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HESSIAN MINISTRY OF THE INTERIOR AND FOR SPORT

1008

Guideline on the Prevention of and Fight against Corruption in the Public Administration of the State of Hesse

1. Scope

This guideline applies to all employees of the State of Hesse. The directive applies to judicial personnel only to the extent that judicial independence permits. Municipalities, associations of municipalities and other public corporations, institutions and foundations subject to the supervision of the state are recommended to proceed accordingly. The Decree on the Prevention of Corruption in Hesse's Local Authorities of May 15, 2015 (StAnz. S. 630) remains unaffected.

2. Definition

2.1 Corruption

German law does not have a legal definition of the term "corruption. In essence, it is about the abuse of the entrusted office for private gain.

Corruption is generally understood to include, among other things, actions or omissions in a decision-making process that are prohibited by criminal law; on one's own initiative or at the instigation of others, a material or immaterial advantage is obtained or preserved for oneself or a third party through abuse of an official function. Corrupt practices are characterized, among other things, by the concealment (keeping secret) of these actions and the conscious and voluntary cooperation of at least two parties, namely the party that obtains the advantage in the context of corruption and the party that claims this advantage for itself or a third party.

Corruption offenses know only perpetrators and no direct victims. They undermine and weaken people's trust in government action. Corruption is thus a latent danger to the rule of law and, in particular, to its public administration. Since corruption can occur in all areas of public administration, this danger can only be countered with the help of employees. The latter are therefore obliged to be vigilant.

The Criminal Code (Strafgesetzbuch, StGB) sanctions the wrong associated with corruption, in particular, in the following criminal offenses:

- § 331 StGB Acceptance of advantage
- § 332 StGB Corruptibility
- § 333 StGB Preservation of advantage
- § 334 StGB Bribery
- § 335 StGB Particularly serious case of bribery and corruption
- § Section 108e StGB Corruptibility and bribery of mandate holders

These offenses usually occur in conjunction with other crimes, the so-called accompanying offenses. These include in particular:

- § Section 258a StGB Obstruction of justice in office
- § 261 StGB Money laundering, concealment of unlawfully obtained assets

For the purposes of this directive, employees are all male and female employees as well as civil servants.

- § 263 StGB Fraud
- § 264 StGB Subsidy fraud
- § 265b StGB Credit fraud
- § 266 StGB breach of trust
- § 267 StGB Forgery of documents
- §§ Sections 298 et seq. of the Criminal Code Offenses against Competition
- § 348 StGB False certification in office
- § 353b StGB Violation of official secrecy and a special duty of confidentiality
- § 370 AO Tax evasion

Areas of work at risk of corruption

A field of work is at risk of corruption if, as a result of the conduct of employees or a decision made by them, others (e.g. individuals, business enterprises, associations, societies, partnerships or corporations, other institutions) receive material or immaterial benefits or are relieved of a burden, or if third parties can grant employees an advantage to which they are not entitled. Others or third parties within the meaning of sentence 1 may also be municipalities and associations of municipalities or corporations, institutions and foundations subject to the supervision of the Land.

Whether there is also a **particular risk of corruption** is to be determined on a case-by-case basis by the respective departments. The following can be considered as indications of a particular risk of corruption:

- frequent contacts - also through control and supervisory activities - with a certain group of persons who can expect advantages or disadvantages from the decisions of the respective employee (e.g. decisions on permits, concessions, licenses, etc.). (e.g. decisions concerning permits, concessions, licenses, etc., decisions with an impact on the profit or loss of another person or with an impact on the professional and economic existence of another person, conclusion of contracts, setting or levying of taxes and fees),
- Management of budgetary funds on a larger scale,
- Awarding of public contracts or subsidies, funds and grants, Processing of procedures with internal internal formatting, which are not intended for third parties, but which are expected to be advantageous and disadvantageous for them.

The assessment of whether a field of work is at risk of corruption is independent of the respective job holder. It is based solely on objective, task-related characteristics.

2.2 Signs of corruption

Corruption can take many forms. A number of indicators can be warning signals for the presence of a corruption risk or the presence of corruption.

This is particularly the case if they are pronounced or occur more frequently or in combination. Existing indicators do not necessarily point to misconduct, so their evaluation must be carried out with great care. The following are examples of such factors:

Personal indicators

- Personal problems (addiction, over-indebtedness, frustration, etc.),
- lack of identification with the task,
Targeted bypassing of controls, of required internal involvement and/or of the official channels; compartmentalization of individual areas of responsibility,
- Use of business facilities, recreational areas, vacation homes, or, unless professionally required, events of the applicant or bidder,
- inexplicably high standard of living,
- permanent independence (e.g. waiver of vacation, attendance in case of illness),
- Abuse of discretion,
- strikingly divergent processing lines of events,
Presence in the office at unusual times without comprehensible official cause,
- private contacts with applicants, in particular consultancy/appraisal contracts, capital contributions.

Task-related indicators

- Strikingly accommodating treatment of anragslullen den persons,
- Avoiding the need to obtain comparative quotes,
- significant or repeated exceeding of the planned order values,
- conspicuous calculation errors, corrections in service specifications, costly supplementary work,
- Incidental activities or applications for approval of incidental activities for companies which are at the same time contractors or applicants of the public administration,
- frequent business trips to certain companies (especially when overnight stays are not actually required).

System-related indicators

- Very large concentration of tasks on one person,
- inadequate controls, very weakly developed service and technical supervision,
Large uncontrolled scope for decision-making, difficult-to-understand regulations.

Passive indicators

- Smooth administrative flow in areas where conflicts are typically expected,
- Absence of regulatory response.

3. Organizational measures against corruption

3.1 Multi-eye principle

The aim of the multiple control principle is to reduce the risk of errors and misuse in decision-making. According to this principle, important decisions may not be made by a single person. In these cases, there is participation or control by other persons or by suitable automated control mechanisms.

3.2 Transparent file ffi.ication

The individual processing steps must be fully, comprehensibly and permanently identifiable. Oral explanations and information relevant to the process must be documented in writing. More detailed specifications can be found in the rules of procedure applicable to the respective office and in the decree on file management in the offices of the State of Hesse dated December 14, 2012 (StAnz. 2013 p. 3).

In the case of award procedures, reference is made to the documentation requirements.

3.3 Service and technical supervision, financial responsibility

Supervision and control are of great importance in effectively combating corruption. Within the scope of their managerial responsibility, supervisors must exercise their official and professional supervision in a consistent manner. This includes active, forward-looking personnel management and goal-oriented supervision. In this context, attention must be paid not only to the indicators set out in No. 2.2, but the management responsibility of superiors also extends to the reduction of corruption risks as the situation demands. Supervisors act as role models, and their integrity represents a high barrier to corruption. They have an additional role to play in creating a climate of

This enables employees to draw attention to structures susceptible to corruption and, if necessary, to suspicions of corruption. Supervisors are to be provided with the information sheet attached to the guideline as Annex 1 ("**Guideline for Supervisors and Managers**").

3.4 Documentation of particularly hazardous work areas

An investigation shall be carried out at regular intervals and for special reasons in order to identify areas of work that are particularly susceptible to corruption (cf. No. 2.1). The results shall be summarized in a documentation of particularly hazardous work areas. This will provide information on the degree of risk of corruption in the areas concerned, taking into account the existence of corruption practices. The investigating body may be, among others, the contact person for prevention of corruption (cf. No. 3.5) as well as the work units dealing with personnel and organization. The following procedure is recommended:

3.4.1 Risk query

In a first step, all areas of activity are examined by means of a risk survey to determine whether there may be a particular risk of corruption. The special risk of corruption is determined on a case-by-case basis by means of an assessment.

3.4.2 Risk analysis

In a second step, the work areas that are particularly susceptible to corruption are examined by means of a risk analysis in order to determine the actual degree of risk and to classify or rank them. The existing process, control and security systems are included in the audit. Any deficiencies identified are rectified without delay.

Depending on the results of the risk analysis, a decision is made as to whether and, if so, how the organizational structure, process organization and/or personnel allocation should be changed.

3.4.3 Employees in work areas particularly susceptible to corruption

The results of the risk analysis are discussed with the employees whose areas of work have been classified as being at particular risk of corruption as part of the risk analysis.

3.5 Contact fi.ir Corruption Prevention

A contact person for the prevention of corruption is to be appointed in each department by the respective head of department. A deputy shall be appointed in the same manner. Police officers, public prosecutors and public prosecutors shall not be appointed as contact persons for corruption prevention. In justified cases, e.g. in the case of departments with a small number of employees, the contact person for corruption prevention and his/her representation may also be appointed centrally at the level of the supreme state authority or in the subordinate area at one department for several departments. The decision shall be made by the head of the department. The task may also be assigned to a person not belonging to the state administration.

The contact person for the prevention of corruption is directly assigned to the head of department and is directly subject to the latter's supervision in the performance of his/her duties. The tasks of the contact person for corruption prevention include, in particular:

- Contact person for officials and departmental management, even without going through official channels, as well as for citizens,
- Advising and supporting management, educating employees (for example, through regular information sessions),
- Participation in continuing education,
- Observation and evaluation of signs of corruption,
- If necessary, the preparation of the documentation of the particularly dangerous workpieces.

Personal data held by the contact person for prevention of corruption shall be treated as personnel files in terms of technical and organizational measures. They shall be kept under lock and key and treated confidentially. In deviation from the regulations on segregation of files, they shall be destroyed if the individual processes are no longer required for the purposes of corruption prevention and combating.

3.5.1 Prohibition of delegation of disciplinary powers

The contact person for the prevention of corruption shall not be given any disciplinary powers and shall not act as an investigator in disciplinary proceedings for corruption.

3.5.2 Proceedings on reasonable suspicion of a corruption offense

If the contact person for the prevention of corruption becomes aware of facts that give rise to the suspicion of a corruption offense, he or she shall inform the relevant head of department and in this connection submit proposals for internal investigations and measures against concealment and for notification to the law enforcement authorities. The head of the department then decides on the steps necessary to clarify the facts. In the event of well-founded suspicion of a corruption offense, the head of the department shall ensure that the law enforcement authorities are notified in accordance with No. 5.4. Depending on the department-specific regulations, the internal audit department may also have to be informed and take appropriate action.

3.5.3 Confidentiality

The contact person for the prevention of corruption shall maintain secrecy about the personal relationships of employees of which he/she has become aware, even after his/her term of office has ended. This shall not apply vis-à-vis the relevant department management or the relevant personnel administration if facts have come to their knowledge which justify the well-founded suspicion of a corruption offense. The obligation of confidentiality shall also not apply to criminal prosecution authorities. The statutory provisions shall remain unaffected.

3.6 Internal audit

Internal audits are an integral part of the prevention of corruption. Further details are set out in the "Recommendations Recommendations on Standards for Internal Audits in the Hessian State Administration", as amended from time to time.

4. Personnel measures against corruption

4.1 Code of conduct, instruction and awareness raising

4.1.1 Code of Conduct

The Code of Conduct against Corruption, printed as Annex 2, is binding for all employees. It draws employees' attention to dangerous situations that could inadvertently involve them in corruption. It also contains instructions on how to react appropriately in such situations.

4.1.2 Instruction

Employees shall be made aware of the dangers of corruption and instructed on the consequences of corrupt behavior. A copy of this guideline with its appendices is to be handed out to the employees or sent to them by e-mail. Receipt shall be acknowledged by means of an acknowledgement of receipt (Annex 3), which shall be included in the personnel files. This also applies to new hires.

4.1.3 Ongoing sensitization

The supervisors are obligated to discuss the regulations and issues of corruption with the employees in regular meetings - at least annually - in order to continuously sensitize them to the topic. Documentation should be prepared on this. In the case of activities in workplaces that are particularly susceptible to corruption, employees will receive more in-depth, job-related instruction based on their needs. The departmental management shall determine which supervisors are responsible for these tasks.

4.2 Personnel selection

When filling a job or post that involves an area of work that is particularly susceptible to corruption, particular attention must be paid to the personal suitability and reliability of the applicant from the point of view of the risk of corruption. As a rule, the examination is limited to the evaluation of suspicions on record:

- criminal or disciplinary investigations, internal investigations on suspicion of corruption,
- Over-indebtedness, disorderly economic relations,
- social problems, especially addictive behavior (for example, alcohol, drug or gambling addiction).

4.3 Human Resources Measures

In areas of work that are particularly susceptible to corruption, a long period of employment with a constant task profile and unchanged responsibilities can increase the risk of corruption. A sensible personnel management measure to prevent corruption can therefore be to limit the length of service in a particular area of work that is particularly susceptible to corruption. A period of five years can be regarded as a guideline for this, based on experience.

The limitation of the period of use can be achieved both by transferring the employee concerned (personnel rotation) and by transferring the particularly corruption-prone area of work as well as individual activities of the area of work (task rotation) to another workplace/duty position or by reducing the responsibilities.

Rotation must be designed in terms of content, timing and organization in such a way that it does not lead to unacceptable disadvantages for the functional capability of the area concerned.

4.4 Education and training

The topic of corruption must be given a permanent place in the context of basic and further training, so that the manifestations, signs and effects of corruption as well as its consequences under criminal law, civil service law and labor law are communicated.

Separate training courses on corruption prevention and prevention should be offered and conducted for employees in areas particularly susceptible to corruption, as well as for their superiors and for contact persons for corruption prevention. Targeted training courses should raise awareness of the dangers of corruption and how to prevent it. Employees' and supervisors' ability to recognize corruption and manipulation must be trained, as must their knowledge of the relevant regulations. In the case of supervisors, training should also focus on the use of systematic supervision as a management tool. Participation in the training courses is mandatory.

An e-learning program on corruption prevention is made available to all employees in the Hessian state administration in a version for employees and in a version for managers. Participation in this program is mandatory for all employees and must be repeated at appropriate intervals (at least every three years). Alternatively, participation in other suitable training courses on corruption prevention and inoculation is possible. The decision on this is the responsibility of the respective department.

4.5 Incidental activities

The contact person for corruption prevention shall be involved in the approval procedure on a case-by-case basis, insofar as this appears necessary in the individual case. Since an authorization to take on a secondary activity is to be limited to a maximum of five years, a shorter period may also be determined at dutiful discretion. A permit granted shall be revoked if it is subsequently found that the interests of the service are adversely affected. This must be examined in each individual case in the case of reassignments or transfers to an area of work particularly susceptible to corruption.

4.6 Acceptance of rewards and gifts

The acceptance of rewards, gifts and other benefits by employees within the scope of this Directive shall be governed by the Administrative Regulation on the Acceptance of Rewards, Gifts and Other Benefits of December 13, 2017 (StAnz. S. 1497).

4.7 Public procurement and award procedures

In order to ensure that the principles of efficiency, competition, transparency and equal treatment are observed in public procurement procedures, the provisions of the budget and procurement law must be strictly observed. The awarding of public contracts must be regularly examined by means of an internal control system (e.g. by means of spot checks) for inadequate influencing factors.

5. Malpractice on suspicion of corruption

5.1 Reporting requirements

Employees are obliged to inform their superiors if they receive concrete indications of corrupt behavior. Facts which give rise to the suspicion that the superior or the supervisor (head of department) is involved in criminal acts must be reported to the next higher superior or to a superior department.

share. The information can also be given to the contact person for corruption prevention. In the event of indications of corrupt behavior, supervisors are obliged to inform the contact person for corruption prevention.

ruption prevention. If departmental regulations so provide, the information may also be provided to the internal auditing department, or the latter must be informed by superiors without fail.

Every case of suspected corruption in the department, the measures taken in this connection and the results thereof shall be reported anonymously to the contact person for the prevention of corruption in the highest official authority. Personal case data may not be transmitted. The contact person for corruption prevention shall receive an overview of all cases in the department. If the suspicion is not substantiated or if there is a prohibition on the use of the data, a note of erasure must be made.

5.2 Service law measures

The criminal offenses listed under No. 2.1 generally also constitute serious breaches of official duty. In addition, however, conduct not covered by criminal law that involves a misdirection of administrative action for self-interest in breach of duty may also constitute a breach of official duty. In the case of civil servants, breaches of official duty in this area generally lead to the initiation of disciplinary proceedings; in the case of employees, sanctions under labor law may be imposed, up to and including termination without notice.

5.3 Claims for damages and restitution

Claims for damages and restitution against employees and third parties must be consistently enforced.

5.4 Investigations by law enforcement agencies

In the event of reasonable suspicion that a corruption offense has been committed, the law enforcement agencies shall be informed and shall be supported by the departments in their investigative work, in particular in the preparation of searches and seizures and in the evaluation of seized material. The departments must refrain from doing anything that could jeopardize the investigations of the law enforcement agencies. Depending on the departmental regulations, these duties may also apply to internal auditing.

6. Contract design

6.1 Anti-corruption clause

When awarding public contracts, an anti-corruption clause shall be included in cases where it is deemed appropriate, for example in the case of framework contracts. As an example, a sample is attached as Annex 4. Such a clause shall be included in the contract documents. In cases where the VOB/B has been agreed, no use should be made of an anti-corruption clause.

6.2 Commitment Act

If private companies or freelancers are involved in the performance of public-sector tasks, the individual employees of these companies shall be obliged - to the extent necessary - to fulfill their obligations under the contract conscientiously in accordance with the Obligations Act. A note to this effect shall be included in the award documents.

7. Special measures and existing regulations

If necessary, departments may take further measures beyond the guidelines.

Existing regulations of the departments remain unaffected insofar as they go beyond the regulations of this directive.

8. Final provisions

8.1 Effective date

The Decree on the Prevention of Corruption and the Fight against Corruption in the Business Sector of the Ministry of Internal Affairs and Sport of February 3, 2014 (StAnz. S. 453, 482) shall cease to be in force on the day following the publication of this Directive.

8.2 Effective date

This guideline comes into force on the day after its publication.

Wiesbaden, November 18, 2019

**Hessian Ministry
of the interior and fiir sports**
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Guide for supervisors and managers

As a supervisor and head of department, you have a duty of care and a duty to set an example for the employees who report to you. Your management duties also include counteracting the risk of corruption and acting accordingly in cases of suspicion. Your conduct and attention are of great importance for the prevention of corruption. You should therefore practice proactive, forward-looking personnel management and control. In particular, you should ensure clear rules of conduct and transparent job descriptions for employees, as **well as an** appropriate level of control.

Vulnerabilities and gateways fi.ir corruption are, for example:

1. inadequate service and technical supervision;
2. blind trust against long-term employees and specialized employees;
3. character weaknesses of employees in corruption-prone areas;
4. negative example set by superiors in the adoption of Pra senten;
5. lack of consequences after manipulations have been uncovered; thus no deterrence.

You can counter such vulnerabilities by taking the following measures:

1. Instruction and awareness

Discuss with your employees at regular intervals the rules and issues of corruption and the obligations arising from the prohibition of accepting rewards and gifts. Code of Conduct against Corruption" (see Appendix 2) to discuss the rules and issues of corruption and the obligations arising from the prohibition on accepting rewards and gifts.

2. Organizational measures within the scope of your authority

Be sure to clearly define and, if necessary, include limitations on the scope of decision-making. Discuss delegation structures, limits of discretionary authority, and the need for co-signing requirements.

In work areas that are particularly susceptible to corruption, make sure that the processing of transactions is made more flexible by using numerical or letter systems.

- a) critical Oberpri.ifung of the case processing according to these systems;
- b) Individual assignment according to the random principle or
- c) by repeatedly changing the number or letter states of individual persons.

If at all possible, implement the principle of multiple control in your area of responsibility as well. It may be advisable to form work teams or groups. Consider whether it is advisable for individual employees to be accompanied by other employees to site visits, on-site inspections, etc., or to set up "glass bi.iros" for handling visitor traffic, so that external contacts of the office are only handled according to the principle of multiple eyes. Where this is not possible because of the actual circumstances, organize checks at intervals that are not too long.

Use human resources tools.

In areas of work where there is a particularly high risk of corruption, a sensible measure may be to limit the period of use (rotation), as a rule after a period of ti.inf years.

If it is not uncommon in your department for rooms to be occupied by two people, you should also use this to prevent corruption in areas of work that are particularly susceptible to corruption, for example, by sporadically changing the occupation of rooms (even if there is no change in the employee's duties).

3. Fiirsorge

In areas of work that are particularly prone to corruption, corruption prevention also requires an increased level of care for your employees.

- a) Always take into account the increased risk to individuals.
- b) The constant dialogue is also a means of Fi.irsorge.
- c) Pay attention to the business and private problems of your employees.
- d) Take remedial action, for example by relieving an employee of duties, if you become aware of conflicts of interest due to secondary activities or activities of relatives. In addition, in the case of secondary activities requiring approval, you should

the possibility of revoking the approval (cf. § Section 73 (3) sentence 2 HBG) or, in the case of ancillary activities not subject to approval, the possibility of written notification.

information and the prohibition (cf.

§ Section 74 (3) and (4) HBG). The provisions of civil service law governing secondary employment shall apply mutatis mutandis to employees.

- e) Particular vigilance is required in the case of recognizable over-demanding or under-demanding of individuals.
- f) You must pay special attention if you become aware of personal weaknesses (e.g. addiction problems, a tendency to expensive hobbies that are difficult to finance) or a high school education: Employees whose financial circumstances are not in order should not be employed in procurement or in positions where they are particularly exposed to the risk of improper influence by third parties.
- g) Finally, you must also be particularly vigilant in the event of openly expressed dissatisfaction with the employer and try to counteract this.

4. Supervision; leadership style

Be aware that in corruption there is no complainant and that corruption prevention therefore depends to a large extent on your sensitivity and the sensitivity of your employees. But it also requires your official and professional supervision. A misunderstood cooperative management style or a "laissez-faire" attitude can be particularly dangerous in areas of work that are particularly susceptible to corruption.

Therefore try,

- a) Optimize process control, for example, by incorporating control mechanisms (resubmissions, etc.) into the business process,
- b) to avoid isolating or isolating individual employees,
- c) pay particular attention to the occurrence of corruption indicators,
- d) to randomly check compliance with specified discretionary margins.

5. Signs of corruption, warning signals

According to the findings of an investigation by the Federal Criminal Police Office (BKA), a number of behaviors can be signs or warning signals, i.e. indicators of the existence of a corruption risk or the existence of corruption. Their evaluation is complicated by the fact that some indicators are considered to be neutral or even positive, even though they have subsequently proven to be "reliable signals" in cases of corruption. Taken on their own, they do not necessarily indicate wrongdoing. The evaluation of indicators must always be carried out with great care in individual cases. If, on the basis of observations, behavior is conspicuous and appears to be outside the norm, you must assess whether the occurrence of an indicator, together with the surrounding conditions, indicates a risk of corruption. According to the BKA's research, this often includes an unusually high standard of living and/or the display of status symbols. For further examples of indicators, please refer to No. 2.2 of the Guideline on Preventing and Combating Corruption in the State Administration of Hesse.

6. Suspicion

In the event of concrete and verifiable indications of suspected corruption, you must immediately inform the contact person for corruption prevention.

Remember that corruption is not a "peccadillo," and covering it up is bad for your reputation.

If you violate your duties, you may be guilty of misconduct and liable to prosecution.

7. Your responsibility as a supervisor

Be aware of your special responsibility and fulfill your obligation to take advantage of the training offered on preventing and combating corruption. Make sure that your employees also fulfill their obligations to participate in training on preventing and combating corruption.

Compare BKA research series „Korruption - hinnehmen oder han deln?"; Wiesbaden 1995

Code of conduct against corruption

1. Show by 1your behavior that you neither tolerate nor support corruption!

Each employee, when hired, is required to comply with applicable laws and to perform his or her duties conscientiously.

All employees must therefore perform their duties impartially and fairly. Corrupt behavior contradicts these obligations and damages the reputation of the public service.

2. Immediately fend off corruption attempts and inform your superior or the contact person for corruption prevention without delay!

In external contacts, for example with applicants or during control activities, you must establish clear relationships from the outset. Make it unmistakably clear to everyone that you are not on the take. Any attempt at corruption must be rejected immediately. Never give the impression that you are open to gifts.

Do not be afraid to reject or return a gift with a request that you understand the rules that apply to you. Observe the administrative regulations for fighting corruption in the state administration, here: Administrative Regulations for State Employees on the Acceptance of Rewards, Gifts and Other Benefits of December 13, 2017 (StAnz. S. 1497).

If you are asked by a third party about a questionable case, inform your supervisor or the corruption prevention contact person immediately.

3. Work in such a way that your work can be overridden at any time!

Their working methods should be transparent and comprehensible to everyone. A successor or a deputy should be able to familiarize himself/herself at any time. You should avoid secondary files in order to rule out any impression of dishonesty from the outset.

4. If you suspect that someone is trying to ask you for a favor in breach of duty, involve your supervisor(s)!

If you fear or suspect that a dubious request could be made to you, you should not face this situation alone.

5. Strictly separate work and private life!

Determine whether your personal interests and plans may conflict with your business interests.

Attempts at corruption often begin with a third party extending official contact to private contacts. It is notoriously difficult to deny a favor when you get along very well in private and you or your family receive benefits and favors (for example, concert tickets, invitations to dinner, reduced-price vacations together, etc.).

In the case of private contacts, you should therefore make it clear from the outset that you must strictly separate business and private life so as not to be suspected of accepting benefits.

In any proceeding for which you are jointly responsible, check whether your private interests, those of your relatives or, for example, of organizations to which you are affiliated, could conflict with your professional duties. Make sure that you do not give anyone cause for concern about bias.

If you recognize a possible conflict between your official duties and your private interests or the interests of third parties to whom you are bound in the course of a specific official task, inform your supervisor or the contact person for corruption prevention. Only then can you react appropriately and, for example, be relieved of duties in a specific individual case.

In the case of **ancillary activities**, too, there must be a clear separation between the official duties and the ancillary activity.

The provisions on secondary employment under civil service law shall apply mutatis mutandis to employees.

Remember:

- Secondary activities not subject to approval (§ 74 HBG) must be reported before the start of the work if the requirements of § 74 (2) HBG are met!

- Any ancillary activities requiring approval must be submitted for approval before being taken over!

Otherwise, there is a risk of consequences under service or labor law.

6. Support your department in recognizing faulty organizational structures!

Procedures can also give rise to situations in which corruption is possible. These can be, for example, procedures in which only one employee is responsible as a specialist. Work processes that are designed in such a way that only one person has an overview of them and it is difficult to check them are also fundamentally risky. This can be remedied by changing the organizational structures. Talk to your supervisor or, if necessary, to the contact person for corruption prevention!

Support your department in the detection and investigation of corruption!

7. If there are indications of corrupt behavior, inform your supervisor or the contact person for corruption prevention.

Corruption can be effectively combated if each employee feels responsible for the department in which he or she works.

The common goal of all is the avoidance of corruption!

If corruption is perceived among colleagues, they must not be protected in their behavior and thus supported. Criminal acts, such as corruption, must be reported.

Do not make yourself jointly responsible by looking the other way! Therefore, do not participate in any cover-up attempts. If the behavior of colleagues gives you concrete and comprehensible indications that they could be on the take, you should not be afraid to speak to your superior or the contact person for corruption prevention!

A number of **indicators** can be warning signs of corruption, for example, if they are highly pronounced, occur more frequently, or occur in combination with others.

Taken on their own, these indicators have only a limited impact of little informative value. They do not necessarily indicate an error behavior. Examples include the following:

Personal indicators

- Personal problems (addiction, over-indebtedness, frustration, etc.),
- lack of identification with the task,
- Targeted bypassing of controls, of required internal departmental involvement and/or of the official channels, compartmentalization of individual areas of responsibility,
- unaccountably high standard of living,
- stiind independence (for example, waiver of vacation, attendance in case of illness),
- Abuse of discretion,
- auffiillig divergent processing times of Vorgiingen,
- Priisence in the office at unusual times - without comprehensible official reason,
- private contacts with applicants, especially consulting/good achter contracts, equity investments.

Task-related indicators

- Strikingly accommodating treatment of applicants,
- Avoiding the need to obtain comparative quotes,
- significant or repeated overruns of the planned order values, conspicuously frequent . Calculation errors," corrections in service specifications, and complex supplementary work,
- Incidental activities or applications for approval of incidental activities for companies which are at the same time contractors or applicants of the public administration,
- frequent . Business trips" to certain companies (especially when overnight stays are not actually required).

System-related indicators

- Very large concentration of tasks on one person,
- Inadequate controls, very weakly developed service and technical supervision,

- large uncontrolled decision-making games,
- difficult to understand regulations.

Passive indicators

- Smooth administrative process in areas where conflicts are typically expected,
- Absence of regulatory response.

8. Get trained and educated on the topic of corruption!

If you work in an area that is particularly susceptible to corruption, you are obligated to take advantage of the opportunities offered by the department to receive training on the forms of corruption, dangerous situations, preventive measures, criminal law and the consequences of corruption under service or labor law.

!asses. In the process, you will learn how to react if you are to be corrupted or discover corruption in your work environment.

Education and training will make you confident to deal with the issue of corruption in the right law-abiding way. In this context, we refer to the e-learning offer . Korruptionspriivention fur Mitarbeiter" and "Korruptionspriivention fur Führungskriifte", available at: <http://fortbildung.e-learning.hessen.de>.

Enclosure 3

Name:

Unit:

Acknowledgement

I have taken note of the guideline on corruption prevention and corruption vaccination in the public administration of the State of Hesse of (St!Anz. S.) with its annexes.

This acknowledgement will be placed in my personal file.

Place, date

Signature

Enclosure 4

Sample anti-corruption clause

(1) The contracting parties declare their firm intention to counter all forms of corruption.

(2) The contracting authority shall be entitled to rescind the contract for good cause in the event of the granting of an advantage (Section 333 of the German Criminal Code) or an offence (Section 334 of the German Criminal Code). Other important reasons are the submission of bids based on agreements which restrict competition within the meaning of Section 298 of the Act against Restraints of Competition (GWB), as well as participation in insufficient competitive bidding within the meaning of the GWB, in particular an agreement with third parties on the submission or non-submission of bids, on prices to be charged, on the payment of a default compensation (profit sharing or other levies) and on the determination of recommended prices.

In addition, the contracting authority reserves the right to exclude companies from future awards for a certain period of time in the event of such violations in accordance with the Joint Circular of 12 December 2017 (StAnz. 2018 p. 15) concerning the exclusion of candidates and tenderers for serious misconduct that calls their reliability into question.

(3) If the Customer withdraws from the contract in accordance with paragraph 2, it shall be entitled to return the deliveries made to date. The value of deliveries not returned or services already used shall be reimbursed to the Contractor on a pro rata basis within the framework of the contract price. The Contractor shall refund to the Purchaser the remuneration already paid for returned Supplies.

(4) The Contractor shall compensate the Customer for all damages incurred directly or indirectly as a result of the withdrawal from the contract. The Contractor shall not be entitled to any rights other than claims for compensation for deliveries and services used on the basis of the withdrawal. From the legal

The provisions governing the right of rescission shall only apply to the §§ Sections 347 to 351 and 354 of the German Civil Code shall remain unaffected.

(5) If there is a reason for withdrawal pursuant to paragraph 2, the Contractor shall pay a contractual penalty to the Client, irrespective of whether the Client exercises its right of withdrawal pursuant to paragraph 2 in whole or in part. The amount of the contractual penalty shall be 50 times the value of the gifts or other benefits offered, promised or granted in cases of corruption, but not more than 10 percent of the agreed order price excluding value added tax. If a value within the meaning of sentence 1 cannot be determined, the contractual penalty shall amount to 10 percent of the total order value excluding value added tax. Claims for damages shall remain unaffected.

110091

Basic decree requiring voluntary return from Hesse;

Adjustment of the state return advisory service in Hesse and new Directive on the financial requirement for the voluntary return of third-country nationals to their country of origin or onward migration to a third country that is willing to receive them.

- Reference: 1st implementation concept for the organization of state return counseling in Hesse dated October 5, 2016 (n.d.).
2. Basic Decree on the Implementation Project for the Reorganization of the State Return Counselling Service in Hesse of 20 Mar 2017 (LPP 6-23d05-KK n.V.)
 3. Principles on the Requirement of Voluntary Return of Foreigners to their Home Countries and Decree on the Administration and Allocation of Funds of March 29, 2017 (n.d.)

In March 2017, based on the implementation concept for the organization of the state return counseling in Hesse, the October 5, 2016, a nationwide counseling program for voluntary departure was established. At the same time, a separate state program for supplementary or alternative demands was introduced alongside the existing federal and state demand programs.

In March 2018, these measures were evaluated as essential cornerstones of the state's demand for voluntary return, in order to further optimize state return counseling in Hesse on this basis and on the basis of the experience and knowledge gained so far, and to be able to design the demand offer in an even more targeted manner.

On the basis of this evaluation as well as the further investigations at the specialist level, I determine the following procedure:

1. Requirement guideline

I hereby adopt the revised version printed below. Directive on financial support for the voluntary return of third-country nationals to their country of origin or onward migration to a third country willing to receive them".

The Darmstadt, Gießen and Kassel Government Präsidents are instructed to manage the funds allocated for the purpose of requiring voluntary departure in accordance with the principles of the Directive and to observe the changed substantive and procedural requirements for requiring voluntary departure.

2. Artful implementation of return counselling

The state return counseling service of the government presidiums remains open to all third-country nationals who wish to leave the country and visit the return counseling service on their own initiative. The Government Präsidium of Gießen ensures the availability of return counselors for residents of the initial reception facility and supports them in the timely realization of their desire to return home.

In the future, outreach return counseling in Hesse will take place in three stages:

Stage 1:

At the initial reception center, the Federal Office for Migration and Refugees (BfR) transmits return information, including country-specific return information, during the registration process.

Migration and Refugees (BAMF) as part of the asylum procedure counseling pursuant to Section 12a of the Asylum Act.

Stage 2:

After a negative asylum decision has been made by the BAMF or a foreign law decision has been issued imposing the obligation to leave the country, the person concerned must be given the opportunity to take advantage of a return counseling interview. The person concerned must be informed of the possibility of making and attending an appointment for a return counseling session, pointing out that participation is voluntary.

Specific dates for counseling should not be specified. The person concerned should contact the state return counseling service on his or her own initiative on the basis of the information letter and make an appointment. The establishment of a web-based appointment booking system for use by those interested in returning and return counselors is, from this point of view, goal-oriented. The Kassel government presidium is asked to take the lead in examining the possibility of introducing such a system and to implement it for all government presidiums.

The Federal Office for Migration and Refugees has promised to publish lists of negative asylum decisions on a regular basis.

1), be made available via a central foreign country portal. Until such time as a functional procedure has been established, the foreigners authority with local jurisdiction shall inform the Government Office immediately upon receipt of a negative decision by the BAMF. In addition, it informs about the issuance of foreign law decisions that justify the obligation to leave the country.

Stage 3:

After the obligation to leave the country has become enforceable and there is at least a medium-term possibility of enforcing the obligation to leave by means of deportation, the person concerned must be summoned to a binding exit planning interview, if voluntary departure is a possibility for him or her according to the statutory provisions. The summons to the interview is issued in accordance with Section 46 of the Residence Act with the aim of reiterating the advantages of voluntary departure in order to avoid coercive measures by the state, with reference to the enforceable obligation to leave the country.

3. Counseling of persons who are already under an enforceable obligation to leave the country (existing persons)

An invitation to a return counseling interview and a request for an interview for persons who are already subject to an enforceable deportation order but who have not yet been counselled on voluntary return or whose last counseling interview was more than twelve months ago is issued analogously to the above-mentioned levels 2 and 3.

4. Design of the return counselling

An invitation to return counseling is generally not issued if

- a prohibition of deportation pursuant to § 60 (5) to (7) AufenthG has been established,
- a training or employment toleration has been granted or the granting is imminent,
- there is a deportation stop according to § 60a para. 1 AufenthG or
- These are Afghan nationals who, according to the current decree, are not to be returned on a prioritized basis.

Mutual reliability and confidentiality are the basis for proper counseling. In the course of the counseling, the person concerned is to be provided with comprehensive information on the advantages of voluntary departure as well as on the existing possibilities, including possible measures to prepare for reintegration. measures to prepare for reintegration.

Consultations must be carefully prepared. For this purpose, the factual and legal situation in the individual case must be determined by suitable means. The counseling must be closely coordinated with the person responsible for enforcing the obligation to leave the country by means of deportation. Consultations should not have a deportation-enforcing effect.

As a matter of principle, counseling will continue to take place locally in order to provide invited or interested persons with the lowest possible threshold access to return counseling. Close cooperation with the districts and municipalities is of particular importance here and should be maintained and, if necessary, expanded by the government presidia.

When applying for benefits at the municipal foreign and social authorities, a close exchange of information is essential.

For reasons of better readability, the female form is used in the decree. It is expressly pointed out that all personal terms used in the feminine form also apply in the feminine form.