Honorable Felix Camacho  
Governor  
Office of the Governor  
P.O. Box 2950  
Hagatna, Guam 96932

Honorable Mark Forbes  
Speaker  
28<sup>th</sup> Guam Legislature  
324 W. Soledad Ave.  
Hagatna, Guam 96910

Subject: Ethics in Government Program as Mandated by Public Law 28-76

Dear Governor Camacho and Speaker Forbes:

Public Law (P.L.) 28-76<sup>1</sup> established an ethics in government program for elected officials and any person who is appointed to a position as board or commission member, including autonomous agencies, director, deputy director, or by whatever title denotes the head and first assistant of a government of Guam agency, department, public corporation, authority, or any other entity of the executive branch. Pursuant to law, the Office of the Public Auditor (OPA) was designated to develop standards for the ethics program until the Guam Ethics Commission is appointed and functioning. All elected officials are required to attend an ethics course within 90 days of taking office while appointed officials are required to attend within six months of their appointment and shall undergo the refresher ethics in government program at least once every four years. The law takes effect January 1, 2007.

As local elected officials, we wield considerable power over a number of important community matters. With this power comes the expectation that we will hold ourselves to the highest ethical standards. This means exercising our power in the public's interest, as opposed to personal self-interest or other narrow, private interests.<sup>2</sup> Some highlights of the ethical values associated with public service and what they mean in terms of the duties of an elected official can be found in the *Public Service Values for Local Elected Officials* located in Appendix 2.

### **Early Implementation of the Law**

Although the law is not effective until January 2007, early implementation was initiated by the OPA to provide training on ethics and to gauge the responses and obtain suggestions from the course participants for improving the course.

The OPA, in coordination with the USDA Graduate School's Pacific Islands Training Initiative (PITI) presented a seminar, *Ethics in the Public Sector*, for elected and appointed officials and

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<sup>1</sup> See Appendix 1.

<sup>2</sup> Excerpt from *Establishing a Public Service Ethic* published by the Institute for Local Self Government.

government of Guam executives on April 24 and 26, 2006, at the Guam International Airport Authority conference room. The training was funded by a grant through the Department of the Interior's Office of Insular Affairs, therefore it was at no cost to the government of Guam.

### ***Ethics in the Public Sector Course Content***

Section 3 of P.L. 28-76 requires that the course “shall not exceed four (4) hours and shall be available in a single day....” Based on this requirement, a four-hour introductory course on ethics was developed by the USDA Graduate School. The *Ethics in the Public Sector* seminar was an introductory course on the ethical responsibilities of public officials. The course provided participants with a basic understanding of the principles of ethical conduct which apply to all elected and public employees, and formed the basis for specific standards which are often set forth in laws and regulations. Among the requirements of law were group participation in discussing, analyzing, and solving general ethics-related dilemmas, Guam procurement laws and regulations relative to accepting gifts, Guam contracting laws and regulations, and fiduciary responsibility which were included in the seminar. James Brucia, a USDA Graduate School consultant with 33 years of government and private sector audit and management experience, was the course instructor.

### **Course Attendance**

A total of 120 participants attended the four-hour course. There were 59 participants on April 24 and 61 participants on April 26. Those in attendance included the Governor and Lieutenant Governor; 10 of the 15 senators from the 28<sup>th</sup> Guam Legislature; the Public Auditor; the Attorney General; 22 village Mayors and Vice-Mayors representing 17 of 19 villages; 49 Department and Agency Heads and Deputies representing 33 of 45 departments and agencies; and 36 Board and Commission Members representing 15 of 20 Boards and Commissions.<sup>3</sup> See Appendices 3, 4, 5, and 6 for a detailed listing of attendees. A Certificate of Completion was provided to all those who attended.

During the preparation of this course, we received an overwhelming response from required participants and other individuals requesting to attend this training. With both classes already filled to capacity, we were unable to accommodate other interested people. We were pleased with the overwhelming response and it is gratifying to know that so many elected and appointed leaders were and are willing to take part in the ethics course. Based on the responses, we recommend this training be afforded to all government of Guam employees and especially mid-level managers.



**Image 1:** *Ethics in the Public Sector* participants work on an ethics-related dilemma on April 26, 2006.

<sup>3</sup> One individual serves as a department/agency head and sits on a Board.

## Participant Evaluations<sup>4</sup>

In the first session held on April 24, 52 of the 59 participants completed the course evaluation. On a scale of 1 - 5 with "1" being the worst and "5" being the best, the course scored a 4.35 for the question on whether or not the course objectives were met and the course scored a 4.25 for the question on whether or not the course content was relevant to the participant's job. These scores are both between "very good" and "excellent" scores.

On the second session held on April 26, 59 of the 61 participants completed the course evaluation. Participants scored the course a 4.47 for the question on whether or not the course objectives were met and a 4.40 for the question on whether or not the course content was relevant to the participant's job. Given the positive feedback from participants, should the opportunity avail itself, OPA will work with USDA Graduate School to provide this ethics course again.

## Recommended Elements of an Ethics Training Program

The law designated the OPA to develop standards for the ethics program and for the University of Guam (UOG) or other providers to provide the training program. Although initial contact was made with UOG and Guam Community College (GCC) to provide this training, due to time constraints the USDA Graduate School committed by early February 2006 to provide the training in April 2006.

Based on our research, we identified several recommended elements of an ethics training program and laws governing public servants. The recommended elements were found at [www.cacities.org](http://www.cacities.org) and include laws pertaining to personal financial gain, special privileges and perks, fairness, open government, whistle-blowing protections, and staff relations issues. See Appendix 7 for the recommended elements of an ethics training program provided by the Institute for Local Governments.

The ethics course should be administered by a nationally known institution or nationally affiliated organization or accredited university or college such as UOG, GCC, Association of Government Accountants (AGA), American Institute of Certified Public Accountants (AICPA), or the USDA Graduate School.

To ensure easier access for all other participants, the course could be taken only if sponsored by an accredited university or college or nationally recognized institution.

Although we appreciate the opportunity to hold this training, it would be more appropriate that such training be administered by the Department of Administration's Training and Development division, UOG, or GCC.



**Image 2:** *Ethics in the Public Sector* participants work on an ethics-related dilemma on April 24, 2006

<sup>4</sup> Information provided by the USDA Graduate School.

## **Limitations of the Ethics Law**

We found certain limitations of the ethics law. They include:

- limited amount of time allowed to sufficiently cover the ethical topics as required by law (four-hour time requirement);
- restriction on who should attend the course (i.e. only elected and appointed officials);
- no master listing of elected and appointed government officials required to attend the course; and
- a lack of repercussions for elected and appointed government officials that do not adhere to P.L. 28-76.

Discussion of these limitations follow.

## **Four-Hour Course Requirement**

Section 3 of P.L. 28-76 stipulates that certain topics be included in this four-hour course and not be limited to the following:

- Guam statutes concerning ethics and lobbying;
- Group participation in discussing, analyzing, and solving general ethics-related dilemmas;
- Guam procurement laws and regulations;
- Guam contracting laws and regulations;
- Parliamentary procedure;
- Fiduciary responsibility;
- Personnel policy;
- Government finance; and
- Open government law and Sunshine Reform Act of 1999.

With the four-hour limit set forth in P.L. 28-76 for this course, the expectation of covering all of these topics is unlikely. To augment the April ethics course, OPA requested the USDA Graduate School offer an eight-hour course on *Management Controls for Directors and Managers* on April 25, 2006. Some of the topics that related to the ethics course included fiduciary responsibility, personnel policy, and related topics were discussed in the supplemental course. However, only 22 people, excluding OPA personnel, attended this training.

## **Restrictions in Attendance of Ethics Training**

P.L. 28-76 requires that elected and appointed government officials attend an ethics course. All government employees are public servants and all have ethical responsibilities to gain public trust, ensure accountability, fairness and transparency. We suggest that there be no restriction on who can participate in an ethics program and suggest that all government employees, in particular mid-level managers, be required to attend a basic ethics training program. The potential benefits of having employees participate in an ethics training program include:<sup>5</sup>

- ❑ Fostering a more satisfying and productive working environment for employees;
- ❑ Building and sustaining your entity's reputation;

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<sup>5</sup> *Ethics Survey Provides Hope and Concern for Association Executives* By Joshua Joseph, Lee Wan Veer and Anne McFadden, visit [www.ethics.org](http://www.ethics.org) to download the article in its entirety.



- ❑ Maintaining the trust of employees;
- ❑ Providing ethical guidance and resources for employees prior to making difficult decisions;
- ❑ Aligning the work efforts of staff with the agency's broader mission and vision; and
- ❑ Recruiting and retaining top quality people.

Should a requirement that all government employees attend an ethics course be mandated, agency heads can certify the attendance of their respective employees.

### **Monitoring Requirement of Ethics Training**

We found it difficult to obtain a complete listing of elected and appointed government officials required to attend the course. Our staff contacted the Guam Election Commission to obtain a master list of all elected and appointed officials since these officials are required to submit a financial disclosure annually, but was unable to obtain one. We then contacted the Office of the Governor to obtain a government protocol listing; however, the list was incomplete. We subsequently contacted each government agency to obtain the names of their respective board or commission members. Because of the inordinate time spent in obtaining, identifying and contacting these individuals, we suggest that either the Guam Election Commission (GEC) or the Office of the Governor maintain a master listing of all elected and appointed officials of the government of Guam.

P.L. 28-76 does not address non-compliance of the law. As all elected and appointed officials are required to submit annual financial disclosure reports to the GEC, we recommend that GEC be designated the responsibility for monitoring compliance of ethics training for elected and appointed officials. This compliance monitoring can be done in conjunction with the annual financial disclosure requirement.

At a minimum, documentation from participants should include a certificate of completion (with the sponsor, program title, date of program, and number of continuing professional education (CPE) hours), name of instructor, outline of the presentation, and relevant program materials. Records should be maintained for five years.

In conclusion, the early initiation of P.L. 28-76 afforded the OPA the opportunity to determine the minimum requirements for an ethics program and to gauge participant responsiveness. Based on the responsiveness of the participants and the results of the participant evaluations, the *Ethics in the Public Sector* course was successful in providing an awareness of the ethical responsibilities we face as elected and appointed officials and in fostering these values in our work environment.

We wish to express our appreciation to the 28<sup>th</sup> Guam Legislature for the trust and confidence they bestowed upon the OPA when they designated OPA to establish the ethics standards.

Senseramente,



Doris Flores Brooks, CPA, CGFM  
Public Auditor

**PUBLIC LAW 28-76**

**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN**  
**2005 (FIRST) Regular Session**

**Bill No. 96 (EC)**  
As amended on the Floor.

Introduced by:

J. T. Won Pat  
B. J.F. Cruz  
F. B. Aguon, Jr.  
J. M.S. Brown  
Edward J.B. Calvo  
Mike Cruz  
Mark Forbes  
L. F. Kasperbauer  
R. Klitzkie  
L. A. Leon Guerrero  
J. A. Lujan  
A. B. Palacios  
R. J. Respicio  
Ray Tenorio  
A. R. Unpingco

**AN ACT TO REPEAL AND REENACT SECTIONS 15409, 15410 AND 15411 OF ARTICLE 4, CHAPTER 15, OF TITLE 4, GUAM CODE ANNOTATED, TO ADD NEW SECTIONS 15412 AND 15413 OF ARTICLE 4, CHAPTER 15 OF TITLE 4, GUAM CODE ANNOTATED AND TO REPEAL SECTIONS 43116 AND 43117 OF ARTICLE 1, CHAPTER 43, DIVISION 4 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN ETHICS IN GOVERNMENT PROGRAM FOR ELECTED OFFICIALS AND ANY PERSON WHO IS APPOINTED TO A POSITION AS BOARD OR COMMISSION MEMBER, DIRECTOR, DEPUTY DIRECTOR, OR BY WHATEVER TITLE DENOTES THE HEAD AND FIRST ASSISTANT OF A GOVERNMENT OF GUAM AGENCY, DEPARTMENT, PUBLIC CORPORATION, AUTHORITY, OR ANY OTHER ENTITY OF THE EXECUTIVE BRANCH.**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that elected officials, executive department heads and deputies, and members of government boards and commissions are entrusted with great responsibility to run the affairs of our government with honesty and integrity, and must ensure that decisions be made for the greater good of the community rather than self interest. *I Liheslaturan Guåhan* also finds that elected officials, executive department heads and deputies, and members of government, including autonomous agencies, boards and commissions may need the training necessary to ensure conscientious decisions that, when absent, result in unconscionable acts against the government, the negligent abuse of one's power and authority, and ultimately, the loss of trust and confidence of the community.

It is the intent of *I Liheslaturan Guåhan* for elected officials, executive department heads and deputies, and members of government boards and commissions to attend ethics training to raise the official's awareness of the greater scope of responsibilities his or her position holds. It is also the intent of *I Liheslaturan Guåhan*, that the ethics training for elected officials, executive department heads and deputies and members of government boards and commissions should encourage greater accountability and the judicious use of authority for the greater good of the community.

**Section 2.** §15409 of Article 4, Chapter 15 of Title 4, Guam Code Annotated, is hereby *repealed* and *reenacted* to read:

**“§15409. Applicability of Ethics in Government Program.**

(a) Any person who is an elected official of the government of Guam shall attend an ethics in government program within ninety (90) days of taking office. Additionally, elected officials shall undergo refresher ethics in government program at least once every four (4) years. The Guam Ethics Commission (“Commission”) may grant permission for an elected official to attend a later program for good cause shown. The Commission shall award a certificate of completion to those completing the program.



(b) Any person who is appointed to a position as board or commission member, including autonomous agencies, director, deputy director, or by whatever title denotes the head and first assistant of a government of Guam agency, department, public corporation, authority, or any other entity of the executive branch, shall attend an ethics in government program within the first six (6) months of his or her appointment. Additionally, appointed officials shall undergo refresher ethics in government program at least once every four (4) years. The Commission may grant permission for an appointed official to attend a later program for good cause shown. The Commission shall award a certificate of completion to those completing the program.”

**Section 3.** §15410 of Article 4, Chapter 15 of Title 4, Guam Code Annotated, is hereby *repealed* and *reenacted* to read:

“**§15410. Ethics in Government Program Guidelines.** The ethics in government program shall be provided by the University of Guam (“UOG”) or other providers. The Public Auditor shall develop standards for the ethics program until the Guam Ethics Commission is appointed and functioning, at which time the Commission shall assume authority to develop the standards. The providers shall repeat the course as necessary to accommodate those who are required to attend. The course shall not exceed four (4) hours and shall be available in a single day and its scheduling shall accommodate the different work schedules of the persons affected by this Act.

The program topics shall include, but not be limited to:

- (1) Guam statutes concerning ethics;
- (2) Guam statutes concerning lobbying;
- (3) Group participation in discussing, analyzing, and solving general ethics-related dilemmas;
- (4) Guam procurement laws and regulations;
- (5) Guam contracting laws and regulations;
- (6) Parliamentary procedure;
- (7) Fiduciary responsibility;
- (8) Personnel policy;
- (9) Government finance; and
- (10) Open Government Law and Sunshine Reform Act of 1999.

(b) The cost of tuition, books and training materials for the ethics in government program of the officials specified in §15409(b) of this Chapter, shall be paid by the agency that employs the official.”

**Section 4.** §15411 of Article 4, Chapter 15 of Title 4, Guam Code Annotated, is hereby *repealed* and *reenacted* to read:

“**§15411. Judicial Branch.** The Chief Justice of the Supreme Court shall have jurisdiction and governance over all justices and judges of the judicial branch in matters of ethics as covered in this Chapter 15.”

**Section 5.** A new §15412 is hereby *added* to Article 4, Chapter 15 of Title 4, Guam Code Annotated, to read as follows:

“**§15412. Repeal.** Those portions of the Guam Code Annotated and the Government Code of Guam, which are in conflict with any section of this Chapter, are hereby *repealed*.”

**Section 6.** A new §15413 is hereby *added* to Article 4, Chapter 15 of Title 4, Guam Code Annotated, to read as follows:

“**§15413. Severability.** If any part of this Chapter 15 shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, or invalid as applied to a class of cases, such judgment shall not affect, impair, or invalidate the remainder thereof, and shall be confined in its operation to the part thereof directly involved in the controversy in which such judgment shall have been rendered”.

**Section 7.** §43116 of Article 1, Chapter 43, Division 4 of Title 5 of Guam Code Annotated, is hereby *repealed* in its entirety.

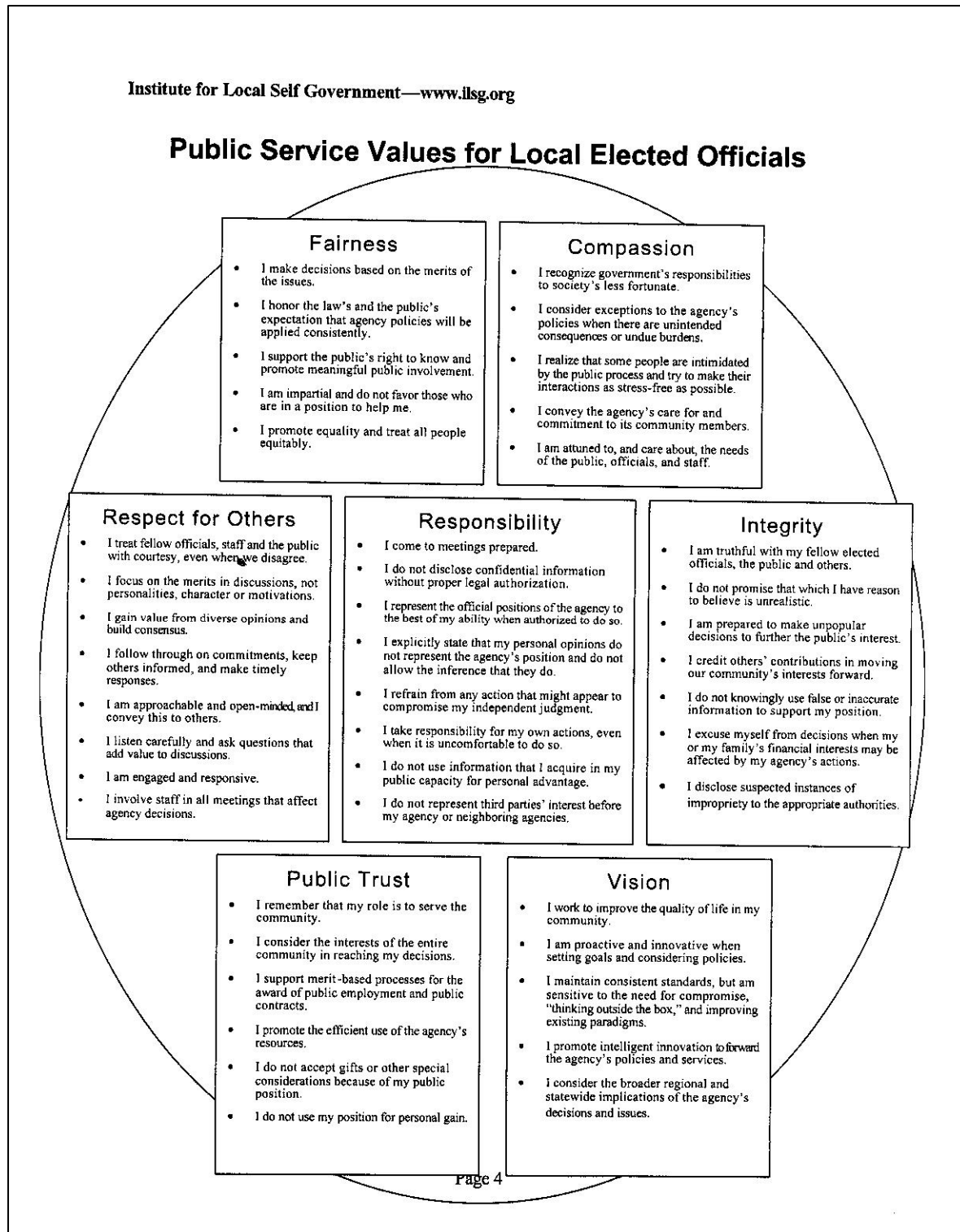
**Section 8.** §43117 of Article 1, Chapter 43, Division 4 of Title 5 of Guam Code Annotated, is hereby *repealed* in its entirety.

**Section 9. Effective Date.** The provisions contained in this Act shall take effect January 1, 2007.

# Appendix 2: Public Service Values for Local Elected Officials

Institute for Local Self Government—www.llsg.org

## Public Service Values for Local Elected Officials



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## Appendix 3: Elected Executive and Legislative Branch Attendees

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	<u>Attendant</u>	<u>Position</u>	<u>Entity</u>	<u>Date Attended</u>
1	Felix Perez Camacho	Governor	Office of the Governor	26-Apr-06
2	Kaleo S. Moylan	Lt. Governor	Office of the Lt. Governor	24-Apr-06
3	Mark Forbes	Speaker	28th Guam Legislature	24-Apr-06
4	Joanne M.S. Brown	Vice-Speaker	28th Guam Legislature	24-Apr-06
5	Edward J.B. Calvo	Senator	28th Guam Legislature	24-Apr-06
6	Benjamin J.F. Cruz	Senator	28th Guam Legislature	24-Apr-06
7	Michael W. Cruz, M.D.	Senator	28th Guam Legislature	26-Apr-06
8	Robert Klitzkie	Senator	28th Guam Legislature	24-Apr-06
9	Adolpho B. Palacios, Sr.	Senator	28th Guam Legislature	24-Apr-06
10	Rory J. Respicio	Senator	28th Guam Legislature	24-Apr-06
11	Ray Tenorio	Senator	28th Guam Legislature	24-Apr-06
12	Judith T. Won Pat	Senator	28th Guam Legislature	24-Apr-06
13	Doris Flores Brooks	Public Auditor	Office of the Public Auditor	24-Apr-06
14	Douglas Moylan	Attorney General	Office of the Attorney General	26-Apr-06

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## Appendix 4: Elected Mayor's Council of Guam Attendees

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	<u>Village &amp; Attendee</u>	<u>Position</u>	<u>Date Attended</u>
	<u>Agana Heights</u>		
1	Paul M. McDonald	Mayor	24-Apr-06
	<u>Agat</u>		
2	Carol Sablan Tayama	Mayor	24-Apr-06
3	Jesus B. Chaco	Vice-Mayor	26-Apr-06
	<u>Asan-Maina</u>		
4	Vicente "Benny" L. San Nicolas	Mayor	24-Apr-06
	<u>Barrigada</u>		
5	Jessie B. Palican	Mayor	26-Apr-06
6	June U. Blas	Vice-Mayor	26-Apr-06
	<u>Dededo</u>		
7	Melissa B. Sevares	Mayor	26-Apr-06
8	Andrew P.A. Benavente	Vice-Mayor	26-Apr-06
	<u>Hagatna</u>		
9	John A. Cruz	Mayor	24-Apr-06
	<u>Inarajan</u>		
10	Franklin M. Taitague	Mayor	24-Apr-06
	<u>Mangilao</u>		
11	Nonito C. Blas	Mayor	24-Apr-06
	<u>Merizo</u>		
12	Rita A. Tainatongo	Mayor	24-Apr-06
	<u>Ordot-Chalan Pago</u>		
13	Pedro "Pete" I. Borja	Mayor	24-Apr-06
	<u>Piti</u>		
14	Vicente D. Gumataotao	Mayor	24-Apr-06
	<u>Sinajana</u>		
15	Roke B. Blas	Mayor	24-Apr-06
16	Robert D.C. Hofmann	Vice-Mayor	24-Apr-06
	<u>Talofofo</u>		
17	Pedro D. Paulino	Mayor	24-Apr-06
	<u>Tamuning-Tumon-Harmon</u>		
18	Francisco C. Blas	Mayor	24-Apr-06
19	Louise C. Rivera	Vice-Mayor	24-Apr-06
	<u>Umatac</u>		
20	Daniel Q. Sanchez	Mayor	24-Apr-06
	<u>Yigo</u>		
21	Robert S. Lizama	Mayor	24-Apr-06
	<u>Yona</u>		
22	Jose "Pedo" Terlaje	Mayor	24-Apr-06

**Appointed Department and Agency Head Attendees**

	<u>Department/Agency and Attendee</u>	<u>Position</u>	<u>Date Attended</u>
	<u>Agency for Human Resources Development</u>		
1	Erica Perez	Director	26-Apr-06
2	Joe San Agustin	Deputy Director	26-Apr-06
	<u>Bureau of Budget and Management Research</u>		
3	Carlos Bordallo	Director	24-Apr-06
4	Joey Calvo	Deputy Director	24-Apr-06
	<u>Chamorro Village</u>		
5	Bruce G. Perez	Manager	26-Apr-06
	<u>Civil Service Commission</u>		
6	Vernon Perez	Director	24-Apr-06
	<u>Consolidated Commission on Utilities</u>		
7	Joaquin S. Santos, Jr.	Assistant General Manager	26-Apr-06
8	Randall V. Wiegand	Chief Financial Officer	24-Apr-06
	<u>Customs and Quarantine</u>		
9	Ricardo Blas	Director	26-Apr-06
	<u>Department of Administration</u>		
10	Lourdes M. Perez	Director	26-Apr-06
11	Joseph C. Manibusan	Deputy Director	24-Apr-06
	<u>Department of Agriculture</u>		
12	Paul C. Bassler	Director	26-Apr-06
13	Joseph D. Torres	Deputy Director	26-Apr-06
	<u>Department of Corrections</u>		
14	Jose B. Palacios	Deputy Director	26-Apr-06
	<u>Department of Labor</u>		
15	Maria Connelley	Director	26-Apr-06
16	Eduardo S. Bernal	Deputy Director	26-Apr-06
	<u>Department of Land Management</u>		
17	Joseph Martinez Borja	Director	24-Apr-06
18	Victor A. Gaza	Deputy Director	26-Apr-06
	<u>Department of Mental Health and Substance Abuse</u>		
19	J. Peter Roberto	Director	26-Apr-06
20	Eddy J. Reyes	Deputy Director	26-Apr-06
	<u>Department of Parks and Recreation</u>		
21	Thomas A. Morrison	Director	26-Apr-06
22	Gregory A. Matanane	Deputy Director	26-Apr-06
	<u>Department of Public Health and Social Services</u>		
23	Arthur U. San Agustin	Director	26-Apr-06

**Appointed Department and Agency Head Attendees**

	<u>Department/Agency and Attendee</u>	<u>Position</u>	<u>Date Attended</u>
	<u>Department of Public Works</u>		
24	Lawrence P. Perez	Director	24-Apr-06
	<u>Department of Revenue and Taxation</u>		
25	Artemio B. Ilagan	Director	26-Apr-06
26	John P. Camacho	Deputy Director	26-Apr-06
	<u>Department of Youth Affairs</u>		
27	Christopher M. Duenas	Director	26-Apr-06
	<u>Guam Board of Accountancy</u>		
28	Dave N. Sanford	Director	26-Apr-06
29	Michele B. Santos	Deputy Director	26-Apr-06
	<u>Guam Council on the Arts and Humanities Agency</u>		
30	Sylvia M. Flores	Director	26-Apr-06
	<u>Guam Energy Office</u>		
31	Lorilee T. Crisostomo	Director	26-Apr-06
	<u>Guam Housing and Urban Renewal Authority</u>		
32	Benny A. Pinaula	Deputy Director	26-Apr-06
	<u>Guam Housing Corporation</u>		
33	Jose R. Guevara, Jr.	President	26-Apr-06
34	Manuel Quitugua Cruz	Deputy Director	24-Apr-06
	<u>Guam International Airport Authority</u>		
35	Jesus Q. Torres	Director	26-Apr-06
36	Edith C. Pangelinan	Deputy Director	26-Apr-06
	<u>Guam Memorial Hospital Authority</u>		
37	Peter John D. Camacho, MPH	Director	24-Apr-06
38	Wilfred G. Aflague	Chief Operating Officer	26-Apr-06
	<u>Guam Police Department</u>		
39	Frank Ishizaki	Director	26-Apr-06
	<u>Guam Public Library System</u>		
40	Teresita L.G. Kennimer	Director	26-Apr-06
	<u>Guam Public School System</u>		
41	Juan P. Flores	Superintendent	26-Apr-06
	<u>Guam Retirement Fund</u>		
42	Paula M. Blas	Acting Director	26-Apr-06
	<u>Guam Visitors Bureau</u>		
43	Mary C. Torres	Deputy General Manager	24-Apr-06

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**Appointed Department and Agency Head Attendees**

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	<u>Department/Agency and Attendee Position</u>	<u>Date Attended</u>
	<u>Guam Waterworks Authority</u>	
44	David R. Craddick                      General Manager	26-Apr-06
45	Samuel Taylor                              Legal Counsel	24-Apr-06
	<u>Mayors Council of Guam</u>	
46	John F. Blas                                  Director	26-Apr-06
	<u>Office of Finance and Budget-Guam Legislature</u>	
47	Bernadette F. Artero                      Director	26-Apr-06
	<u>Port Authority of Guam</u>	
48	Paul Shintaku                                Deputy General Manager	26-Apr-06
	<u>University of Guam</u>	
49	Harold L. Allen                              President	26-Apr-06



## Appendix 6: Board and Commission Attendees

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	<u>Board/Commission &amp; Attendee</u>	<u>Position</u>	<u>Date Attended</u>
	<u>Chamorro Land Trust Commission</u>		
1	David J. Matanane	Board Member	26-Apr-06
	<u>Consolidated Commission on Utilities</u>		
2	Benigno Palomo	Board Member	26-Apr-06
	<u>Guam Board of Accountancy</u>		
3	N. Oscar Miyashita	Board Member	24-Apr-06
	<u>Guam Community College</u>		
4	Forrest Harris	Board Member	26-Apr-06
	<u>Guam Contractor's License Board</u>		
5	Christopher A. Lund	Board Member	24-Apr-06
6	Terry R. Mortera	Board Member	26-Apr-06
7	Richard Quiambao	Board Member	26-Apr-06
	<u>Guam Economic Development and Commerce Authority</u>		
8	Laura-Lynn V. Dacanay	Board Member	24-Apr-06
9	Wanjoo Kim	Board Member	26-Apr-06
10	Angel C. Mendoza	Board Member	24-Apr-06
	<u>Guam Education Policy Board</u>		
11	Ronald Ayuyu	Board Member	24-Apr-06
12	Jose Q. Cruz, Ed.D.	Board Member	24-Apr-06
13	Romeo Hernandez	Board Member	24-Apr-06
14	Rosa Salas Palomo	Board Member	24-Apr-06
15	Johnny Rivera	Board Member	26-Apr-06
16	Ignacio Tainatongo	Board Member	24-Apr-06
	<u>Guam Election Commission</u>		
17	Mary C. Torres	Board Member	24-Apr-06
	<u>Guam Environmental Protection Agency</u>		
18	John M.U. Jocson	Board Member	26-Apr-06
19	Andrew Chung Park	Board Member	26-Apr-06
20	Robert Perron	Board Member	26-Apr-06
21	Yoshihiro Sakamoto	Board Member	26-Apr-06
	<u>Guam Housing and Urban Renewal Authority</u>		
22	Ricardo A. Calvo	Board Member	26-Apr-06
23	Annie L. Paulino	Board Member	26-Apr-06

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**Appendix 6:  
Board and Commission Attendees**

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**Page 2 of 2**

	<u>Board/Commission &amp; Attendee</u>	<u>Position</u>	<u>Date Attended</u>
	<u>Guam Parole Board</u>		
24	Dot Chargualaf	Board Member	26-Apr-06
25	Jose "JQ" Q. Salas	Board Member	24-Apr-06
	<u>Guam Public Library System</u>		
26	Debra O. Ahillen	Board Member	24-Apr-06
27	Jessie G.R. DePaula	Board Member	24-Apr-06
28	Sam Souza	Board Member	26-Apr-06
	<u>Guam Retirement Fund</u>		
29	Anthony C. Blaz	Board Member	24-Apr-06
30	Wilfred P. Leon Guerrero	Board Member	24-Apr-06
31	Joe T. San Agustin	Board Member	24-Apr-06
32	George A. Santos	Board Member	24-Apr-06
33	Katherine T.E. Taitano	Board Member	24-Apr-06
34	James J. Taylor, PhD.	Board Member	24-Apr-06
	<u>PEALS Board</u>		
35	Miguel C. Bordallo, P.E.	Board Member	24-Apr-06
	<u>University of Guam</u>		
36	Ronald Leach	Board Member	24-Apr-06

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**ETHICS LAW COMPLIANCE BEST PRACTICES**

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 Decision-Making ..... (page 5)  
 Use of Public Resources ..... (page 6)  
 Incentives for Speaking Truth to Power ..... (page 7)  
 Hiring, Appointments and Staff Relations ..... (page 8)  
 Procurement Issues ..... (page 8)  
 Financial Practices ..... (page 9)  
 Campaigns ..... (page 11)

ALSO INSIDE:

- *What Constitutes an Ethics Law?* ..... (page 4)
- *What Constitutes an Effective Ethics Compliance Program?* ..... (page 12)
- *Recommended Elements of an Ethics Law Training Program* ..... (page 14)

**INTRODUCTION**

Local agency officials – and the agencies in which they serve – face a complex array of ethics-related laws. While some of these requirements may seem intuitive, others can be fairly characterized as traps-for-the-unwary public official. Moreover, missteps—even inadvertent ones—can seriously undermine the public’s trust and confidence in an agency and those associated with the agency.

What steps can the well-intended official take to make sure that his or her agency is maximizing the prospects for compliance and minimizing the likelihood of missteps? This checklist provides some ideas.

**GENERAL**

- Do agency officials and employees receive informational materials explaining 1) their obligations under public service ethics laws (see list on page 4) and 2) the unique ethical obligations and values associated with public service?
- Are these materials targeted to their intended audience in terms of being prepared in non-legalistic language and reflective of the audience’s demographics?
- Does the agency offer regular (at least two hours every two years) training to relevant decision-makers on the ethics and ethics-related laws governing their obligations as public servants? (see box on page 14 on suggested elements of an ethics training program)

- Are agency staff encouraged to engage in continuing education activities to keep abreast of changes in legal requirements?
- Does the agency have an effective method for regularly monitoring compliance with ethics laws and laws governing use and expenditure of public money? (see page 4)
- Does the agency periodically engage in self-assessment activities (such as this best practices checklist) to assure itself that its practices continue maximize the likelihood of ethics law compliance?
- Does the agency have a code of conduct or ethics ordinance?

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- *Greg Scoles, Deputy City Manager, Santa Rosa*

**What Constitutes an Ethics Law?**

*The good of the people is the chief law.*

— CICERO

The purpose of most laws is to encourage good behavior and discourage bad behavior. What then makes a law an "ethics law?"

There is no universally accepted categorization. One test is whether a law promotes the public's trust and confidence that the agency and its officials are acting in the public's interests as opposed to narrow personal interests. Another is whether the law relates to core ethical values, for example values relating to trustworthiness, respect, responsibility, and fairness.

For purposes of its own ethics education programs, the Institute for Local Government believes that "ethics laws" include the following:

- (1) Laws relating to personal financial gain by public servants (for example, laws prohibiting bribery and conflict of interest laws),
- (2) Laws relating to claiming perks of office (for example, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies),
- (3) Government transparency laws (for example, financial interest disclosure requirements and open government laws),
- (4) Laws relating to fair processes (for example, common law bias prohibitions, due process requirements, incompatible offices, fair procurement processes for public contracts, and disqualification from participating in decisions affecting family members),
- (5) Laws relating to respectful and fair treatment of staff, including those related to political solicitations and whistle-blower protections,
- (6) Laws designed to safeguard public resources, either in terms of maximizing public benefits (procurement practices) or minimizing harms (in terms of guarding against improper use or theft of public resources), and
- (7) Campaign-related laws (including fundraising restrictions and campaign disclosure).

For more information about these laws, see *A Local Official's Reference on Ethics Laws* and other resources published by the Institute for Local Government. These are all available at [www.ca-ilg.org/trust](http://www.ca-ilg.org/trust)

*While we are free to choose our actions, we are not free to choose the consequences of our actions.*

— STEPHEN COVEY

### **DECISION-MAKING**

- Are State Fair Political Practices Commission's Form 700s (Statements of Economic Interests) timely distributed and collected on an annual basis?
- Do decision-makers know where the 500-foot boundaries are with respect to their various property interests?
- Are officials advised of prohibitions against self-dealing (Government Code Section 1090) in addition to the Political Reform Act?
- Do decision-makers receive training on due process rules applicable to quasi-adjudicatory (administrative) hearings?
  - Do decision-makers know how to disclose information they receive outside adjudicatory hearings?
- Are agency policies applied consistently to those seeking agency approvals, regardless of personal connections?
- Are meeting notices sent out in a timely manner and written in a way that is understandable to the general public?
- Do decision-makers listen attentively at public hearings, particularly adjudicatory hearings?
- Have decision-makers received information on bias issues?

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### **USE OF PUBLIC RESOURCES**

- Does the agency have an adopted travel and expense reimbursement policy?
  - Does it contain the elements recommended in the Institute for Local Government's sample policy (available at [www.ca-ilg.org/reimbursementpolicy](http://www.ca-ilg.org/reimbursementpolicy))?
  - Do staff and elected officials receive periodic reminders on the provisions of the policy that most likely apply to them (for example, using agency time or equipment for personal business)?
  - Is this policy consistently applied?
  - Is compliance with the policy subjected to verification?
- Are any allowances (for example, telephone or technology allowances) backed up by documentation explaining factual basis for the allowance?
- Does the agency have an adopted policy explaining under what circumstances public benefits are achieved by the agency's participation in community events or activities (for example, such things as a purchase of a table at a local chamber of commerce, labor council, or other community events)?
- For Special Districts:* Are local officials aware of what kinds of activities do and do not constitute compensable service to the district?
  - Does the agency have an adopted policy explaining under what circumstances per diem stipends will be paid?
- Does the agency have an adopted policy governing the use of agency property and equipment by officials and employees?

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- Does this policy take into account pro-scriptions against 1) gifts of public resources, 2) personal use of public resources, and 3) political use of public resources?

- Is this policy consistently applied?

- Do staff and elected officials understand and comply with mass mailings proscriptions?

**INCENTIVES FOR SPEAKING TRUTH TO POWER<sup>1</sup>**

- Does the agency have an adopted policy clearly explaining procedures for reporting and investigating allegations of misconduct and protection of those who report misconduct?
- Do employees receive positive reinforcement for bringing truthful, but sometimes unwelcome, unpopular or difficult, information to the attention of relevant decision-makers?
- Is unlawful conduct dealt with swiftly, firmly and consistently?
- Are employees encouraged to bring forward unsolicited, unwelcome, unfamiliar or difficult information? (The opposite of a "Don't Ask, Don't Tell" policy)?
- Are agency supervisors familiar with legal protections relating to whistle-blowing activities?
- Do staff participate in professional associations that provide guidance on ethics as it relates to their role within the organization? (For a list of local agency professional associations with ethics codes, for example, see [www.ca-ilg.org/staffrelations](http://www.ca-ilg.org/staffrelations)).

<sup>1</sup> Aaron Wildavsky, *Speaking Truth to Power: The Art and Craft of Policy Analysis* (Boston: Little, Brown, 1979).

**HIRING, APPOINTMENTS AND STAFF RELATIONS**

- Does the agency have an anti-nepotism policy?
- Does the agency consistently make a concerted effort to advertise widely for appointments for boards and commissions?
- Does the agency encourage its officials to engage in personal outreach for appointments to boards and commissions?
- Does the agency consistently make a concerted effort to advertise widely for job openings?
- Does your agency have a non-discrimination policy and abide by its terms?
- Do supervisors, including elected officials, receive training on issues relating to fair, respectful and appropriate treatment of staff?
- Does the agency have a policy about second jobs for staff?
  - Does staff receive periodic reminders on the provisions of the policy (for example during annual reviews)?
  - Is this policy consistently applied?

**PROCUREMENT ISSUES**

- Does the agency have adopted procurement rules and regulations?
- Do the agency's procurement practices comply with both the letter and spirit of the procurement laws and policies?
- If the agency has a decentralized purchasing system, does it have clear organization-wide standards and guidelines?

Recommended Elements of an Ethics Law Training Program

- Does the agency have policies in place for the proper disposal of surplus property?
- Do all local officials involved in contracting decisions receive training on the proscriptions against self-dealing in agency contracts (Government Code section 1090)?

**FINANCIAL PRACTICES**

*One who thinks that money can do everything is likely to do anything for money.*

— HASIDIC SAYING

- Does the agency fully and accurately disclose both positive and negative financial information to the public and financial institutions?
- Does the agency have appropriate internal controls in place, including such practices as
  - Segregating duties among staff to minimize risk of error or misconduct (for example, no one person should initiate a transaction, approve it, record it, reconcile balances, handle assets and review reports).
  - Limiting access to agency assets such as cash, equipment, documents and credit cards to safeguard against unauthorized acquisition, use or disposition.
  - A system of authorizations, approvals, and verifications, in which 1) certain individuals are authorized to perform certain activities and to execute certain transactions within limited parameters (some of which may need supplemental supervisory approval before they are performed or executed by employees), 2) a supervisor's approval (manual or electronic) indicates that he or she has verified and validated that the activity or transaction conforms to the agency's established policies.

- Diligent reconciliation processes to compare various sets of data to one another (for example, charges in a statement of account to documentation of expenses, including the proper authorization for those expenses), identifying and investigating any discrepancies and taking corrective action when necessary.
- Do agency officials receive periodic financial reports? These include monthly reports, quarterly reports and mid-year budget reviews.
  - Do financial reports provide meaningful information about the agency's expenditures as they relate to revenues and budgeted amounts?
  - Do these reports provide a complete picture of the agency's assets and liabilities?
- Does the agency have its financial reports audited on a timely basis? (Audited reports should be issued no later than 180 days after year-end).
  - How long has the agency's auditor been auditing the agency? Does the agency periodically change auditors to provide a fresh view of the agency's financial statements?
  - Are the annual financial reports prepared by a certified public accountant, in accordance with generally accepted accounting principles?
  - Does the agency receive "unqualified" auditors' opinions? An "unqualified" opinion means that the auditor concludes the agency followed all accounting rules and that its financial reports present an accurate picture of the agency's financial condition.
  - Does the agency periodically conduct its own audits of particular functions?



- Does the agency have clear capital financing and debt management policies that address how it selects external consultants like bond counsel, financial advisors, trustees, assessment engineers and underwriters?
  - Do these policies address disclosure and relations with rating agencies?
  - Do key managers attest to the accuracy of financial statements in writing?

**CAMPAIGNS**

- Do candidates for the agency's governing board receive information on how to comply with campaign laws, including local campaign requirements and restrictions?
- Are candidates given information about ethics laws, including conflict of interest, incompatible offices and governmental transparency requirements that will be relevant to their service if they are elected?
- Are agency officials and employees advised of restrictions relating to campaign fundraising and political activity of public employees?
- Are there mechanisms in place to promote equal treatment of candidates and avoid both perceptions and realities of preferential treatment?
- Is the state's Code of Fair Campaign Practices distributed to all candidates?

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**What Constitutes an Effective Ethics Compliance Program?**

Effective compliance programs can take many forms ranging from regular financial audits that include periodic review of management practices, to more extensive programs. Here are some concepts on compliance program elements from the Federal Sentencing Guidelines.<sup>2</sup>

- Does the agency have standards and procedures to prevent and detect unlawful conduct?
- Is the agency's leadership knowledgeable about the agency's compliance programs?
  - Does the leadership exercise reasonable oversight of program implementation?
  - Are specific individuals assigned overall responsibility for compliance issues, as well as day-to-day operational responsibility? Is there periodic communication between the two areas of responsibility?
  - Does the governing body and top management take responsibility for assuring that the agency's actions comply with the law and that the agency's ethics program is effective?
- Do employees have a mechanism for reporting concerns about illegal or unethical behavior without fear of retaliation?
- For employees, are those who have engaged in unethical or illegal behaviors disciplined and precluded from serving in positions of authority (in a manner consistent with federal, state and local personnel laws)?
- Do employees and agents have incentives to act legally and ethically (including avoiding even the appearance of impropriety)?
- Is the agency's compliance and ethics program monitored and periodically evaluated to assess its effectiveness?
- Does the agency have a history of taking reasonable steps to respond to misconduct and prevent future misconduct?

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Recommended Elements of an Ethics Law Training Program

- Does the agency periodically assess the risk of unlawful conduct, so it can take steps to minimize those risks? This can include:
  - An inventory of the range of agency activities, the laws that apply to those activities, and the potential for missteps in complying with those laws.
  - An analysis of what would be the most serious missteps and hence most deserving of priority in prevention efforts.
- Does the agency's leadership foster a culture of ethics within the agency?

A key theme of the guidelines is holding management accountable for encouraging compliance and ethical behavior. Moreover, the emphasis on a "culture of ethics" recognizes that no matter how effective an ethics program is, it will not be effective in the absence of demonstrated ethical leadership by an organization's top leadership. For more information on this topic, see [www.ca-ilg.org/culturechecks](http://www.ca-ilg.org/culturechecks).

Note that these guidelines do apply to governmental units.<sup>3</sup> The guidelines also recognize that efforts will reasonably vary based on the size of an organization, history of misconduct and industry practice.<sup>4</sup>

**Another question to ponder is how the "location" of ethics-related functions in an agency influences ethics law compliance. What happens if "ethics" is assigned to a department which is viewed as having little or no power?**

<sup>2</sup> United States Sentencing Commission, Guidelines Manual, Chapter 8, Part B: Remedying Harm from Criminal Conduct, and effective ethics and compliance program (November 2004).

<sup>3</sup> *Id.* § 8A1.1 (Application Note #1: The organizational sentencing guidelines apply to "corporations, partnerships, associations, joint-stock companies, unions, trusts, pension funds, unincorporated organizations, governments and political subdivisions thereof, and non-profit organizations.")

<sup>4</sup> *Id.* § 8B2.1 (Application Note #2A: The organizational sentencing guidelines apply to "corporations, partnerships, associations, joint-stock companies, unions, trusts, pension funds, unincorporated organizations, governments and political subdivisions thereof, and non-profit organizations.")

Recommended Elements of an Ethics Law Training Program

*There's a big difference between what you have a right to do and what is right to do.*

— POTTER STEWART

An overall training program for ethics and laws governing public official conduct should cover the following aspects of those laws:

- Personal financial gain laws (for example, disclosure and disqualification requirements, prohibited interests in contracts, bribery)
- Special privileges and perks laws (gift limits and disclosure requirements, prohibitions against personal and political use of public resources)
- Fairness laws (bias, procurement, hiring)
- Open government laws (public records, open meetings requirements)
- Whistle-blowing protections
- Staff relations issues (for example, working through the city manager to give direction to staff and staff neutrality in campaigns for elective office)

Because of the complexity of those subjects, training should occur in discrete segments to maximize both comprehension and retention. For example, if an agency provides periodic ethics law training for its officials and staff, the agency can focus on different topics during each session.

In addition, an agency should communicate information about ethics law requirements through multiple communications channels. An example is periodic bulletins or memos to relevant agency officials reminding them of relevant ethical standards and legal requirements.

Finally, all training should emphasize the fact that the law is a floor for acceptable conduct, not a ceiling. Moreover, focusing on minimum levels of compliance with legal standards is a risky compliance strategy in and of itself. A truly effective compliance training program will focus on the values and ideals that the law is trying to protect-sometimes known as complying with not only the letter of the law, but also its spirit.

Local agency officials can keep these values and ideals in mind to enrich their analysis on what the overall "right" thing to do might be in a given situation-ideally above and beyond what the law requires. A positive, value-based code of ethics for the agency can be a helpful tool in this regard (for more information, see [www.ca-ilg.org/ethicscodes](http://www.ca-ilg.org/ethicscodes)). In short, ethics is not simply about compliance, but integrity.

**TAKING SELF-ASSESSMENT  
ONE STEP FURTHER**

*Genuine success does not come from  
proclaiming our values, but from consistently  
putting them into daily action.*

— KEN BLANCHARD AND MICHAEL O'CONNOR,  
*MANAGING BY VALUES*

Every agency should on a periodic basis, engage in the self-assessment process suggested by the above checklist. This is part of the agency's due diligence with respect to ethics laws. Although compliance with ethics laws is a floor – and not a ceiling – for ethical conduct, it is nonetheless important for an agency to assure itself it is meeting minimum legal requirements for its activities.

As the Federal Sentencing Guidelines suggest, however, the *ethical culture* of an agency is important for promoting both ethics law compliance and encouraging the agency to operate on a higher ethical plane than bare minimum legal requirements.

Such assessments explore how employees feel about the organization's standards and behavior, including the perceived priorities and ethical effectiveness of individuals and sub-units of the organization, as well as the organization as a whole. This can assist the agency in reaching a preliminary conclusion that increased attention to ethical issues would be beneficial.

For more information on such assessments, visit the Institute's website at [www.ca-ilg.org/culturechecks](http://www.ca-ilg.org/culturechecks).

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**Does your agency engage in  
"best practices" that are not  
covered in this checklist?**

**Let us know: [ilg@cacities.org](mailto:ilg@cacities.org).**

**INSTITUTE for LOCAL GOVERNMENT**

1400 K Street, Suite 400

Sacramento CA 95814

916/658-8208 Facsimile: 916/444-7535

[www.ca-ilg.org](http://www.ca-ilg.org)

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