

GLOBAL INTEGRITY

*AN INVESTIGATIVE REPORT TRACKING CORRUPTION, OPENNESS AND
ACCOUNTABILITY IN 25 COUNTRIES*

UNITED STATES

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INTEGRITY SCORECARD

Overall, the USA ranks 1st out of 25 countries on the Public Integrity Index falling, into the strong tier. The USA scores in the very strong tier (90-100) for Categories 1 and 3, in the strong tier (80-90) for Categories 2, 4 and 6, and in the moderate tier (70-80) for Category 5.

1. **Civil Society, Public Information and Media**, Very strong, ranking 1st
2. **Electoral and Political Processes**, Strong, ranking 5th
3. **Branches of Government**, Very Strong, ranking 1st
4. **Administration and Civil Service**, Strong, ranking 2nd
5. **Oversight and Regulatory Mechanisms**, Moderate, ranking 19th
6. **Anti-Corruption Mechanisms and Rule of Law**, Strong, ranking 4th

Category - 1:	Civil Society, Public Information and Media	97	Very Strong
I-1	<u>Civil Society Organizations</u>	95	Very Strong
I-2	<u>Access to Information Law</u>	98	Very Strong
I-3	<u>Freedom of the Media</u>	96	Very Strong
Category - 2:	Electoral and Political Processes	88	Strong
II-1	<u>National Elections</u>	93	Very Strong
II-2	<u>Election Monitoring Agency</u>	88	Strong
II-3	<u>Political Party Finances</u>	83	Strong
Category - 3:	Branches of Government	97	Very Strong
III-1	<u>Executive</u>	100	Very Strong
III-2	<u>Legislature</u>	96	Very Strong
III-3	<u>Judiciary</u>	94	Very Strong
Category - 4:	Administration and Civil Service	85	Strong
IV-1	<u>Civil Service Regulations</u>	88	Strong
IV-2	<u>Whistle-blowing Measures</u>	69	Weak
IV-3	<u>Procurement</u>	85	Strong
IV-4	<u>Privatization</u>	100	Very Strong
Category - 5:	Oversight and Regulatory Mechanisms	73	Moderate
V-1	<u>National Ombudsman</u>	0	Very Weak
V-2	<u>Supreme Audit Institution</u>	100	Very Strong
V-3	<u>Taxes and Customs</u>	92	Very Strong
V-4	<u>Financial Sector Regulation</u>	99	Very Strong
Category - 6:	Anti-Corruption Mechanisms and Rule of Law	88	Strong
VI-1	<u>Anti-Corruption Law</u>	75	Moderate
VI-2	<u>Anti-Corruption Agency</u>	92	Very Strong
VI-3	<u>Rule of Law and Access to Justice</u>	88	Strong
VI-4	<u>Law Enforcement</u>	96	Very Strong

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INTEGRITY ASSESSMENT

By Phyllis Dininio

Civil Society, Public Information and Media

Civil society in the United States is quite vibrant. There are thousands of civil society organizations engaging in public advocacy across a wide range of issues. The barriers to starting a CSO are quite low as licenses are fairly easy and inexpensive to obtain, and the tax code relieves them of paying taxes while it encourages tax-deductible contributions. The government does not attempt to ban CSOs for non-violent advocacy or to imprison activists working on corruption issues. Similarly, activists do not risk physical harm or death for their work in this area.

Trade unions face more impediments to their activity than civil society organizations. Although the National Labor Relations Act of 1935 guarantees employees the rights to organize, collectively bargain and strike, the legislation is not adequately enforced by the National Labor Relations Board (NLRB). According to the International Confederation of Free Trade Unions, at least one in 10 union supporters campaigning to form a union is illegally fired. Employers also use mandatory closed-door meetings to campaign against union representation and deny trade union representatives access to the company property. Yet many workers do not turn to the NLRB with their grievances because the legal procedures take too long and fail to provide adequate compensation for the wrong done to them. With a backlog of almost 25,000 cases, the NLRB takes an average of 557 days to resolve a case involving unfair labor practices of employers opposing trade union activity. A poll conducted in 1994 found that 79 percent of Americans believe workers are likely to get fired if they try to organize a union at their workplace.

In general, citizens have good access to public information. Government offices increasingly make information readily available on Web sites, and the Freedom of Information Act allows citizens to request other records from government. In

most cases, citizens can obtain basic government records within a reasonable time period and at a reasonable cost.

The media operate with substantial freedom and few restrictions. The First Amendment to the U.S. Constitution guarantees freedom of speech and the press, and journalists do not typically risk imprisonment, physical harm or death for corruption investigations. There are no insult laws, but 19 states permit prosecution for criminal libel. In 2002, an editor and publisher in Kansas were convicted of criminal libel.

The Federal Communications Commission (FCC) regulates communications by radio, television, wire, satellite and cable. While called an independent political agency, the FCC is clearly influenced by partisan politics. The June 2003 ruling to relax broadcast media concentration in a market, for example, was pushed through by the three Republicans on the commission, in the face of opposition from the two Democratic commissioners and a diverse circle of critics. The whole FCC concentration policy, however, is now under review in the federal courts. FCC licensing, on the other hand, is subject to less political interference: it auctions commercial broadcast licenses to the highest bidder and awards noncommercial educational licenses on a well-documented point system.

Electoral and Political Processes

A series of amendments to the U.S. Constitution and other legislation have established a legal framework that guarantees universal and equal adult suffrage to all citizens. By and large, this framework works, but voting irregularities, such as those that came to light in Florida during the 2000 presidential election, have occurred. Passage of the Help America Vote Act of 2002 addresses some of these problems by requiring devices to allow voters to correct their ballots and ensuring that voters are not turned away at the polls.

Citizens have a right to form political parties, but the two-party system curbs

their electoral success. While there are about 50 third parties, the Green and Reform parties are the only third parties that received votes in the single digits in the 2000 presidential election. They also hold office in a number of regional and local governments. Citizens have a right to run for public office, but the cost of campaigns and the control of party nominations by party elites pose barriers for many citizens. These barriers, however, are much lower at the local level than at the national level. The smaller number of women in public office suggests other barriers to public office: women represent less than 15 percent of national legislators.

The Federal Election Commission monitors the financing of federal elections and assists with the administration of federal elections. The commission operates with minimal political interference and with openness, making its annual reports and the financial records of political parties freely available over the Internet. The Help America Vote Act of 2002 establishes an Election Assistance Commission, which will take over responsibility for assisting with the administration of elections in 2003. The work of administering elections includes responding to problems that surfaced in Florida in the last presidential election, such as those with punch voting cards.

The Federal Campaign Finance Law of 1971, as amended, and the Bipartisan Campaign Reform Act of 2002 (BCRA) regulate public and private contributions to political parties. These laws impose limits on individual and corporate donations to candidates and political parties, but set no limits on total party expenditures. Only presidential candidates who receive funds from the U.S. Treasury must adhere to limits on their campaign expenditures.

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Branches of Government

The system of checks and balances underlying the U.S. polity facilitates efforts to hold government officials accountable for their actions. The Supreme Court reviews the actions of the executive and the legislature, although it does not initiate such reviews. Private litigants usually initiate such proceedings, although the Department of Justice and the General Accounting Office (GAO) occasionally do so as well. For example, in early 2002 the GAO filed a lawsuit to obtain White House energy task force records, but a federal judge dismissed the suit in December 2002. For its part, the U.S. Congress may discipline the president, cabinet officials, and members of Congress with sanction or impeachment. Government officials are not immune from prosecution, and high-level officials are prosecuted for corruption-related charges from time to time (e.g., U.S. Representative James Traficant in 2002).

High-level government officials are required to file an asset disclosure form and to comply with standards of conduct. Standards of conduct cover gifts from outside sources, gifts between employees, conflicting financial interests, impartiality in performing official duties, seeking other employment, and misuse of position and outside activities. Within each of the 129 executive branch agencies, a Designated Agency Ethics Official enforces disclosure and monitors compliance with the standards of conduct. In 2001, executive branch agencies reported taking over 4,500 disciplinary actions based on the standards of conduct. In the other branches of government, the Senate Select Committee on Ethics and the House Committee on Standards of Official Conduct monitor disclosure and standards of conduct of members of Congress, and the Judicial Conference of the United States reviews the conduct of judges, judicial employees and public defender employees. Citizens may access disclosure records within a reasonable time period (usually within 20 working days) and for a reasonable cost (up to US\$25).

The budgetary process involves substantial input from Congress. Although the President's Office of Management and

Budget works up a draft budget with minimal consultation or transparency, it submits the budget to Congress for review. Scores of committees and subcommittees then hold hearings on budget proposals under their jurisdiction. The Congressional Record publishes a daily transcript of hearings and introduced bills, which is available on the Internet, and C-SPAN televises congressional debates. In practice, Congress makes significant amendments to the proposed budget before it is passed and signed into law. The finalized budget is available on the Internet. Once the budget is in place, the House and Senate Budget and Appropriations Committees provide oversight of public funds, along with the General Accounting Office, an auditing arm of Congress.

The high cost of legal services poses a barrier to the judicial system for many citizens. Some lawyers, however, agree to work on a contingency basis such that their fees are contingent on winning the suit, while some law firms offer pro bono services to indigent citizens, and some non-profit organizations offer legal services at a reduced rate or free of charge. Insurance companies, moreover, often defend individuals and businesses in lawsuits involving automobile accidents or personal injury. The state also provides legal counsel for defendants in criminal cases who cannot afford it.

Many laws protect whistle blowers against retaliatory actions, but the statutes lack uniformity and leave unprotected whistle blowers in such areas as food safety, patient abuse and homeland security. Moreover, a survey of whistle blowers who contacted the National Whistleblower Center in 2002 demonstrates that retaliation against whistle blowers remains a major problem in the United States. Almost half of those surveyed reported that they were terminated after they blew the whistle. The National Whistleblower Center advocates the passage of a comprehensive National Whistleblower Protection Act. Passage of the Sarbanes-Oxley Act of 2002 has improved the situation in public companies; however, the Act gives employees the right to sue a public company for whistle blower retaliation, and punishes such retaliation with civil and criminal sanctions.

Administration and Civil Service

The Pendleton Civil Service Reform Act of 1883 established an independent civil service with prohibitions against nepotism and patronage. The president makes a few thousand policy-level appointments, but otherwise nearly all federal jobs are handled within the civil service system, which appoints civil servants according to professional criteria.

Civil servants must comply with standards of conduct, which cover gifts from outside sources, gifts between employees, conflicting financial interests, impartiality in performing official duties, seeking other employment, misuse of position, and outside activities. Those civil servants in financially responsible positions must file disclosure reports. Of the 22,000 executive branch officers and employees required to file public reports in 2001, only 245 had not yet done so when the agencies answered a 2002 survey. Late filers must pay a US\$200 fee. In cases where a filer does not submit the report, agencies are required to make additional good-faith attempts at securing the report, and if unsuccessful, to refer the case to the Department of Justice. While a Designated Agency Ethics Official is responsible for monitoring compliance with the Standards of Conduct in each executive branch agency, the agency's inspector general is responsible for investigating potential wrongdoing (see the section on Anti-Corruption Mechanisms and Rule of Law for more on Inspectors General).

The government posts acquisition regulations on a Web site devoted to public procurement. Under these regulations, contracting officers must use competitive bidding procedures, such as sealed bids or competitive proposals, on all major procurements. Strict formal requirements limit the ex-

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tent of sole sourcing. Exceptions to competitive bidding include: the existence of only one responsible source; unusual and compelling urgency; the promotion of an industry or an engineering, developmental, or research capability; the use of expert services in litigation; international agreement; statutory requirement; national security; and public interest. The federal government advertises all procurement opportunities over US\$25,000 on a searchable Web site called FedBizOpps. Citizens may access the results of major public procurement bids through another Web site. Unsuccessful bidders may instigate an official review of procurement decisions or challenge them in court. Companies guilty of major violations of procurement regulations may not participate in future procurement bids, and the government maintains an active list of excluded parties on an Internet-based listing system.

Much of the privatization that occurs in the U.S. takes place at the regional and local levels. While conflict-of-interest regulations and the Freedom of Information Act apply to all levels of government, the enforcement of these regulations can vary from one domain to another. Nonetheless, conflicts of interest for government officials involved in privatization and access to the terms and conditions of privatization bids tend not to be significant problem areas.

Oversight and Regulatory Mechanisms

While several federal agencies and state and local governments have ombudsmen, there is no national ombudsman covering the entire public sector in the U.S. This stands out as a gap in the country's framework for government access.

The General Accounting Office is the audit, evaluation and investigative arm of Congress. The GAO examines the use of public funds, evaluates federal programs and activities, and provides analyses and recommendations to better inform Congress's oversight, policy and funding decisions. With virtually the entire federal government subject to its review, the agency issues a steady stream of products: in 1999 alone, it published 1,163 reports

and testified 229 times before dozens of congressional committees. The GAO Web site states that four out of five recommendations made during the past four years have been implemented. The agency posts full-text files on its Web site daily, often within 24 hours of when a report or testimony is publicly released.

The head of the GAO, the comptroller general, is appointed for a 15-year term, which helps to protect the agency from political influence. The GAO has a staff of 3,200 professionals and support personnel, and the GAO's budget has fairly consistently risen by close to 6 percent in each of the past four years.

The Internal Revenue Service employs almost 100,000 people, many of whom are trained accountants, and receives regular funding for its operations. The agency is very effective in collecting taxes and tends to enforce tax laws uniformly. It makes regular reports to the Congress, including an extensive annual performance plan, and posts tax regulations on the Internet. In addition, there is an independent Taxpayer Advocate Service within the IRS that helps taxpayers resolve tax problems and recommends changes that will prevent the problems.

In March 2003, the U.S. Bureau of Customs and Border Protection moved from the Treasury Department to the Department of Homeland Security. The bureau has a workforce of more than 40,000 employees. Included in those ranks are inspectors, canine enforcement officers, border patrol agents, trade specialists and mission support staff. The bureau is well funded, and its budget has increased on average by more than 20 percent in each of the past four years. The bureau posts customs and excise regulations on its Web site and makes regular reports to Congress. The bureau establishes guidelines to help it evaluate risk and then identify potential cases of illicit cargo, illegal persons and unsafe conveyances for scrutiny. Customs and excise regulations tend to be enforced uniformly, but there is an appeal mechanism that customs and excise payers can use to resolve disputes.

The Federal Reserve is the nation's central bank. It is considered to be independent because its decisions do not have to be ratified by the president or anyone else,

it does not receive funding appropriated by the Congress, and the terms of the members of the Board of Governors span multiple presidential and congressional terms. The Federal Reserve makes a variety of publications and resources available on the Internet and through its reading room. Other information can readily be accessed via the Freedom of Information Act.

The Securities and Exchange Commission oversees publicly listed companies. It has a staff of 3,100 people and a budget of US\$812 million in FY2004. The SEC has five commissioners who are appointed by the president with the advice and consent of the Senate. Their terms last five years and are staggered so that one commissioner's term ends on June 5 of each year. To ensure that the commission remains non-partisan, no more than three commissioners may belong to the same political party.

All publicly listed companies, foreign and domestic, are required to file registration statements, annual reports and other forms electronically. These reports are audited according to Generally Accepted Accounting Principles and may be downloaded from the Internet for free. The commission's enforcement staff conducts investigations into possible violations of the federal securities laws, and prosecutes civil suits in the federal courts as well as administrative proceedings.

State and local governments regulate business licenses. All state governments offer information on obtaining a business license on their Web sites. At the local level, this information is sometimes available online, or sometimes requires an inquiry to local officials. In practice, citizens may obtain any necessary business license within a reasonable time period, and many governments offer expedited ser-

vice for a fee. In California, for example, a fee of US\$350 guarantees a response within 24 hours; a fee of US\$500 guarantees a response within four hours. In Massachusetts, the expedited service fee costs roughly 4.5 percent of the license. Governments usually charge a reasonable amount for licenses. For example, articles of organization cost US\$100 in California and US\$275 in Massachusetts. The availability of credit tends not to be a problem for small businesses: they typically can access credit from a bank.

Anti-Corruption Mechanisms and Rule of Law

The legal framework for fighting corruption is fairly extensive in the U.S. The legal code makes the following acts illegal: attempted corruption, extortion, offering a bribe, receiving a bribe, bribing a foreign official, using public resources or confidential state information for private gain, money laundering and conspiracy to commit a crime. These laws are enforced in practice.

In the executive branch, the 57 Offices of Inspector General (OIG) have the mandate to prevent waste, fraud and abuse. Across these offices, 11,000 professionals work with a combined budget of US\$1.5 billion in 2002. Budgets have been growing in tandem with investigations and prosecutions in recent years.

IG appointments are based on integrity and ability without regard to political affiliation. The IGs are protected from political interference as they have an independent reporting relationship to the Congress and their respective agency head cannot prevent them from conducting an audit or investigation. The Integrity Committee of the President's Council on Integrity and Efficiency reviews any allegations of misconduct against an IG, but most IGs can only be removed by the president and both houses of Congress must be notified if this happens.

The OIGs have sufficient powers to carry out their mandate. In 2000, for example, OIGs collectively conducted more than 20,000 investigations and processed almost 200,000 complaints. This work resulted in the recovery of US\$3.3 billion, contributed to over 5,500 successful crimi-

nal prosecutions and nearly 1,300 civil actions, led to 1,300 personnel actions taken against government employees, and resulted in nearly 7,700 suspensions and debarments of contractors, grantees and other entities doing business with the government. OIGs issue specific audit, investigative and evaluation reports, semianual reports to the Congress, and immediate notices of egregious abuses.

The judicial system generally upholds the rule of law. The system protects property rights, honors legal contracts, and often carries out criminal justice according to the rule of law. The main problem with criminal justice is that those with money can afford better legal representation. There is, however, a general right of appeal. The government does not detain anyone without charging them for more than 48 hours except for those held under the USA Patriot Act for possible terrorist activity.

Appointments to law enforcement agencies are made according to professional criteria. To qualify as a police officer, candidates must typically pass a written examination, a character and background examination, a psychological exam, drug and alcohol screening, a medical examination and a physical agility test. Many police departments, such as those in New York and Washington D.C., now require two years of military service or two years of college education. Officers are usually paid adequately, and departments have adequate facilities and equipment.

While police departments are often protected from political interference, politicians may exert pressure on the police commissioner or police chief in high-profile cases. The Internal Affairs Bureau of police departments or the Federal Bureau of Investigation (FBI) responds to complaints about police action, and the FBI carries out any investigation and prosecution of corruption committed by law enforcement officials. Citizens may access records on arrests made by law enforcement officials.

CORRUPTION NOTEBOOK

By Charles Lewis

The president's father earns sizable fees from a company getting millions of dollars in government defense contracts. The president's brother will get US\$2 million as a business consultant to a Chinese semiconductor manufacturer even though, by his own admission, he knows nothing about semiconductors. The president's campaign manager starts a company to help corporations land lucrative wartime government contracts. The vice president's former company gets billions of dollars of government contracts with selective bidding.

It's not Indonesia, Nigeria, or Russia that boasts such an unabashed, mercenary culture in which influence peddlers so shamelessly cash in on their close proximity to power, but the United States. Ironically, such practices are entirely legal in the world's oldest constitutional democracy, which is perennially perceived in global surveys as among the world's *least* corrupt nations.

Private gain from public life at the national level is legal and not uncommon in the United States, and those in or around government officialdom in Washington would be shocked if anyone had the temerity to refer to it as "corruption." It's rather just "business" and "how things work."

Indeed, smarminess and poor ethical judgment are always a question of degree and discretion to most of the chattering class in the capital city, where successful, high-profile prosecutions of the federal conflict-of-interest laws are about as frequent as the return of Halley's Comet. Hundreds of former public officials routinely shill for powerful corporate interests, well-paid fixers who facilitate the successful synergy of capitalism and democracy. Indeed, the alchemy of mixing politics and business—in which public and private sensibilities are blended until they're almost indistinguishable—produces a natural, if not essential, elixir that practically all real "players" by definition must drink.

So of course former President George H.W. Bush has been paid undisclosed

sums to advise the Carlyle Group, a private global investment firm with extensive investments in the likes of aerospace and defense companies with major U.S. government contracts, at the same time son George W. is sending the United States into war.

So of course George W. Bush's younger brother Neil, disgraced and fined in the 1980s savings and loan scandal, now has a US\$2 million contract with Grace Semiconductor Manufacturing Corp. to provide the Chinese company with "business strategies and policies; latest information and trends of the related industry, and other expertized (sic) advices." First reported from divorce records in Texas by the *Houston Chronicle*, Bush acknowledged under oath that he has "absolutely no educational background in semiconductors."

So of course Joe Allbaugh, who in 2000 was Bush's national campaign manager, subsequently was rewarded with the important government position of director of the Federal Emergency Management Agency. Allbaugh abandoned government service to become a highly paid Washington lobbyist, and today is chairman of New Bridge Strategies, LLC, which was created "specifically with the aim of assisting clients to evaluate and take advantage of business opportunities in the Middle East following the conclusion of the U.S.-led war in Iraq."

And of course Vice President Dick Cheney's former company, Halliburton, and its Kellogg, Brown & Root subsidiary have received more than US\$2.3 billion in government contracts for work in Afghanistan and Iraq through 2003 in a closed, selective bidding process—a total no other company can match. There is no evidence that Cheney pulled any strings for his former company, but he hardly had to: every political appointee and civil servant knows about the vice president's history with Halliburton. But it should also be noted that Cheney's appointment calendars, phone logs, and correspondence are off limits to reporters and the public, as the Freedom of Information Act does not apply to the White House (or, for that matter, to members of Congress).

Beyond Cheney and Halliburton, however, much about the entire contracting process is deliberately hidden, and therefore unknown. For example, it took 20 researchers, writers, and editors at the Center for Public Integrity six months and 73 Freedom of Information Act requests to begin to discern who was getting the Iraq and Afghanistan contracts, and for how much. Why? What has happened to accessible information and the principle of transparency?

Well, the evidence reveals that the Bush administration came to power overtly hostile to openness and the public's right to know. In its first year, information about meetings involving energy company executives and top government officials was tenaciously kept from the public. A respected reporter's home telephone records were secretly seized. In Afghanistan, a group of journalists who had witnessed "friendly fire" were locked in a building for hours, unable to file their stories. Since September 11, 2001, open-records laws nationwide have been rolled back more than 300 times—all in the name of national security. For the first time in U.S. history, the personal papers of past presidents now may only be released with White House approval. And meanwhile, hundreds of detainees have been held for more than two years without any charges filed against them or the customary arrest information released.

What we *do* know is that nearly every one of the 10 largest contracts awarded for work in Iraq and Afghanistan went to companies employing former high-ranking government officials, and *all* 10 top contractors are established donors in American politics, contributing nearly US\$11 million to national political parties, candidates, and political action committees since 1990, according to an analysis of campaign

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finance records. On the eve of the Iraq war, at least nine of the 30 members of the Defense Policy Board, the government-appointed group that advises the Pentagon, had ties to companies that had won more than \$76 billion in defense contracts in 2001 and 2002.

All of these convenient confluences are legal and, except for some alleged price gouging by Halliburton, nothing untoward has been noticed by government auditors. The formal, long-established mechanisms to mitigate against official corruption in the White House and executive branch of government are truly resplendent in the United States: congressional committees with the ability to hold public oversight hearings and the power to issue subpoenas to compel the production of all relevant records; independent (in theory, at least) inspectors general for every major cabinet department who may issue investigative reports and refer matters for criminal prosecution. But this well-developed administrative apparatus, with its laws and regulations, enforcement powers and transparency, appears to have fallen substantially into disuse or misuse.

What good are laws if politically partisan or timid people are unwilling to enforce them?

It was a peculiar time in American politics *before* the terrorist attacks and psychological trauma of September 11th. The United States was—and still remains—a deeply divided, highly politicized nation, which since 1996 has endured the most bitter, intractable standoff between the two political parties since the 1880s. At the same time, fully one-half of all eligible voters—100 million Americans—do not vote in any federal election cycle. And because one political party, George W. Bush's Republicans, somehow has managed—despite the noticeable absence of an overwhelming voter mandate—to exert tightly disciplined control over the *entire* national government, there is a powerful disincentive against political independence, candor, or even curiosity, lest it be misinterpreted as disloyal criticism. For example, throughout 2003, no committee or inspector general held any hearings or issued any reports regarding those highly publicized, controversial contracts in Iraq to major campaign contributors.

The American people are supposed to believe it is entirely coincidental that three-quarters of the 71 companies getting approximately US\$8 billion in contracts in Iraq and Afghanistan also have donated millions of dollars over the years to the political parties and their candidates. And no politician in America received more money from those lucky contractors than George W. Bush.

True, what we see here is not corruption in the classical sense, but it is an insidious form of gaming the system—disguised as business as usual—a form of “legal corruption,” if you will, that is as old as the republic itself. George Washington Plunkitt, the boss of New York City's notorious Tammany Hall machine, once said that he made his fortune in politics by buying property that he knew in advance would escalate in price because of a planned subway line. Plunkitt made a distinction between “honest graft” and dishonest graft; the latter, he claimed, was outright corruption. As Plunkitt put it in 1915, “There's honest graft, and I'm an example of how it works. I might sum up the whole thing by sayin', ‘I seen my opportunities and I took 'em.’”

And today, with a trillion-dollar federal budget chocked full of tax breaks, subsidies, and other favors, those opportunities certainly abound. In 1968 there were fewer than 100 registered lobbyists on Capitol Hill; today there are nearly 25,000, overwhelming Washington like locusts. Their ranks include dozens of congressional spouses, along with sitting members' children or in-laws, who work as lobbyists for powerful special interests. For example, the vice chairman of the Senate Ethics Committee, Democrat Harry Reid, has two sons and a son-in-law who lobby on behalf of corporate clients seeking favors from government in either Washington or his home state of Nevada. Three of the top legislative leaders have children or spouses earning handsome fees in Washington as lobbyists: House Speaker Dennis Hastert, R-Ill., Senate President Pro Tempore Ted Stevens, R-Alaska, and Senate Minority Leader Tom Daschle, D-S.D.

Or take Robert Dole, the 1996 Republican Party presidential candidate, who in his long career received more than US\$200,000 in political donations from

agribusiness corporation Archer Daniels Midland (ADM), took 35 partially reimbursed trips on the company jet, and as a leading lawmaker helped ADM land *billions* of dollars in ethanol and other federal agricultural subsidies. Years earlier, according to the *New York Times*, Dole's wife and her brother had acquired a Florida ocean-front condo *directly* from the chairman of ADM for well below the market price, and they were not required to make the first mortgage payment for seven months. The Senate Ethics Committee never formally investigated this matter—just one of many woeful examples of the accountability machinery rusting from disuse. And in the mercenary culture of Washington, none of this is illegal or considered to be corruption.

Such responsiveness to donors is a pervasive, bipartisan phenomenon, particularly poignant when you realize how important that cash is and where it comes from: 96 percent of the American people do not contribute a penny to any federal politician or political party, and the maximum allowable, individual contribution, US\$2,000, comes from one-tenth of one percent. The current incumbent class of Congress is so entrenched that, fully stocked with cash and careful redistricting to make a successful challenge almost humanly impossible, only four (of 435) House members lost their seats to non-incumbent challengers in 2002, the fewest in U.S. history. Elected officials work hard for the money that sponsors their careers, before and after the checks are received. Consider Democrat Bill Clinton, who was incessantly embroiled in scandal, none more dramatic than the first Senate impeachment trial of a sitting U.S. president in more than a century, decided substantially along party lines. The infamous Monica Lewinsky scandal all began with a favor, giving a White

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House internship to a major campaign contributor's friend.

During Clinton's presidency, major Democratic Party donors were serviced in many ways, including overnight stays in the White House "Lincoln Bedroom," first disclosed by the Center for Public Integrity. What's more, in 1995 and 1996, major Democratic Party donors and fund raisers also rode on Air Force One and Marine One, as well as Air Force Two and Marine Two (the vice president's aircraft) more than 300 times. During that same time frame, the party accepted millions of dollars in illegal campaign contributions from overseas donors, many of whom met personally with the president. But when the Senate Governmental Affairs Committee attempted to investigate the 1996 election abuses, at least 45 potential witnesses fled the United States or refused to testify by invoking their constitutional rights against self-incrimination. Ultimately, no one of any stature in the Democratic Party, the White House, or the Clinton-Gore campaign was ever charged with a crime. In other words, despite years of revelations in the news media, all of the apparent impropriety was de facto legal.

In his last two hours as president, Clinton pardoned 140 people, including several who had been convicted of political corruption during his administration, and disgraced international fugitive Marc Rich, who years earlier had fled the United States after his indictment for fraud, racketeering, and income tax evasion. Rich's ex-wife had plied Clinton with roughly US\$1 million in contributions to his campaigns, his political party, and his presidential library. Despite the hullabaloo over this pardon in particular, nothing ultimately happened. It was all entirely legal.

It is a common sophistry in post-Watergate, 21st century Washington to suggest that political payments to parties and politicians buy access, but not influence. Fortunately, an overwhelming majority of Americans, not to mention the Supreme Court of the United States, recognize the absurdity of such an assertion. Pick any powerful special interest in Washington, or in the 50 state capitals, and chances are its garden is lush and well-tended. The same goes for our state legislatures, where 42,000 lobbyists spent more

than US\$715 million in 2002 attempting to influence lawmakers in those 39 states with lobbying disclosure laws. Or, in the wake of perhaps the worst business scandals in America since the Great Depression, take the befallen corporation Enron, one of President Bush's top career patrons, which spent millions of dollars on politicians and parties from the late 1980s to the time of its collapse in December 2001. Is it any wonder that the company received billions of dollars' worth of favorable treatment from federal and state government officials on no fewer than 49 occasions?

Or take the recent "mad cow" hysteria in the United States over the prospect of contaminated beef. From 1987 to 1996, no legislation to tighten up the meat-inspection process ever made it to the floor of either house of Congress, despite the fact that thousands of Americans die annually and millions more get sick from infected food. Why no action? Perhaps it was related to the \$41 million fed by the food industry to lawmakers and their parties during that time.

There is no shortage of evidence that, despite the annual applause for all of the anti-corruption mechanisms in place in these United States, so-called legal corruption abounds. What is perhaps more interesting is the lack of candor in public discourse today—indeed, the palpable denial, the false conceit—about the state of corruption in America. Our politicians perpetually lie to us and we so badly want to believe them.

In the last months of his life, the Danish philosopher Soren Kierkegaard wrote in his notebook:

"If the conditions at a certain time are such that almost everyone knows privately that the whole thing is wrong, is untrue, while no one will say so officially; when the tactic used by the leaders is: Let us simply hold on, behave as though nothing had happened, answer every attack with silence, because we ourselves know only too well that everything is rotten, that we are playing false: then in that case the conditions are eo ipso condemned, and they will crash. Just as one says that death has marked a man, so we recognize the symptoms which unquestionably demand to be attacked. It is a battle against lies."

Kierkegaard believed that something

was rotten in Denmark—specifically, the situation of the Protestant Church there in the mid-nineteenth century—but he could just as easily have been describing the institutional corruption that has beset America's political system in recent years.

There is something rotten in the United States, but it is legal, and no one will dare call it corruption.

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CORRUPTION TIMELINE

November 1992 – The race for president between incumbent George H. W. Bush and Arkansas Governor Bill Clinton is thrown off balance by billionaire businessman H. Ross Perot, who earns 19 percent of the national popular vote. Clinton wins the plurality, garnering 43 percent of the vote, compared with Bush's 37 percent.

August 1994 – Several weeks after Clinton reauthorizes the Independent Counsel Act, a federal court appoints former Bush solicitor general Kenneth Starr as independent counsel to investigate Whitewater Development Corporation, an Arkansas real estate venture in which the Clintons were partners from 1978 to 1992. At issue is whether the Clintons committed fraud in connection with their business dealings while he was governor of Arkansas. The inquiry will stretch far beyond real estate questions and lead to several convictions and plea bargains for Clinton associates.

November 1994 – In what becomes known as the “Republican Revolution,” conservatives take control of both the Senate and House of Representatives. Democrats lose 52 House seats and cede control for the first time in 40 years. Newt Gingrich, a fierce critic of President Clinton, assumes leadership as speaker of the House.

April 1996 – Vice President Al Gore attends a fundraiser at a Buddhist temple in Los Angeles and raises US\$140,000 for the Democratic National Committee, the party's fundraising wing. It is revealed that the event itself was illegal—tax-exempt religious institutions are not allowed to host political fundraisers. Furthermore, a substantial portion of the money turned out to have been illegally funneled through nonexistent donors.

November 1996 – In a second three-way race, Clinton is re-elected president with 49.2 percent of the popular vote, defeating former Republican senator Bob Dole and, once again, H. Ross Perot.

December 1996 – The House Ethics Committee issues a report concluding that Speaker Newt Gingrich used US\$300,000 in tax-exempt public funds for his own political gain, and then misled authorities investigating the matter. The House formally reprimands Gingrich and fines him US\$300,000. Further scandal ensues when, in April 1997, he announces he will take out a loan to pay the fine—from fellow Republican Bob Dole. Critics attack the deal as being too generous to Gingrich. In 1998, Gingrich pays off the fine using his personal funds.

February 1997 – Clinton releases a list of 938 guests who stayed overnight in the White House's famed Lincoln Bedroom, insisting that they did not have to pay for the privilege. The list is made up of Hollywood stars, business elites, and former associates from Arkansas. The defensive maneuver by the White House is in response to an August 1996 report by the Center for Public Integrity revealing that more than 75 Democratic donors and fund raisers had been invited to stay in the Lincoln Bedroom.

July 1997 – The Senate Governmental Affairs Committee begins hearings into possible fund-raising abuses in the 1996 presidential campaign. Under U.S. law, foreign nationals and organizations are prohibited from contributing to federal elections, and both the Clinton-Gore campaign and the Democratic Party had allegedly accepted foreign money. By the time hearings had begun, Democrats had returned US\$2.8 million in questionable funds. Over the course of the investigation, at least 45 witnesses either flee the country or invoke their Fifth Amendment right to not incriminate themselves through their own testimony. The probe ends in March 1998, with the committee concluding in a 1,500-page report that the Clinton administration deliberately evaded campaign-finance rules leading up to the 1996 election. Although the report finds “strong circumstantial evidence” that China funneled money to the Democratic campaign, the committee makes no

recommendations that anyone be prosecuted.

September 1998 – Kenneth Starr delivers a report to Congress asserting that he has found evidence of 11 impeachable offenses by Clinton. The next month, the House votes to hold a full inquiry into whether or not to impeach the president.

November 1998 – In congressional elections, the Democrats stage a surprising rally, gaining five seats in the House, though leaving the Republicans with an overall majority. Speaker Gingrich steps down from leadership after the unexpected surge defies his predictions of large gains.

November 1998 – Legislation implementing the Organization of Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Officials in International Business Transactions takes effect, amending the Foreign Corrupt Practices Act to bring the U.S. in line with international anti-bribery standards.

December 1998 – The House votes to impeach Clinton on two articles, charging him with perjury and obstructing justice to cover up his relationship with White House intern Monica Lewinsky.

January 1999 – Following a 21-day trial in front of Supreme Court Chief Justice William Rehnquist and a jury consisting of the full Senate, senators vote to acquit Clinton of both impeachment charges. A follow-up motion for censure also fails.

February 1999 – Six weeks after chairing the first-ever international forum on reinventing and streamlining government, Vice President Gore hosts the first global confer-

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ence on fighting corruption among security, justice and budget officials.

October 1999 – Starr resigns from his role as independent counsel and a panel of federal judges replaces him with his assistant, Robert Ray. Ray continues investigating until the last day that Clinton holds office, when he reaches a deal stripping Clinton of his law license for five years and fining him US\$25,000, to be paid to the Arkansas state bar authorities, in exchange for not criminally prosecuting him following his presidential term. In the remaining months of the investigation, Ray clears the Clintons on all wrongdoing related to Whitewater and several other charges that had lingered for the majority of Clinton's two terms as president.

September 2000 – The Inter-American Convention Against Corruption is ratified and deposited at the Organization of American States.

October 2000 – Congress passes the International Anticorruption and Good Governance Act of 2000, which authorizes the president to establish foreign aid programs that improve governmental transparency and accountability.

November 2000 – As the polls close on November 7, there is no clear winner in the presidential election. While Vice President Al Gore earns more overall votes nationwide, Texas Governor George W. Bush appears to have earned more electoral votes. However, the apparent victory by Bush is complicated by several voting irregularities in Florida as well as the fact that Bush seems to have won Florida—and its important electoral votes—by only a few hundred votes. Over the course of 36 days, state and federal courts, and eventually the Supreme Court of the United States, weigh in on the matter. In the end, a Supreme Court marked by a sharp partisan division orders that state officials stop recounting the ballots and essentially hands a victory to Bush. Despite earning only 47.9 percent of the popular vote, compared to Gore's 48.4 percent, Bush becomes president of the United States.

January 2001 – On his last day in office, President Clinton issues 140 executive pardons and commutes the sentences of 36 felons, actions which raise numerous questions of impropriety. Among those pardoned is international fugitive Marc Rich, whose ex-wife had donated roughly US\$1 million to the Democratic Party, US\$450,000 to Clinton's presidential library, and US\$120,000 to the Senate campaign of her close friend Hillary Rodham Clinton, the president's wife. Rich faced up to 300 years in prison for evading more than US\$48 million in taxes, which at the time was the largest such case in U.S. history. Clinton's brother-in-law, Florida attorney Hugh Rodham, had been paid US\$400,000 for his successful handling of two pardon pleas, but after the information became public Rodham agreed to return the money. Several people convicted for offenses in the Whitewater investigation are also pardoned, as are former officials tied to the investigation of Mike Espy, Clinton's former secretary of agriculture.

January 2001 – Bush refuses to publicly release former President Ronald Reagan's records as mandated by the Presidential Records Act of 1978. He instead issues an executive order giving himself and all past and future presidents the authority to veto the release of presidential records, even if the former presidents want their own records released. Both Bush's father and several high-level officials in his government had worked for Reagan, and the executive order was seen by many as a way of protecting people close to him from criticism and embarrassment. Among the censored papers was believed to be information related to arming radical Islamist forces in Afghanistan, building up the Iraqi military, and supporting dictators in Asia and Latin America. After public outcry, Bush eventually releases 68,000 pages of Reagan's records.

May 2001 – Republican Senator James Jeffords quits the Republican Party, allowing Democrats a 50 to 49 majority in the Senate. The defection eliminates full Republican control over the executive and legislative branches of government.

October 2001 – The U.S.A. Patriot Act is signed into law by President Bush after passing by overwhelming margins in the House and Senate. The law, enacted in the wake of the September 11th attacks, reduced several constitutional protections and enhanced law enforcement powers. The law included provisions broadening the definition for domestic terrorism, allowing the government to detain non-citizens for up to seven days without filing formal charges, giving the government expanded abilities to wiretap terrorism suspects, and allowing intelligence agencies to share information with domestic law enforcement agencies.

October 2001 – Attorney General John Ashcroft sends a "Guidance Memo" to all federal agencies stating that the Justice Department would stand behind any refusal to comply with the Freedom of Information Act, unless the decision lacks a "sound legal basis" or adversely affects the ability of other agencies to protect other records.

December 2001 – Global energy company Enron declares bankruptcy after admitting that it used fraudulent accounting to hide its losses. Enron had overstated its earnings by more than US\$567 million since 1997. Enron is President Bush's largest campaign contributor, and its leaders had met repeatedly with Bush and Vice President Dick Cheney. In January 2002, the Justice Department launches a criminal investigation into the matter. When they are summoned to answer questions before Congress in February, most Enron executives refuse to testify. Through the course of the year, several Enron officials plead guilty to various charges, and Arthur Andersen, the accounting firm that managed Enron's accounts, is found guilty of obstruction of justice for de-

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destroying Enron-related documents. In October 2002, Chief Financial Officer Andrew Fastow is charged with 78 counts of fraud and money laundering, and in January 2004, Fastow pleads guilty to two counts of conspiracy, promising to aid the prosecution in its investigation. In February 2004, former Chief Executive Officer Jeffrey Skilling is arrested for 35 counts of fraud, conspiracy, and a number of other charges related to Enron. Facing up to 325 years in prison and US\$80 million in fines if convicted, Skilling pleads innocent. The full investigation continues.

February 2002 – In its first-ever lawsuit against the government, the General Accounting Office (GAO) sues Vice President Dick Cheney to get access to records of an energy task force he organized. The GAO had tried since May 2001 to obtain the records relating to meetings during which Cheney invited experts to help draft a national energy plan. In December, a federal court rejects the request. Two civil society groups also sue for access to the records. Critics charge that environmental groups were prevented from attending the task force's meetings, and say that energy companies had been given exclusive access. In December 2003, the Supreme Court agrees to hear arguments in the case, laying the foundation for a definitive decision in 2004.

March 2002 – President Bush announces the establishment of the Millennium Challenge Account, a foreign-assistance fund that will disburse money to developing countries that satisfy criteria covering commitment to government transparency, anti-corruption, poverty eradication, and respect of citizens' basic rights.

March 2002 – Following seven years of bitter in-fighting among both parties and both chambers of Congress, Bush quietly signs into law the Bipartisan Campaign Finance Reform Act, which prohibits unlimited donations to political parties and places restrictions on interest group electioneering advertisements on behalf of or in opposition to particular political candidates. The law represents the most sweeping change in campaign finance

regulations since the 1970s. Several Republicans, civil libertarians, and a wide variety of interest groups immediately sue, challenging the constitutionality of the law. In May 2003, a panel of three federal judges overturns several provisions of the law, although two weeks later the court grants a stay of its decision, permitting the law to remain in effect pending a final decision by the Supreme Court.

June 2002 – WorldCom Inc. admits that it inflated its earnings by US\$3.8 billion. The figure is later amended to US\$11 billion. The Securities and Exchange Commission immediately files fraud charges against the company and top officials. The following month WorldCom files for bankruptcy, a surprise move that eventually costs investors more than US\$175 billion.

July 2002 – Congress passes the Sarbanes-Oxley Act, a law designed to protect investors from corporate accounting fraud by requiring executives to personally validate their companies' financial statements.

July 2002 – The House of Representatives votes 420 to 1 to expel Rep. James Traficant from office. In April, the Ohio Democrat was convicted on 10 counts of bribery, conspiracy, tax evasion, and racketeering charges. Traficant had been accused of taking bribes, filing fraudulent tax returns, forcing his staff members to pay kickbacks with their salaries and to perform labor on his farm and boat, and was sentenced to eight years in prison.

September 2002 – The Federal Election Commission, the federal agency enforcing campaign finance laws, imposes a record-setting fine of US\$719,000 against participants in various 1996 Democratic Party fund-raising scandals involving illegal payments from foreign nationals. Among those penalized are the Clinton-Gore campaign, the Democratic National Committee, and dozens of individuals and corporations who channeled illegal foreign contributions to Democrats. The Buddhist Progress Society is also fined for its role in a Los Angeles fund-raiser at a Buddhist temple featuring then-vice president Gore.

October 2002 – New Jersey Senator Robert Torricelli stops his re-election campaign 36 days before the scheduled vote. A five-year investigation by the Justice Department results in seven people eventually pleading guilty to making illegal contributions to his 1996 campaign. In July, the Senate Ethics Committee found that Torricelli had improperly accepted Rolex watches, Italian suits, and cash from a contributor. Following the committee's finding, Torricelli's approval ratings plummeted.

November 2002 – Republicans capture several seats in the Senate and maintain control of the House, putting both chambers of Congress in their hands and allowing them to control both the executive and legislative branches of government.

February 2003 – The Center for Public Integrity publishes a leaked government document detailing a secretly drafted sequel to the U.S.A. Patriot Act. Apparently drafted internally by the Justice Department and shared with Vice President Cheney and the speaker of the House, the draft bill would authorize secret arrests, ease restrictions on racial profiling, block access to information for detained prisoners, create a DNA database of suspected terrorists, and allow revocation of citizenship and deportation of anyone identified by the government as terrorists.

May 2003 – The Securities and Exchange Commission fines WorldCom US\$500 million for accounting fraud, the largest penalty in the agency's history. WorldCom had revealed the previous year that it inflated its profits by US\$11 billion, and the eventual surprise bankruptcy destroyed more than US\$175 billion in shareholders' stock.

December 2003 – In a surprise move, a fragmented Supreme Court upholds most of the Bipartisan Campaign Finance Reform Law. The 300-page opinion permits limitations on fund raising, advertising, and campaign spending and accepts the central argument that money can have a corrupting influence on politics.

January 2004 – The Supreme Court refuses to hear an appeal requesting the identity of more than 700 men imprisoned following September 11. The Court's action hands the Bush administration a major victory in its war against terrorism.




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U.S.A.: Civil Society, Public Information and Media

Sub-Category: I-1/Civil Society Organizations

	Indicators	Scores
1	In law, do citizens have a right to form civil society organizations (CSOs)?	1.00
2	Can citizens organize into trade unions?	0.75
3	In practice, do CSOs actively engage in public advocacy campaigns?	1.00
4	Are citizens able to form CSOs?	1.00
5	Are civil society activists safe when working on corruption issues?	1.00

Indicator and sub-Indicator Details

1 In law, do citizens have a right to form civil society organizations (CSOs)?
<p>Score: yes/1.00 </p> <p>Comments: The First Amendment of the U.S. Constitution protects freedom of expression, which consists of the rights to freedom of speech, press, assembly and to petition the government for a redress of grievances, and the implied rights of association and belief. The right of association allows citizens to form civil society organizations.</p> <p>References: http://www.law.cornell.edu/topics/first_amendment.html</p> <p>Peer Review Comments: While CSOs may be numerous their impact on actual policy is often limited at the federal level. They generally lack the financial resources to compete with commercial interests. Consequently, their ability to influence the adoption of legislation or policy in general is rather limited.</p>
2 Can citizens organize into trade unions?
<p>- 2a: In law, citizens have a right to organize into trade unions.</p> <p>Score: yes/1.00 </p> <p>Comments: In 1935 the National Labor Relations Act (NLRA) guaranteed employees the rights to join labor organizations, collectively bargain and strike. However, the Taft-Hartley Labor Act of 1947 empowered the government to obtain an 80-day injunction against any strike that it deemed a peril to national health or safety. The White House has used this power in more than 30 disputes, including Reagan's crushing of the air traffic controller's strike in 1981.</p> <p>References: http://www4.law.cornell.edu/uscode/29/ch7.html; http://www.news.uiuc.edu/biztips/00/09taftthartley.html</p>
<p>- 2b: In practice, citizens are able to organize into trade unions.</p> <p>Score: sometimes/0.50 </p> <p>Comments: According to the International Confederation of Free Trade Unions (ICFTU), U.S. labor legislation does not adequately protect the right to organize and the right to strike. The law is unable to protect workers when the employer is determined to destroy or prevent union representation. At least one in 10 union supporters campaigning to form a union is illegally fired. There are also double standards in rights of employers and workers. In nine out of 10 union representative elections, employers use mandatory closed-door meetings conducted on their own premises to campaign against collective bargaining and trade unions. And trade union representatives are often denied access to employers' property to meet employees during non-working time. The procedures of the National Labor Relations Board (NLRB), the body which governs industrial relations in most of the private sector, do not provide workers with effective redress in the face of abuses by employers. Many workers, including those fired illegally, do not use available legal procedures because they take too long and fail to provide adequate compensation to redress the wrong done to them. The NLRB takes an average of 557 days to resolve a case. The NLRB is estimated to have a backlog of almost 25,000 cases involving unfair labor practices committed by employers opposing trade union activity. A poll conducted in 1994, notes the ICFTU survey, found that 79 percent of Americans believe workers are likely to get fired if they try to organize a union at their workplace.</p> <p>References: http://www.twinside.org.sg/title/icftu-cn.htm</p> <p>Peer Review Comments: U.S. workers in practice have fewer rights and have worse benefits than that of other industrialized countries. The United States continues to allow employers to hire workers on at "at will" basis, which means that a worker may be discharged without cause unless the discharge was motivated by prejudice.</p>

3 In practice, do CSOs actively engage in public advocacy campaigns?

Score: almost always/1.00



Comments: There are thousands of CSOs that actively engage in public advocacy campaigns in the United States.
References:

4 Are citizens able to form CSOs?

- 4a: In practice, the government does not create barriers to the organization of new CSOs.

Score: almost always/1.00



Comments: CSOs can be established easily as nonprofit corporations. Nonprofit status enables the organization to avoid taxation and allows contributions to be tax-deductible. Forming a nonprofit corporation is much like creating a regular corporation, except that nonprofits have to take the extra steps of applying for tax-exempt status with the IRS and their state tax division. The application involves: filing the paperwork, usually called "articles of incorporation," and paying a small filing fee (typically \$30 or \$40); applying for federal and state tax exemptions; creating corporate "bylaws," which set out the operating rules for the nonprofit corporation; and holding the first meeting of the board of directors.
References: http://biz.findlaw.com/business_organizations/choosing/nolo/ency/EA3D3043-9A88-43F5-8DC869639F0F6E77.html

- 4b: In practice, citizens can obtain any necessary license to form a CSO within a reasonable time period.

Score: < 1 month/1.00



Comments: In Washington, D.C, for example, registration typically takes two weeks.
References: Phone inquiry to the District of Columbia's Department of Consumer and Regulatory Affairs.

- 4c: In practice, citizens can obtain any necessary license to form a CSO at a reasonable cost.

Score: almost always/1.00



Comments: Fees for forming nonprofit corporations and associations are nominal; in Washington, D.C., for example, registering a nonprofit corporation costs \$70 in filing and indexing fees.
References: http://dcra.dc.gov/information/build_pla/business_services/coporations_division.shtm

- 4d: In practice, in the past year, no existing CSO has been banned by the government for non-violent advocacy.

Score: yes/1.00



Comments: Yes, in the past year, no existing CSO has been banned by the government for non-violent advocacy.
References: Lexis Nexis search.

5 Are civil society activists safe when working on corruption issues?

- 5a: In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

Score: yes/1.00



Comments: Yes, in the past year, no civil society activists working on corruption issues have been imprisoned.
References: Transparency International daily corruption news archive search: <http://www.transparency.org/cgi-bin/dcn-search.pl>

- 5b: In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

Score: yes/1.00



Comments: Yes, in the past year, no civil society activists working on corruption issues have been physically harmed.
References: Transparency International daily corruption news archive search: <http://www.transparency.org/cgi-bin/dcn-search.pl>

- 5c: In practice, in the past year, no civil society activists working on corruption issues have been killed.

Score: yes/1.00



Comments: Yes, in the past year, no civil society activists working on corruption issues have been killed.
References: Transparency International daily corruption news archive search:
<http://www.transparency.org/cgi-bin/dcn-search.pl>

U.S.A.: Civil Society, Public Information and Media

Sub-Category: I-2/Access to Information Law

	Indicators	Scores
6	In law do citizens have a right of access to information?	1.00
7	In practice, is the right of access to information effective?	

Indicator and sub-Indicator Details

6 In law do citizens have a right of access to information?

- 6a: *In law, do citizens have a right of access information and basic government records?*

Score: yes/1.00



Comments: Yes, Title 5, Section 552 of the U.S. Code grants freedom of information to the public.

References: Freedom of Information Act, <http://www4.law.cornell.edu/uscode/5/552.html>

Peer Review Comments: This only applies to the federal government. The federal Freedom of Information Act does not apply to state, county or local governments, and those laws are all over the board as far as their scope. Some states do put strict time limits on FOI requests and some are quite good about meeting those deadlines. Others, as well as the federal government, vary. Some federal agencies have FOI backlogs going back years, while others are incredibly responsive. The same is true on the state level. [Comment 2]: In practice, a citizen's right to information is often restricted in the national security, foreign policy and environmental area. Executive branch decision-making is often not subject to public scrutiny.

- 6b: *In law, do citizens have a right of appeal if access to a basic government record is denied?*

Score: yes/1.00



Comments: Yes, under Title 5, Section 552 of the U.S. Code, citizens can sue for access to records that a government agency has denied.

References: <http://www4.law.cornell.edu/uscode/5/552.html>

7 In practice, is the right of access to information effective?

Score: Composite value, See commentary

Comments: This indicator is a composite of access to information scores in all sectors of government. Based on those measures, this country scored a 97 out of a best possible score of 100.

References:

U.S.A.: Civil Society, Public Information and Media

Sub-Category: I-3/Freedom of the Media

	Indicators	Scores
8	In law, is freedom of the media guaranteed?	1.00
9	In law, is freedom of speech guaranteed?	1.00
10	Are citizens able to form media entities?	0.81
11	Is the media able to report on corruption?	1.00
12	Are journalists safe when investigating corruption?	1.00

Indicator and sub-Indicator Details

8 In law, is freedom of the media guaranteed?

Score: yes/1.00



Comments: Yes, the first amendment of the U.S. Constitution guarantees freedom of the press.
References: <http://www.law.cornell.edu/constitution/constitution.billofrights.html#amendment1>
Peer Review Comments: The media can operate in a free environment. Market factors and lack of citizen interest has resulted in a low level of public discussion of critical issues.

9 In law, is freedom of speech guaranteed?

Score: yes/1.00



Comments: Yes, the first amendment of the U.S. Constitution guarantees freedom of speech.
References: <http://www.law.cornell.edu/constitution/constitution.billofrights.html#amendment1>

10 Are citizens able to form media entities?

- 10a: *In practice, the government does not create barriers to forming a media entity.*

Score: almost always/1.00



Comments: The FCC auctions commercial broadcast licenses where multiple applicants for the same spectrum exist and awards noncommercial educational licenses on a point system where multiple applicants exist.
References: <http://www.fcc.gov/mb/audio/getstat.html>
Peer Review Comments: Though the FCC tends to favor major corporate interests, the U.S. government does not put into place barriers to entry.

- 10b: *In law, where a license is necessary, there is an appeal mechanism if a license is denied or revoked.*

Score: yes/1.00



Comments: Appeals of FCC rulings can be made in the U.S. Court of Appeals.
References: Website search (through the Google search engine) on FCC appeals.

- 10c: *In practice, where necessary, citizens can obtain a media license within a reasonable time period.*

Score: < 1 year/0.25



Comments: Currently, the FCC Web site states that it is not accepting applications for commercial FM or AM radio stations, but will announce a filing window during which new station applications and major change applications may be filed.
References: <http://www.fcc.gov/mb/audio/getstat.html>

- 10d: *In practice, where necessary, citizens can obtain a media license at a reasonable cost.*

Score: almost always/1.00



Comments: Application fees for commercial ventures are \$3,575 for television stations, \$3,180 for AM radio stations and \$2,865 for FM radio stations. The fees are waived for nonprofit and government entities.
References: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-225457A1.pdf

11 Is the media able to report on corruption?

- 11a: *In law, it is legal to report accurate news even if it damages the reputation of a public figure?*

Score: yes/1.00



Comments: The United States does not have insult laws.
References: "Freedom of the Press 2003," Freedom House, <http://www.freedomhouse.org/pfs2003/pfs2003.pdf>

- 11b: *In practice, the government does not encourage self-censorship of corruption-related stories.*

Score: almost always/1.00



Comments: In practice, prior restraint applied to a corruption-related story, if it has happened at all, is exceedingly rare.
References:
Peer Review Comments: In July 2002, an editor and a publisher in Kansas were convicted of criminal libel. Nineteen states permit such prosecution.

- 11c: *In practice, there is no prior restraint on publishing corruption-related stories.*

Score: almost always/1.00

Positive



Negative

Comments: In practice, there is almost always no prior restraint on publishing corruption-related stories.

References:

Peer Review Comments: The concept of "corruption" is very complex. The media does a poor job of keeping the public informed and is fairly passive in its political reporting.

12 Are journalists safe when investigating corruption?

- 12a: *In practice, in the past year, no journalists investigating corruption have been imprisoned.*

Score: yes/1.00

Positive



Negative

Comments: Yes, in the past year, no journalists investigating corruption have been imprisoned.

References: Transparency International daily corruption news archive search at <http://www.transparency.org/cgi-bin/dcn-search.pl>.

- 12b: *In practice, in the past year, no journalists investigating corruption have been physically harmed.*

Score: yes/1.00

Positive



Negative

Comments: Yes, in the past year, no journalists investigating corruption have been physically harmed.

References: Transparency International daily corruption news archive search at <http://www.transparency.org/cgi-bin/dcn-search.pl>.

- 12c: *In practice, in the past year, no journalists investigating corruption have been killed.*

Score: yes/1.00

Positive



Negative

Comments: Yes, in the past year, no journalists investigating corruption have been killed.

References: Transparency International daily corruption news archive search at <http://www.transparency.org/cgi-bin/dcn-search.pl>.

U.S.A.: Electoral and Political Processes

Country Home	Country Facts	Corruption Timeline	Corruption Notebook	Integrity Assessment	Integrity Scorecard
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Sub-Category: II-1/National Elections

	Indicators	Scores
13	In law, is universal and equal adult suffrage guaranteed to all citizens?	1.00
14	Can all citizens exercise their right to vote freely and fairly?	1.00
15	Do citizens participate in the political process?	0.80

Indicator and sub-Indicator Details

13 In law, is universal and equal adult suffrage guaranteed to all citizens?

Score: yes/1.00



Comments: In 1869, the 15th Amendment to the U.S. Constitution granted all men the right to vote, regardless of their race, color, or previous servitude; in 1920, the 19th Amendment granted women the right to vote; in 1964, the 24th Amendment prohibited states from using poll taxes to keep minorities from voting; in 1965, the Voting Rights Act protected minorities from literacy tests and complicated ballot boxes that could disenfranchise them; and in 1971, the 26th Amendment lowered the voting age from 21 to 18 years.

References: http://www.edgate.com/elections/inactive/history_of_the_vote/

14 Can all citizens exercise their right to vote freely and fairly?

- 14a: *In practice, all adult citizens can vote.*

Score: almost always/1.00



Comments: The voting irregularities that came to light in Florida during the 2000 presidential election represent disenfranchisement for a small percentage of the electorate. Passage of the Help America Vote Act of 2002 addresses some of these problems by ensuring voters are not turned away at the polls and by requiring devices to allow voters to correct their ballots.

References: http://www.lwv.org/where/promoting/votingrights_hava_recom.html

- 14b: *In practice, ballots are secret or equivalently protected.*

Score: almost always/1.00



Comments: Ballots are almost always secret or equivalently protected.

References: <http://www.freedomhouse.org/research/freeworld/2003/countryratings/usa.htm>

- 14c: *In practice, elections are held according to a regular schedule.*

Score: almost always/1.00



Comments: National elections are held on the first Tuesday following the first Monday of November. Elections for the president of the United States are held every four years; for U.S. Senators every six years; and for U.S. Representatives every two years.

References: <http://www.nass.org/electioninfo/electfaq.html#question06>

15 Do citizens participate in the political process?

- 15a: *In practice, all citizens have a right to form political parties.*

Score: almost always/1.00



Comments: There are 36 "third parties" in existence today that have fielded candidates for office and an additional 13 that have not endorsed candidates for office.

References: <http://www.politics1.com/parties.htm>

- 15b: *In practice, all citizens have a right to run for public office.*

Score: almost always/1.00



Comments: Citizens have a right to run for public office, but there are barriers to doing so, principally the cost of campaigns and the control of party nominations by party elites. The barriers to running for public office are much lower at the local level than at the national level.

References: See, for example, such guidelines to running for office as: "How to Run for Local Office: A Complete, Step-By-Step Guide that Will Take You Through the Entire Process of Running and Winning a Local Election" by Robert J. Thomas, Doug Gowen and Joseph Marshall.

- 15c: *In practice, at least 30 percent of national legislators are women.*

Score: no/0.00



Comments: Women represent less than 15 percent of national legislators.

References: <http://www.house.gov/house/MemberWWW.html>;
http://www.wikipedia.org/wiki/List_of_United_States_Senators

- 15d: *In practice, the ruling political party controls less than 2/3 of seats in the legislature.*

Score: yes/1.00



Comments: The ruling party, the Republicans, control 51 out of 100 seats in the Senate and 229 out of 435 seats in the House.

References: http://www.wikipedia.org/wiki/United_States_Congress

- 15e: *In practice, during the most recent election, political parties received media coverage roughly proportional to their popular support.*

Score: almost always/1.00



Comments: Democrats and Republicans dominated the election with roughly equal coverage to the two presidential candidates. The Green and Reform parties each received votes in the single digits and their share of press coverage was similarly low.

References: E-mail correspondence with Stephen Ansolabehere, expert on the role of the media in US politics.

U.S.A.: Electoral and Political Processes

Sub-Category: II-2/Election Monitoring Agency

	Indicators	Scores
16	In law, is there an election monitoring agency?	1.00
17	Is the election monitoring agency effective?	0.75

Indicator and sub-Indicator Details

16 In law, is there an election monitoring agency?

Score: yes/1.00



Comments: The Federal Election Commission has monitored the financing of federal elections and assisted with the administration of federal elections since 1975. The Help America Vote Act of 2002 establishes an Election Assistance Commission, which will take over responsibility for assisting with the administration of elections in 2003. The work of administering elections includes responding to problems that surfaced in Florida in the last presidential election, such as punch voting card systems.

References: <http://www.fec.gov/hava/hava.htm>; <http://www.fec.gov/about.html>

17 Is the election monitoring agency effective?

- 17a: *In law, the agency is protected from political interference.*

Score: yes/1.00



Comments: The commission is made up of six members, who are appointed by the president and confirmed by the Senate. Each member serves a six-year term, and two seats are subject to appointment every two years. By law, no more than three commissioners can be members of the same political party, and at least four votes are required for any official commission action. This structure was created to encourage nonpartisan decisions. The chairmanship of the commission rotates among the members each year, with no member serving as chairman more than once during his or her term.

References: <http://www.fec.gov/about.html>

- 17b: In practice, agency appointments are made that support the independence of the agency.

Score: rarely/0.25



Comments: In 2002, President Bush made a clearly political appointment with Michael Toner, who served as chief counsel to the Republican National Committee and as general counsel to the Bush/Cheney Transition and Bush/Cheney 2000 Presidential Campaign. While this does not support independence of the agency, the appointment of other commissioners appears less clearly political.

References: <http://www.fec.gov/pdf/ar02.pdf>

Peer Review Comments: In practice, you see the FEC commissioners defending the interests of their party, either Republican or Democrat. Though the Green and Reform parties have been very active in national politics, you won't see a commissioner from either of those parties. The make-up of the group (three Democrats and three Republicans) lends itself to inaction because four votes are needed. Picking the membership of the board is a highly politicized process, in which both major parties and politicians have an interest. In my opinion, the major criterion is not protecting the independence of the agency, but rather protecting the interests of each party. [Comment 2]: I would argue that the current FEC structure gives the appearance of reduced political interference, but the organization's equal partisan split results largely in inaction, not effectiveness. From the perspective of an independent or third party voter, the FEC represents a monolithic protector of Democratic and Republican interests. In this respect it mirrors the ethics committees on Capitol Hill, which have been instructed by party leaders on both sides to avoid investigations whenever possible.

- 17c: In practice, the agency has a professional, full-time staff.

Score: almost always/1.00



Comments: The annual report lays out the biographies of the commissioners and other key officials, and lays out the staffing and budget allocations by function within the FEC.

References: <http://www.fec.gov/pdf/ar02.pdf>

- 17d: In practice, the agency makes reports to the legislature following an election cycle.

Score: almost always/1.00



Comments: The FEC makes annual reports to the president and Congress.

References: <http://www.fec.gov/pages/anreport.htm>

Peer Review Comments: The FEC has a large professional staff, and makes regular reports to congress and even more regular reports about political activities it regulates to the public.

- 17e: In practice, when necessary, the agency imposes penalties on offenders.

Score: sometimes/0.50



Comments: In 2002, for example, the FEC entered into conciliation agreements requiring the payment of more than \$1.3 million in total civil penalties.

References: <http://www.fec.gov/pdf/ar02.pdf>

Peer Review Comments: The FEC does assess penalties, but it's worth noting that a number of offenders are not penalized because of the make-up of the board (3-3), and because the FEC itself is a reactive body. It does not have the authority to police, but rather it must wait until a complaint is filed before it can take action. Some of the more egregious violations of the law are never pursued because no one ever files a complaint. [Comment 2]: Given the hundreds of millions spent on elections nationwide, fines of \$1.3 million seem like a drop in the bucket and appear to offer little in the way of deterrence. See, for example, the Washington Post editorial on Jan. 16, 2004.

U.S.A.: Electoral and Political Processes

Sub-Category: II-3/Political Party Finances

	Indicators	Scores
18	Are there regulations governing political party finances?	0.75
19	Are the regulations governing political party finances effective?	0.75
20	Can citizens access the financial records of political parties?	1.00

Indicator and sub-Indicator Details

18 Are there regulations governing political party finances?

- 18a: *In law, there are regulations governing private contributions to political parties.*

Score: yes/1.00



Comments: The Federal Campaign Finance Law of 1971, as amended, and the Bipartisan Campaign Reform Act of 2002 (BCRA) regulate public and private contributions to political parties.

References: <http://www.fec.gov/pages/brochures/fecfeca.htm#anchor263917>

- 18b: *In law, there are limits on individual donations to candidates and political parties.*

Score: yes/1.00



Comments: The Bipartisan Campaign Reform Act of 2002 increases the annual limits on individual donations to \$2,000 for candidates and \$10,000 to political committees.

References: http://www.fec.gov/pdf/nprm/contribution_lim_pro/fr67n223p69927.pdf

Peer Review Comments: 527 organizations have changed this dramatically (See: [http://www.publicintegrity.org/527/.](http://www.publicintegrity.org/527/))

- 18c: *In law, there are limits on corporate donations to candidates and political parties.*

Score: yes/1.00



Comments: Corporations are prohibited from funding federal campaigns directly, but can fund political action committees. Contributions from corporations are, however, permissible in many state and local elections.

References: http://www.fec.gov/pdf/nprm/contribution_lim_pro/fr67n223p69927.pdf

- 18d: *In law, there are limits on total party expenditure.*

Score: no/0.00



Comments: There are just limits on expenditures of presidential candidates if the candidate receives funds from the U.S. Treasury.

References: http://www.fec.gov/law/cfr/11_cfr.pdf

19 Are the regulations governing political party finances effective?

- 19a: *In practice, when necessary, an agency monitoring political party finances independently initiates investigations.*

Score: often/0.75



Comments: The FEC carries out audits, reviews committee reports, and responds to sworn complaints and referrals from other government agencies.

References: <http://www.fec.gov/pdf/ar02.pdf>

Peer Review Comments: They do audit reports, and assess fines for late filings and such, but they do not have any authority to independently launch investigations into possible violations of campaign laws.

- 19b: *In practice, when necessary, an agency monitoring political party finances imposes penalties on offenders.*

Score: sometimes/0.50



Comments: In 2002, the FEC entered into conciliation agreements requiring the payment of more than \$1.3 million in total civil penalties.

References: <http://www.fec.gov/pdf/ar02.pdf>

- 19c: *In practice, contributions to political parties are audited.*

Score: almost always/1.00



Comments: The FEC carries out audits of contributions.

References: <http://www.fec.gov/pdf/ar02.pdf>

20 Can citizens access the financial records of political parties?

- 20a: *In law, citizens can access the financial records of political parties.*

Score: yes/1.00



Comments: These records are available on the FEC Web site.

References: <http://www.fec.gov/pages/anreport.htm>

- 20b: *In practice, citizens can access the financial records of political parties within a reasonable*

time period.

Score: < 1 month/1.00



Comments: These records are available immediately on the FEC Web site.

References: <http://www.fec.gov/pages/anreport.htm>

- 20c: *In practice, citizens can access the financial records of political parties at a reasonable cost.*

Score: almost always/1.00



Comments: These records are available without charge on the FEC Web site.

References: <http://www.fec.gov/pages/anreport.htm>

U.S.A.: Branches of Government

Sub-Category: III-1/Executive

	Indicators	Scores
21	In law, can citizens sue the government for infringement of their civil rights?	1.00
22	Can members of the executive be held accountable for their actions?	1.00
23	Is the executive leadership subject to prosecution?	1.00
24	Are there regulations governing conflicts of interest by the executive branch?	1.00
25	Can citizens access the asset disclosure records of the head of state?	1.00
26	In practice, is the ruling party distinct from the state?	1.00

Indicator and sub-Indicator Details

21 In law, can citizens sue the government for infringement of their civil rights?

Score: yes/1.00



Comments: The first amendment of the U.S. Constitution grants citizens the right to petition the government for a redress of grievances.

References: http://www.law.cornell.edu/topics/first_amendment.html

22 Can members of the executive be held accountable for their actions?

- 22a: *In practice, members of the executive give reasons for their policy decisions.*

Score: almost always/1.00



Comments: The White House conducts press briefings almost daily, in an effort to explain policy decisions and events.

References: <http://www.whitehouse.gov/news/briefings/>

Peer Review Comments: There is concern about using the White House as an objective arbiter of executive privilege, especially this most secretive of administrations.

- 22b: *In law, the judiciary can review the actions of the executive.*

Score: yes/1.00



Comments: Article III of the U.S. Constitution grants authority to the Supreme Court for all cases arising under the Constitution or other laws of the United States. Section 13 of the Judiciary Act more explicitly authorizes the Supreme Court "to issue writs of mandamus, in cases warranted by the principles and usages of law, to any courts appointed, or persons holding office, under the authority of the United States." It is the 1803 Supreme Court case Marbury v. Madison, however, which most definitively established the principle of judicial review.

References: <http://www.law.cornell.edu/constitution/constitution.articleiii.html#section1;>
<http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/marburytexts.html#The%20Judiciary%20Act>

- 22c: *In practice, when necessary, the judiciary reviews the actions of the executive.*

Score: almost always/1.00



Comments: The Supreme Court hears cases on actions of the executive, but does not initiate such reviews. The Department of Justice, the General Accounting Office, and private litigants usually initiate such proceedings. Impeachment proceedings are initiated by Congress.

References: <http://www.fedworld.gov/supcourt/index.htm>

23 Is the executive leadership subject to prosecution?

- 23a: *In law, the head of state is not immune from prosecution.*

Score: yes/1.00



Comments:

References: class.lls.edu/~manheimk/cl1/impeach.doc; <http://www.yorktownuniversity.com/directors.html>

Peer Review Comments: The case of Watergate could be termed a case of corruption as President Nixon was misusing public office (surveillance equipment and personnel) for private gain (information about his

competitor). Nixon resigned under the threat of impeachment, but was then pardoned by his successor, Gerald Ford, so he ultimately escaped prosecution. His vice president, Spiro Agnew, resigned after being charged with bribery. By pleading "no contest," he paid a fine, repaid the amount of bribes, and was debarred, but escaped a prison sentence.

- 23b: In law, ministerial-level officials are not immune from prosecution.

Score: yes/1.00



Comments: There is no provision in the law granting cabinet officials immunity from prosecution.

References:

Peer Review Comments: While many cabinet-level officials have resigned or been removed from office because of corruption allegations, others have been prosecuted.

24 Are there regulations governing conflicts of interest by the executive branch?

- 24a: In law, the head of state is required to file an asset disclosure form.

Score: yes/1.00



Comments: The president is required to file Standard Form (SF) 278 Public Financial Disclosure Report.

References: http://www.usoge.gov/pages/about_oge/foiaguide.html

- 24b: In law, ministerial-level officials are required to file an asset disclosure form.

Score: yes/1.00



Comments: Presidential appointees subject to Senate confirmation, designated agency ethics officials, and certain other officials are required to file Standard Form (SF) 278 Public Financial Disclosure Reports. Other high-level officials are required to file OGE Form 450 Confidential Financial Disclosure Reports.

References: http://www.usoge.gov/pages/about_oge/foiaguide.html

- 24c: In law, there are regulations concerning gifts and hospitality for the executive.

Score: yes/1.00



Comments: The Standards of Conduct cover gifts from outside sources, gifts between employees, conflicting financial interests, impartiality in performing official duties, seeking other employment, misuse of position and outside activities.

References: USG Response to the Committee of Experts Questionnaire, Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

25 Can citizens access the asset disclosure records of the head of state?

- 25a: In law, citizens can access the asset disclosure records of the head of state.

Score: yes/1.00



Comments: The Office of Government Ethics and the executive branch agencies maintain a separate public disclosure system for Standard Form (SF) 278 Public Financial Disclosure Reports filed by high-level executive branch officials. The reports of presidential appointees subject to Senate confirmation, designated agency ethics officials, and certain other officials are available from OGE directly by filing the appropriate access form, OGE Form 201. SF 278 reports of those officials and all other public filers are also available from the officials' own employing departments and agencies throughout the executive branch. These records are available, not under the FOIA, but the Ethics in Government Act of 1978 (5 U.S.C. appendix, § 105), subject to certain restrictions on use (including a general prohibition on commercial use, except for dissemination to the general public by news and communications media).

References: http://www.usoge.gov/pages/about_oge/foiaguide.html

- 25b: In practice, citizens can access the asset disclosure records of the head of state within a reasonable time period.

Score: < 1 month/1.00



Comments: The Office of Government Ethics usually responds to requests for information within the 20 working days provided under the law.

References: http://www.usoge.gov/pages/about_oge/foiaguide.html

- 25c: In practice, citizens can access the asset disclosure records of the head of state at a reasonable cost.

Score: almost always/1.00



Comments: Filing of a request typically costs about \$25 in fees.

References: http://www.usoge.gov/pages/about_oge/foiaguide.html

26 In practice, is the ruling party distinct from the state?

Score: almost always/1.00



Comments: In practice, the ruling party is almost always distinct from the state.

References:

U.S.A.: Branches of Government

Sub-Category: III-2/Legislature

	Indicators	Scores
27	Can members of the legislature be held accountable for their actions?	1.00
28	In law, are members of the legislature subject to prosecution?	1.00
29	Are there regulations governing conflict of interest by members of the legislature?	1.00
30	Can citizens access the asset disclosure records of members of the legislature?	1.00
31	Can citizens access legislative processes and documents?	1.00
32	Does the legislature have control of the budget?	1.00
33	Can citizens access the national budgetary process?	1.00
34	In law, is there a separate legislative committee which provides oversight of public funds?	1.00
35	Is the legislative committee overseeing the expenditure of public funds effective?	0.63

Indicator and sub-Indicator Details

27 Can members of the legislature be held accountable for their actions?

- 27a: *In law, the judiciary can review the actions of the legislature.*

Score: yes/1.00



Comments: The Supreme Court reviews the constitutionality of legislation.

References: USG Response to the Committee of Experts Questionnaire, Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 27b: *In practice, when necessary, the judiciary reviews the actions of the legislature.*

Score: almost always/1.00



Comments: The Supreme Court hears cases on the constitutionality of legislation, but does not initiate such reviews. The Department of Justice and private litigants usually initiate such proceedings.

References: <http://www.fedworld.gov/supcourt/index.htm>

28 In law, are members of the legislature subject to prosecution?

Score: yes/1.00



Comments: The Constitution granted legislators "privilege from arrest," but in current practice, this clause applies only to arrests in civil suits, which were still common at the time the Constitution was adopted. It does not apply to service of process in either civil or criminal cases. Nor does it apply to arrest in any criminal case.

References: <http://supreme.lp.findlaw.com/constitution/article01/21.html>

Peer Review Comments: Witness recent investigations of Representative Traficant and Senator Torricelli.

29 Are there regulations governing conflict of interest by members of the legislature?

- 29a: *In law, members of the legislature are required to file an asset disclosure form.*

Score: yes/1.00



Comments: Yes, members of the legislature are required to file an asset disclosure form.

References: USG Response to the Committee of Experts Questionnaire, Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 29b: In law, there are regulations concerning gifts and hospitality for members of the legislature.

Score: yes/1.00



Comments: Yes, there are regulations.

References: USG Response to the Committee of Experts Questionnaire, Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

30 Can citizens access the asset disclosure records of members of the legislature?

- 30a: In law, citizens can access the asset disclosure records of members of the legislature.

Score: yes/1.00



Comments: The Ethics in Government Act requires that a requester make a written request for the asset disclosure records of members of the legislature.

References: USG Response to the Committee of Experts Questionnaire, Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 30b: In practice, citizens can access these records within a reasonable time period.

Score: < 1 month/1.00



Comments: The USG response to the questionnaire on the Inter-American Convention Against Corruption indicates that financial disclosure reports "can readily be obtained."

References: USG Response to the Committee of Experts Questionnaire, Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 30c: In practice, citizens can access these records at a reasonable cost.

Score: almost always/1.00



Comments: There is no cost associated with requesting these records.

References: USG Response to the Committee of Experts Questionnaire, Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

31 Can citizens access legislative processes and documents?

- 31a: In law, citizens can access records of legislative processes and documents.

Score: yes/1.00



Comments: The Congressional Record publishes a daily transcript of all Congressional hearings and introduced bills.

References: USG Response to the Committee of Experts Questionnaire, Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 31b: In practice, citizens can access these records within a reasonable time period.

Score: < 1 month/1.00



Comments: The Congressional Record is published daily, and is available online.

References: <http://www.gpoaccess.gov/crecord/>

- 31c: In practice, citizens can access these records at a reasonable cost.

Score: almost always/1.00



Comments: The records are available at no cost over the Internet.

References: <http://www.gpoaccess.gov/crecord/>

32 Does the legislature have control of the budget?

- 32a: In law, the legislature can amend the budget.

Score: yes/1.00



Comments: The president proposes a budget, which the Congress reviews and modifies, before it is passed and signed into law.

References: <http://w3.access.gpo.gov/usbudget/fy2001/guide03.html#The%20Budget%20Process>

- 32b: *In practice, significant public expenditures require legislative approval.*

Score: almost always/1.00



Comments: Significant public expenditures almost always require legislative approval.

References: <http://w3.access.gpo.gov/usbudget/fy2001/guide03.html#The%20Budget%20Process>

33 Can citizens access the national budgetary process?

- 33a: *In practice, the national budgetary process is conducted in a transparent manner in the debating stage.*

Score: almost always/1.00



Comments: Debates in Congress on the budget are televised.

References:

- 33b: *In practice, citizens provide input at budget hearings.*

Score: almost always/1.00



Comments: Scores of committees and subcommittees hold hearings on budget proposals under their jurisdiction. The House and Senate Armed Services Authorizing Committees and the Defense and Military Construction Subcommittees of the Appropriations Committees, for instance, hold hearings on the president's defense plan. If the president's budget proposed changes in taxes, the House and Senate Budget and Appropriations Committees would hold hearings.

References: <http://w3.access.gpo.gov/usbudget/fy2001/guide03.html#The%20Budget%20Process>

- 33c: *In practice, citizens can access itemized budget allocations.*

Score: almost always/1.00



Comments: Yes. The budget is available on the Web.

References: <http://w3.access.gpo.gov/usbudget/fy2004/db.html>

34 In law, is there a separate legislative committee which provides oversight of public funds?

Score: yes/1.00



Comments: The House and Senate Budget and Appropriations Committees provide oversight of public funds along with the General Accounting Office, an auditing arm of Congress.

References: <http://w3.access.gpo.gov/usbudget/fy2001/guide03.html#The%20Budget%20Process>

35 Is the legislative committee overseeing the expenditure of public funds effective?

- 35a: *In practice, department heads regularly submit reports to this committee.*

Score: almost always/1.00



Comments: In practice, they do so almost always.

References: <http://waysandmeans.house.gov/About.asp?section=6>;
<http://www.senate.gov/~finance/sitepages/hearings.htm>

- 35b: *In practice, a member of an opposition party presides over this committee.*

Score: almost never/0.00



Comments: Currently, the chairman of the House and Senate Budget and Appropriations Committees are Republicans, but that is because the party has a majority in Congress. Divided government (one party controlling Congress, the other the White House) has been the norm since the end of the Second World War.

References: <http://waysandmeans.house.gov/About.asp?section=6>;
<http://www.senate.gov/~finance/sitepages/hearings.htm>

Peer Review Comments: Note that currently we have a more unified system than in the UK, with one party controlling the House, Senate and the presidency and no sharing of committee chairs.

- 35c: *In practice, this committee is protected from political interference.*

Score: sometimes/0.50



Comments: Politics certainly play a role in what happens in Congress, especially when Congress is controlled by the same party as the president.

References: <http://waysandmeans.house.gov/About.asp?section=6>

Peer Review Comments: This is an argument for "Divided Government," which this country practiced for decades.

- 35d: *In practice, when necessary, this committee initiates independent investigations into financial irregularities.*

Score: almost always/1.00



Comments: In practice, when necessary, the committee almost always does so.

References: <http://waysandmeans.house.gov/About.asp?section=6>;
<http://www.senate.gov/~finance/sitepages/hearings.htm>

U.S.A.: Branches of Government

Sub-Category: III-3/Judiciary

	Indicators	Scores
36	In law, is the independence of the judiciary guaranteed?	1.00
37	Is the appointment process for high court judges effective?	0.90
38	Can members of the judiciary be held accountable for their actions?	1.00
39	Can citizens access the judicial system?	0.75
40	In law, is there a program to protect witnesses in corruption cases?	1.00
41	Are judges safe when adjudicating corruption cases?	1.00

Indicator and sub-Indicator Details

36 In law, is the independence of the judiciary guaranteed?

Score: yes/1.00



Comments: Yes, the independence is guaranteed by law.

References:

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/www.supremecourtus.gov/about/constitutional.pdf>

37 Is the appointment process for high court judges effective?

- 37a: *In practice, there is a transparent procedure for selecting high court judges.*

Score: sometimes/0.50



Comments: The president of the United States nominates judges, but the nomination process itself is rather opaque.

References:

Peer Review Comments: For high court judges, the nomination process receives a great deal of attention in the media. The Senate Judicial Committee hearings are frequently televised.

- 37b: *In practice, there are certain professional criteria required for the selection of high court judges.*

Score: almost always/1.00



Comments: There are almost always professional criteria.

References:

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/www.supremecourtus.gov/about/biographiescurrent.pdf>

- 37c: *In law, there is a confirmation process for high court judges (i.e. conducted by the legislature or an independent body).*

Score: yes/1.00



Comments: The Senate confirms judicial appointments.

References: <http://www.supremecourtus.gov/about/briefoverview.pdf>

Peer Review Comments: The Bush administration has twice installed controversial judges when Congress was in recess, thus temporarily avoiding the confirmation process.

- 37d: *In law, high court judges are protected from removal without relevant justification.*

Score: yes/1.00



Comments: The Constitution mandates that judges shall serve during "good behavior" which has generally meant life terms, and that judges' salaries may not be diminished while they are in office.

References: http://www.archives.gov/exhibit_hall/charters_of_freedom/constitution/constitution_transcription.html

- 37e: *In practice, high court judges are protected from political interference.*

Score: almost always/1.00



Comments: Supreme Court justices may demonstrate their own political leanings, but are not, generally speaking, susceptible to political pressures.

References:

38 Can members of the judiciary be held accountable for their actions?

- 38a: *In law, members of the judiciary are obliged to give reasons for their decisions.*

Score: yes/1.00



Comments: Yes, they are obliged to do so.

References:

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/www.supremecourtus.gov/about/procedures.pdf>

- 38b: *In practice, members of the judiciary give reasons for their decisions.*

Score: almost always/1.00



Comments: Yes, the members of the judiciary almost always do so.

References:

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/www.supremecourtus.gov/about/procedures.pdf>

- 38c: *In law, there is an ombudsman (or equivalent agency) for the judicial system.*

Score: yes/1.00



Comments: The Judicial Conference of the United States is the governing body of the federal courts system. It is composed of 27 federal judges, with the chief justice of the United States serving as the presiding officer. The Judicial Conference has a Committee on Codes of Conduct that reviews the conduct of judges, judicial employees and public defender employees. The procedures for filing and responding to complaints against judges are prescribed by statute, 28 U.S.C. 372(c).

References: United States Government Response to the Questionnaire on the Inter-American Convention Against Corruption, May 24, 2002.

- 38d: *In law, the judicial ombudsman (or equivalent agency) is protected from political interference.*

Score: yes/1.00



Comments: Yes, there is legal protection.

References: United States Government Response to the Questionnaire on the Inter-American Convention Against Corruption, May 24, 2002.

- 38e: *In practice, when necessary, the judicial ombudsman (or equivalent agency) initiates investigations.*

Score: almost always/1.00



Comments: Investigations are almost always initiated when necessary.

References: United States Government Response to the Questionnaire on the Inter-American Convention Against Corruption, May 24, 2002.

- 38f: *In practice, when necessary, the judicial ombudsman (or equivalent agency) imposes penalties on offenders.*

Score: almost always/1.00



Comments: When necessary, penalties are almost always imposed on offenders.

References: <http://www.uscourts.gov/judconfindex.html>

39 Can citizens access the judicial system?

- 39a: *In practice, citizens earning the median yearly income can afford to bring a legal suit.*

Score: often/0.75



Comments: According to the U.S. Census, median household income was \$42,228 in 2001. It is hard to say how much citizens with that income could afford, but even postulating that they could afford to spend roughly one-tenth of that income, or \$4,223, we need to acknowledge that legal fees vary greatly, depending on the quality of legal services and on the amount of legal work involved. Moreover, some lawyers agree to work on a contingency basis such that their fees are contingent on winning the suit. Some law firms offer pro bono services to indigent citizens, and some nonprofit organizations offer legal services at a reduced rate or free of charge.

References: <http://www.census.gov/prod/2002pubs/p60-218.pdf>

- 39b: *In practice, a typical small retail business can afford to bring a legal suit.*

Score: rarely/0.25



Comments: Legal fees vary greatly, depending on the quality of legal services and the amount of legal work involved, but are generally prohibitive for a typical small business. Pro bono and nonprofit legal assistance, moreover, is usually available for individuals and not businesses.

References:

- 39c: *In practice, the state provides legal counsel for defendants in criminal cases who cannot afford it.*

Score: almost always/1.00



Comments: This is quite common.

References:

- 39d: *In practice, all citizens have access to a court of law, regardless of geographic location.*

Score: almost always/1.00



Comments: Local and district courts are located throughout the country.

References: <http://www.supremecourtus.gov/about/circuitmap.html>

40 In law, is there a program to protect witnesses in corruption cases?

Score: yes/1.00



Comments: Many laws protect whistle-blowers against retaliatory actions, but the statutes lack uniformity and leave whistle-blowers in such areas as food safety, patient abuse and Homeland Security unprotected. Moreover, a survey of whistle-blowers who contacted the National Whistleblower Center in 2002 demonstrated that retaliation against whistle-blowers remains a major problem in the United States. Almost half of those surveyed reported that they were terminated after they blew the whistle. The National Whistleblower Center advocates the passage of a comprehensive National Whistleblower Protection Act.

References: <http://www.whistleblowers.org/labordayreport.htm>

41 Are judges safe when adjudicating corruption cases?

- 41a: *In practice, in the last year, no high court judges have been physically harmed because of adjudicating corruption cases.*

Score: yes/1.00



Comments: Yes, in the last year, no high court judges have been physically harmed because of adjudicating corruption cases.

References:

- 41b: *In practice, in the last year, no high court judges have been killed because of adjudicating corruption cases.*

Score: yes/1.00



Comments: Yes, in the last year, no high court judges have been killed because of adjudicating corruption cases.

References:

U.S.A.: Administration and Civil Service

Country Home	Country Facts	Corruption Timeline	Corruption Notebook	Integrity Assessment	Integrity Scorecard
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Sub-Category: IV-1/Civil Service Regulations

	Indicators	Scores
42	Are there national regulations for the civil service?	0.83
43	Is the law governing the administration and civil service effective?	0.84
44	In law, are there conflict of interest regulations for senior civil servants?	1.00
45	Can citizens access the asset disclosure records of senior civil servants?	0.83

Indicator and sub-Indicator Details

42 Are there national regulations for the civil service?

- 42a: *In law, there are regulations requiring an impartial and independent civil service.*

Score: yes/1.00



Comments: The Pendleton Civil Service Reform Act of 1883 established an independent civil service.

References: http://www.wikipedia.org/wiki/Pendleton_Civil_Service_Reform_Act

- 42b: *In law, there are regulations to prevent nepotism within the civil service.*

Score: yes/1.00



Comments: Yes, there are regulations.

References: http://www.wikipedia.org/wiki/Pendleton_Civil_Service_Reform_Act

- 42c: *In law, there are regulations to prevent cronyism/patronage within the civil service.*

Score: yes/1.00



Comments: Yes, there are regulations.

References: http://www.wikipedia.org/wiki/Pendleton_Civil_Service_Reform_Act

- 42d: *In law, civil servants convicted of corruption are prohibited from future government employment.*

Score: no/0.00



Comments: Under 5 USC 2302(b) (10), even a criminal conviction does not automatically justify taking a job action unless a nexus can be established between the conviction and performance of the employee's duties.

References:

- 42e: *In law, there are restrictions for senior public servants entering positions in the private sector.*

Score: yes/1.00



Comments: Yes, there are legal restrictions.

References: <http://www1.oecd.org/puma/ethics/pubs/ethicsus.htm>

- 42f: *In law, there are regulations and registers concerning gifts and hospitality for senior civil servants?*

Score: yes/1.00



Comments: Yes, there are The Standards of Conduct.

References:

http://www.iit.edu/departments/csep/PublicWWW/codes/coe/US_Government_Standards_of_Ethical_Conduct_Executive_Branch.html

43 Is the law governing the administration and civil service effective?

- 43a: *In practice, civil servants are protected from political interference.*

Score: often/0.75



Comments: In general, civil servants are not likely to lose their jobs from political interference, but politics, especially through high-level political appointees, can interfere with the kind of work that is requested from civil servants.

References: Personal experience working within the State Department.

- 43b: In practice, civil servants are appointed according to professional criteria.

Score: often/0.75



Comments: The president makes a few thousand policy-level appointments, but otherwise nearly all federal jobs are handled within the civil service system which appoints civil servants according to professional criteria.

References: http://www.wikipedia.org/wiki/Pendleton_Civil_Service_Reform_Act

- 43c: In practice, civil servants are not employed based on nepotism.

Score: almost always/1.00



Comments: In practice, civil servants are almost always not employed based on nepotism.

References: Personal experience working within the State Department.

- 43d: In practice, civil servants are not employed based on cronyism/patronage.

Score: often/0.75



Comments: A U.S. Merit Systems Protection Board survey research has confirmed a widespread consensus among federal workers that an "old boy's network" of cronyism is more significant than qualifications for hiring decisions. Until recently, this has not necessarily meant partisan politics as much as office politics or personal networks.

References:

- 43e: In practice, civil servants have clear job descriptions.

Score: almost always/1.00



Comments: In practice, civil servants almost always have clear job descriptions.

References: Personal experience working within the State Department.

- 43f: In practice, in the past year, the government has paid civil servants on time.

Score: almost always/1.00



Comments: This has almost always been the case.

References: Personal experience working within the State Department.

- 43g: In practice, civil servants convicted of corruption are prohibited from future government employment.

Score: almost always/1.00



Comments: In practice, civil servants convicted of corruption are almost always prohibited from future government employment.

References:

- 43h: In practice, restrictions on private sector employment for senior public officials are enforced.

Score: sometimes/0.50



Comments: The Offices of Inspector General take action on complaints, but do not independently monitor the subsequent employment of senior public officials.

References: <http://www.publicintegrity.org/dtaweb/report.asp?ReportID=510&L1=10&L2=10&L3=0&L4=0&L5=0> ;

Peer Review Comments: The "revolving door" of Pentagon-to-private firms is well documented.

44 In law, are there conflict of interest regulations for senior civil servants?

Score: yes/1.00



Comments: Yes, there are The Standards of Conduct.

References:

http://www.iit.edu/departments/csep/PublicWWW/codes/coe/US_Government_Standards_of_Ethical_Conduct_Executive_Branch.html

45 Can citizens access the asset disclosure records of senior civil servants?

- 45a: *In law, citizens can access the asset disclosure records of senior civil servants.*

Score: yes/1.00



Comments: The Ethics in Government Act requires public disclosure of these reports in response to a written request.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 45b: *In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.*

Score: < 6 months/0.50



Comments: The Freedom of Information Act requires the relevant agency to respond to a request for a copy of a financial disclosure report within 20 days.

References: http://www.usoge.gov/pages/about_oge/foiaguide.html

Peer Review Comments: It is a fantasy to expect receipt of records under FOIA deadlines, unless the relevant agency is routinely providing them and FOIA is only a formality. [Comment 2]: The Office of Government Records, which primarily covers executive branch agencies, will respond to this FOIA request promptly. Other areas of government, like the Pentagon, are much more difficult.

- 45c: *In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.*

Score: almost always/1.00



Comments: The Code of Federal Regulations states that an agency may require a reasonable fee, established by agency regulation, to recover the direct cost of reproduction or mailing of a public report, excluding the salary of any employee involved. A copy of the report may be furnished without charge or at a reduced charge if the agency determines that waiver or reduction of the fee is in the public interest. In practice, the fees do not typically exceed \$25.00.

References:

http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/cfr_2003/5cfr2634.603.htm;
http://www.usoge.gov/pages/about_oge/foiaguide.html

U.S.A.: Administration and Civil Service

Sub-Category: IV-2/Whistle-blowing Measures

	Indicators	Scores
46	Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?	0.63
47	Is there an effective internal mechanism (i.e. phone hotline, e-mail address, local office) where civil servants can report corruption?	0.75

Indicator and sub-Indicator Details

46 Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

- 46a: *In law, civil servants who report corruption are protected from recrimination or other negative consequences.*

Score: yes/1.00



Comments: The Whistleblower Protection Act of 1989 provides this protection.

References: <http://www.whistleblowers.org/html/federal.htm>

Peer Review Comments: While true for job actions covered by merit system rules in the civil service, there is a serious exception for federal employees. The Whistleblower Protection Act does not cover retaliation through denying or removing an employee's security clearance, the most common form of harassment against the most active whistle-blowers since Sept. 11, 2001, are those disclosing security breaches or government abuses of power related to security measures.

- 46b: *In practice, civil servants who report corruption are protected from recrimination or other negative consequences.*

Score: rarely/0.25



Comments: While the Whistleblower Protection Act of 1989 was a free speech breakthrough on paper when passed and strengthened in 1994, in practice it has been a Trojan horse that creates more victims than it helps. In terms of coverage, it is almost never relevant when needed: for disclosures of government misconduct connected with an employee's job duties, policy, or any misconduct that anyone else has previously raised. These loopholes were not in law, but created by the Federal Circuit Court of Appeals. Those whose cases are thrown out on technicalities are the lucky ones. From the 1994 amendments to September 2003, the Federal Circuit ruled against whistle-blowers in decisions on the merits (rulings whether free speech rights were violated), in 85 out of 86 decisions. On the administrative level, no whistle-blower has won a decision on the merits since President Bush's appointments were completed in May 2003 for the Merit Systems Protection Board, which conducts fact-finding hearings on alleged retaliation. Congress is considering legislation to restore the law on paper and overhaul the structure of implementation. State statutory whistle-blower protections are as bad on paper as the Whistleblower Protection Act has been in practice. State employees have access to court, however, for First Amendment violations. Federal workers are limited to civil service laws as the exclusive way to enforce their free speech rights.

References: <http://www.whistleblowers.org/html/federal.htm>

- 46c: In law, private sector employees who report corruption are protected from recrimination or other negative consequences.

Score: yes/1.00



Comments: A majority of states have carved out a public policy exception to the termination at-will doctrine and have granted employees whistle-blower protections. In addition, the Sarbanes-Oxley Act of 2002 gives employees the right to sue a public company for whistle-blower retaliation and punishes such retaliation with civil and criminal sanctions. There is no comparable legal protection for employees of privately held companies, however.

References: <http://www.whistleblowers.org/html/private.htm>; <http://www.hotlines.com/prm020103.htm>

- 46d: In practice, private sector employees who report corruption are protected from recrimination or other negative consequences.

Score: rarely/0.25



Comments: In a survey of whistle-blowers who contacted the National Whistleblower Center in 2002, 49.5 percent of respondents alleged that they were terminated after they blew the whistle.

References: <http://www.whistleblowers.org/labordayreport.htm>

Peer Review Comments: The U.S. corporate whistle-blower protection is in a time of dynamic transition. Traditionally protection has been a piecemeal, hit or miss hodgepodge. The Sarbanes-Oxley corporate accountability reform law was a sea change in U.S. corporate free speech rights, establishing access to jury trials for employees of publicly-traded corporations for any misconduct that could threaten the company's financial health. The jury is out about how well the breakthrough will work.

47 Is there an effective internal mechanism (i.e. phone hotline, e-mail address, local office) where civil servants can report corruption?

- 47a: In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

Score: almost always/1.00



Comments: The Offices of Inspector General respond to internal reports on public sector corruption.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 47b: In practice, the internal reporting mechanism for public sector corruption receives regular funding.

Score: almost always/1.00



Comments: Regular funding is almost always granted.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 47c: In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

Score: < 6 months/0.50



Comments: While the law requires speedy action on whistle-blower complaints within 15 days, in practice the agency responsible to implement the system waits months to even acknowledge receipt of the disclosure. While agency reports are supposed to be complete within 60 days, in practice it takes years.

While whistle-blowers are supposed to immediately receive a copy of the agency reports to submit comments within 15 days, in practice the U.S. Office of Special Counsel, which administers the program, may not even transmit them to the whistle-blower for five months.

References:

- 47d: In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

Score: sometimes/0.50



Comments: There are numerous examples of U.S. whistle-blowers making a difference through government investigations, but almost always in the context of a high-profile political and public relations campaign spotlight. Without that backdrop, the rule is to ignore the issues or investigate the whistleblower who raised them, instead of the alleged government misconduct. The exception is to act on the evidence in good faith.

References:

U.S.A.: Administration and Civil Service

Sub-Category: IV-3/Procurement

	Indicators	Scores
48	Is the public procurement process effective?	0.81
49	Can citizens access the public procurement process?	0.90

Indicator and sub-Indicator Details

48 Is the public procurement process effective?

- 48a: In law, there are conflict of interest regulations for public procurement officials.

Score: yes/1.00



Comments: Yes, there are legal regulations.

References: http://www.usoge.gov/pages/laws_regs_fedreg_stats/oge_regs/5cfr2635.html

- 48b: In practice, the conflict of interest regulations for public procurement officials are enforced.

Score: sometimes/0.50



Comments: The most lax enforcement appears with defense contractors. For instance, of the 30 members of the Defense Policy Board, the government-appointed group that advises the Pentagon, at least nine have ties to companies that have won more than \$76 billion in defense contracts in 2001 and 2002. Four members are registered lobbyists, one of whom represents two of the three largest defense contractors. (As of March 28, 2003.)

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002. ;

<http://www.publicintegrity.org/dtaweb/report.asp?ReportID=513&L1=10&L2=10&L3=0&L4=0&L5=0>

Peer Review Comments: While integrity in procurement is the rule rather than exception, it always has been a major topic for the most significant whistle-blowing disclosures. Second, legal controls have been getting gutted and relaxed since September 11 on grounds that "red tape undermines the War on Terrorism." Finally, an inbred "old boys network" traditionally has been more powerful than merit selection for many forms of procurement, such as Pentagon spending. While not formally corrupt, in many instances the results have been just as inferior.

- 48c: In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

Score: yes/1.00



Comments: Yes, there is a mechanism.

References: http://www.usoge.gov/pages/laws_regs_fedreg_stats/oge_regs/5cfr2635.html

- 48d: In law, all major procurements require competitive bidding.

Score: no/0.00



Comments: Most procurements require competitive bidding. These procedures include bids, competitive proposals, or other competitive procedures. However, the exceptions are notable. Most famously, some of the contracts awarded to companies in connection with the Iraq war were awarded without an open bidding process. Halliburton, which Vice President Cheney headed until he became George Bush's running mate in 2000, was one of the companies that received contracts for Iraq without fully open bidding.

References: <http://www.arnet.gov/far/>; <http://www.icij.org/wow/default.aspx>

Peer Review Comments: There are billions of dollars in contracts that do not go through competitive bidding. The law allows for any number of exceptions to the competitive bidding requirement.

- 48e: In law, strict formal requirements limit the extent of sole sourcing.

Score: yes/1.00



Comments: Exceptions to competitive bidding include: the existence of only one responsible source; unusual and compelling urgency; the promotion of an industry or an engineering, developmental, or research capability; the use of expert services in litigation; international agreement; statutory requirement; national security; and public interest.

References: http://www.acqnet.gov/far/current/html/Subpart_1_4.html

- 48f: In law, unsuccessful bidders can instigate an official review of procurement decisions.

Score: yes/1.00



Comments: Yes, in law, unsuccessful bidders can instigate an official review of procurement decisions.

References: http://www.acqnet.gov/far/current/html/Subpart_3_9.html#1039024

- 48g: In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Score: yes/1.00



Comments: Yes, in law, unsuccessful bidders can challenge procurement decisions in a court of law.

References: http://www.acqnet.gov/far/current/html/Subpart_3_9.html#1039024

- 48h: In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in procurement bids.

Score: yes/1.00



Comments: Yes, in law, companies guilty of major violations of procurement regulations are prohibited from participating in procurement bids.

References: http://www.acqnet.gov/far/current/html/Subpart_3_7.html#1039022

- 48i: In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Score: often/0.75



Comments: There is an active excluded parties listing system for government procurement.

References: <http://www.epls.gov/>

Peer Review Comments: Many companies that have bilked the government are not placed on the excluded party list.

49 Can citizens access the public procurement process?

- 49a: In law, citizens can access public procurement regulations.

Score: yes/1.00



Comments: They are available on the Internet at: <http://www.arnet.gov/>.

References:

- 49b: In practice, citizens can access public procurement regulations within a reasonable time period.

Score: < 1 month/1.00



Comments: They are available immediately online.

References:

- 49c: In practice, citizens can access public procurement regulations at a reasonable cost.

Score: almost always/1.00



Comments: They are available for free on the Internet.

References:

- 49d: *In practice, major public procurements are widely advertised.*

Score: almost always/1.00



Comments: FedBizOpps.gov is the single government point-of-entry (GPE) for federal government procurement opportunities over \$25,000. Government buyers are able to publicize their business opportunities by posting information directly to FedBizOpps via the Internet. Through this one portal, commercial vendors seeking federal markets for their products and services can search, monitor and retrieve opportunities solicited by the entire federal contracting community.

References: <http://www.eps.gov/>

- 49e: *In practice, citizens can access the results of major public procurement bids.*

Score: sometimes/0.50



Comments: Typically, this information requires a FOIA request. In practice, the FOIA has never worked in a timely manner as a rule, although there have been patterns of effective informal cooperation for requestors willing and able to go beyond formal requests and work with agency FOIA officers. Since the Sept. 11, 2001, terrorist attacks, the Bush administration has restricted access to information and the Justice Department seems more inclined to litigate FOIA lawsuits.

References: <http://www.icij.org/wow/report.aspx?aid=66>

U.S.A.: Administration and Civil Service

Sub-Category: IV-4/Privatization

	Indicators	Scores
50	Is the privatization process effective?	1.00
51	Can citizens access the terms and conditions of privatization bids?	1.00

Indicator and sub-Indicator Details

50 Is the privatization process effective?

- 50a: *In law, all businesses are eligible to compete for privatized state assets.*

Score: yes/1.00



Comments: Yes, in law, all businesses are eligible to compete for privatized state assets.

References:

- 50b: *In law, there are conflict of interest regulations for government officials involved in privatization.*

Score: yes/1.00



Comments: There are conflict of interest regulations for all government officials.

References:

- 50c: *In practice, conflict of interest regulations for government officials involved in privatization are enforced.*

Score: almost always/1.00



Comments: Because much of the privatization that occurs is quite decentralized, it is hard to judge enforcement of conflicts of interest across the board, but this tends not to be a significant problem area.

References:

51 Can citizens access the terms and conditions of privatization bids?

- 51a: *In law, citizens can access the terms and conditions of privatization bids.*

Score: yes/1.00



Comments: The Freedom of Information Act applies to privatization bids.

References:

- 51b: *In practice, citizens can access the terms and conditions of privatization bids within a*

reasonable time period.

Score: < 1 month/1.00



Comments: The decentralized structure of government and hence privatization make scoring this indicator difficult, but many governments have this information available online and others are required to respond promptly to information requests under the Freedom of Information Act.

References:

- 51c: *In practice, citizens can access the terms and conditions of privatization bids at a reasonable cost.*

Score: almost always/1.00



Comments: Again, the decentralized structure of government and hence privatization make scoring this indicator difficult, but many governments have this information available online, and others are required to furnish it at a reasonable cost under the Freedom of Information Act.

References:

U.S.A.: Oversight and Regulatory Mechanisms

Sub-Category: V-1/National Ombudsman

	Indicators	Scores
52	In law, is there a national ombudsman, public protector or equivalent agency covering the entire public sector?	0.00
53	Is the national ombudsman effective?	0.00
54	Can citizens access the reports of the ombudsman?	0.00

Indicator and sub-Indicator Details

52	In law, is there a national ombudsman, public protector or equivalent agency covering the entire public sector?
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Score: no/0.00



Comments: There is no national ombudsman, but there are several federal agencies, and state and local governments that have ombudsmen.

References:

53	Is the national ombudsman effective?
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- 53a: *In law, the ombudsman is protected from political interference.*

Score: no/0.00



Comments: This is not applicable; there is no national ombudsman.

References:

- 53b: *In practice, the ombudsman is protected from political interference.*

Score: almost never/0.00



Comments: This is not applicable; there is no national ombudsman.

References:

- 53c: *In practice, the ombudsman is protected from removal without relevant justification.*

Score: almost never/0.00



Comments: This is not applicable; there is no national ombudsman.

References:

- 53d: *In practice, the agency has a professional, full-time staff.*

Score: almost never/0.00



Comments: This is not applicable; there is no national ombudsman.

References:

- 53e: *In practice, agency appointments support the independence of the agency.*

Score: almost never/0.00



Comments: This is not applicable; there is no national ombudsman.

References:

- 53f: *In practice, the agency receives regular funding.*

Score: almost never/0.00



Comments: This is not applicable; there is no national ombudsman.

References:

- 53g: *In practice, the agency makes regular reports to the legislature.*

Score: almost never/0.00



Comments: This is not applicable; there is no national ombudsman.

References:

- 53h: *In practice, the government acts on the findings of the agency.*

Score: almost never/0.00



Comments: This is not applicable; there is no national ombudsman.

References:

- 53i: *In practice, the agency acts on citizen complaints within a reasonable time period.*

Score: > 1 year/0.00



Comments: This is not applicable; there is no national ombudsman.

References:

54 Can citizens access the reports of the ombudsman?

- 54a: *In law, citizens can access reports of the ombudsman.*

Score: no/0.00



Comments: This is not applicable; there is no national ombudsman.

References:

- 54b: *In practice, citizens can access the reports of the ombudsman within a reasonable time period.*

Score: > 1 year/0.00



Comments: This is not applicable; there is no national ombudsman.

References:

- 54c: *In practice, citizens can access the reports of the ombudsman at a reasonable cost.*

Score: almost never/0.00



Comments: This is not applicable; there is no national ombudsman.

References:

U.S.A.: Oversight and Regulatory Mechanisms

Sub-Category: V-2/Supreme Audit Institution

	Indicators	Scores
55	In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?	1.00
56	Is the supreme audit institution effective?	1.00
57	Can citizens access reports of the supreme audit institution?	1.00

Indicator and sub-Indicator Details

55 In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Score: yes/1.00



Comments: The General Accounting Office is the audit, evaluation, and investigative arm of Congress. GAO exists to support the Congress in meeting its constitutional responsibilities and to help improve the performance and ensure the accountability of the federal government for the American people. GAO examines the use of public funds, evaluates federal programs and activities, and provides analyses, options, recommendations, and other assistance to help the Congress make effective oversight, policy, and funding decisions. In this context, GAO works to continuously improve the economy, efficiency, and effectiveness of the federal government through financial audits, program reviews and evaluations, analyses, legal opinions, investigations, and other services. GAO's activities are designed to ensure the executive branch's accountability to the Congress under the Constitution and the government's

accountability to the American people.
References: <http://www.gao.gov/index.html>

56 Is the supreme audit institution effective?

- 56a: *In law, the supreme audit institution is protected from political interference.*

Score: yes/1.00



Comments: Yes, in law, the supreme audit institution is protected from political influence.
References: <http://www.gao.gov/index.html>

- 56b: *In practice, the head of the agency is protected from removal without relevant justification.*

Score: almost always/1.00



Comments: Almost always; see the history section of the GAO Web site.
References: <http://www.gao.gov/index.html>

- 56c: *In practice, the agency has a professional, full-time staff.*

Score: almost always/1.00



Comments: The GAO has a staff of 3,200, many of whom are trained professionals.
References: <http://www.gao.gov/index.html>

- 56d: *In practice, agency appointments support the independence of the agency.*

Score: almost always/1.00



Comments: Almost always; see the careers section of the GAO Web site.
References: <http://www.gao.gov/index.html>

- 56e: *In practice, the agency receives regular funding.*

Score: almost always/1.00



Comments: Over the past four years, the GAO's budget has fairly consistently risen by close to 6 percent each year.
References: <http://cf.heritage.org/budget/omb/>

- 56f: *In practice, the agency makes regular reports to the legislature.*

Score: almost always/1.00



Comments: With virtually the entire federal government subject to its review, the agency issues a steady stream of products: in 1999 alone, it published 1,163 reports and testified 229 times before dozens of congressional committees.
References: <http://www.gao.gov/index.html>

- 56g: *In practice, the government acts on the findings of the agency.*

Score: almost always/1.00



Comments: The GAO Web site states that four out of five recommendations made during the past four years have been implemented.
References: <http://www.gao.gov/index.html>

57 Can citizens access reports of the supreme audit institution?

- 57a: *In law, citizens can access reports of the agency.*

Score: yes/1.00



Comments: The GAO Web site provides both summaries and full-text files of reports and testimony dating back to fiscal year 1979. GAO posts full-text files on its Web site daily, often within 24 hours of when a report or testimony is publicly released. Correspondence is available dating back to 1992.
References: <http://www.gao.gov/index.html>

- 57b: *In practice, citizens can access the agency reports within a reasonable time period.*

Score: < 1 month/1.00



Comments: They are available immediately over the Internet.
References: <http://www.gao.gov/index.html>

- 57c: *In practice, citizens can access the agency reports at a reasonable cost.*

Score: almost always/1.00



Comments: They are available for free over the Internet.

References: <http://www.gao.gov/index.html>

U.S.A.: Oversight and Regulatory Mechanisms

Sub-Category: V-3/Taxes and Customs

	Indicators	Scores
58	In law, is there a national tax collection agency?	1.00
59	Is the tax collection agency effective?	1.00
60	In practice, are tax laws enforced uniformly and without discrimination?	0.75
61	In law, is there a national customs and excise agency?	1.00
62	Is the customs and excise agency effective?	1.00
63	In practice, are customs and excise laws enforced uniformly and without discrimination?	0.75

Indicator and sub-Indicator Details

58 In law, is there a national tax collection agency?

Score: yes/1.00



Comments: Yes, there is the Internal Revenue Service.

References:

Peer Review Comments: The Taxpayer Advocate Service is an independent organization within the IRS that helps taxpayers resolve problems with the IRS and recommend changes that will prevent the problems.

59 Is the tax collection agency effective?

- 59a: *In practice, the tax collection agency has a professional, full-time staff.*

Score: almost always/1.00



Comments: The IRS has almost 100,000 employees, many of whom are highly trained professionals.

References: <http://www.irs.gov/irs/article/0,,id=98142,00.html>

- 59b: *In practice, the agency receives regular funding.*

Score: almost always/1.00



Comments: The IRS budget has increased by more than 5 percent each of the past four years.

References: <http://cf.heritage.org/budget/omb/>

- 59c: *In practice, the agency makes regular reports to the legislature.*

Score: almost always/1.00



Comments: It submits an annual performance plan.

References: http://www.irs.gov/pub/irs-utl/annual_performance_plan.pdf

60 In practice, are tax laws enforced uniformly and without discrimination?

Score: often/0.75



Comments: In practice, tax laws are often enforced uniformly and without discrimination.

References: General observation; Charles Lewis, Bill Allison, Center for Public Integrity, "The Cheating of America" 2001.

Peer Review Comments: There has been a good deal of controversy in this area, especially in the last few years. Certain classes of people are far more likely to be audited than other classes. [Comment 2]: The proportion of tax returns audited by the IRS has dropped steadily over the last 20 years, and is now below 1 percent. Similarly, it is widely believed that there are enormous gaps in Customs and INS enforcement

efforts simply due to lack of resources.

61 In law, is there a national customs and excise agency?

Score: yes/1.00



Comments: Yes, it is the U.S. Bureau of Customs and Border Protection, within the Department of Homeland Security.

References: <http://www.customs.ustreas.gov/xp/cgov/home.xml>

62 Is the customs and excise agency effective?

- 62a: *In practice, the customs and excise agency has a professional, full-time staff.*

Score: almost always/1.00



Comments: The Bureau has a workforce of more than 40,000 dedicated employees. Included in those ranks are inspectors, canine enforcement officers, Border Patrol agents, trade specialists and mission support staff.

References: <http://www.customs.ustreas.gov/xp/cgov/home.xml>

- 62b: *In practice, the agency receives regular funding.*

Score: almost always/1.00



Comments: In fact, the budget has increased on average by more than 20 percent in each of the past four years.

References: <http://cf.heritage.org/budget/omb/>

- 62c: *In practice, the agency makes regular reports to the legislature.*

Score: almost always/1.00



Comments: The agency compiles a performance and annual report, as well as a strategic plan every year.

References: <http://www.customs.ustreas.gov/xp/cgov/toolbox/publications/>

63 In practice, are customs and excise laws enforced uniformly and without discrimination?

Score: often/0.75



Comments: The Bureau establishes guidelines to help it evaluate risk and then identify potential cases of illicit cargo, illegal persons, and unsafe conveyances for scrutiny. It is working to improve its capacity to do so through a system of centralizing and integrating the collection and analysis of information.

References: <http://www.customs.ustreas.gov/xp/cgov/toolbox/about/mission/cbp.xml>

U.S.A.: Oversight and Regulatory Mechanisms

Sub-Category: V-4/Financial Sector Regulation

	Indicators	Scores
64	In law, is there a central bank?	1.00
65	In practice, is the central bank independent of the executive?	1.00
66	In law, is there a financial regulatory agency overseeing publicly listed companies?	1.00
67	Is the financial regulatory agency effective?	0.95
68	Can citizens access the financial records of publicly listed companies?	1.00
69	Are business licenses available to all citizens?	1.00

Indicator and sub-Indicator Details

64 In law, is there a central bank?

Score: yes/1.00



Comments: The Federal Reserve is the central bank.

References: <http://www.federalreserve.gov>

65 In practice, is the central bank independent of the executive?

Score: almost always/1.00



Comments: In practice, the central bank is almost always independent of the executive.

References:

Peer Review Comments: As the nation's central bank, the Federal Reserve derives its authority from the U.S. Congress. It is considered an independent central bank because its decisions do not have to be ratified by the president or anyone else in the executive or legislative branch of government, it does not receive funding appropriated by the Congress, and the terms of the members of the Board of Governors span multiple presidential and congressional terms.

66 In law, is there a financial regulatory agency overseeing publicly listed companies?

Score: yes/1.00



Comments: Yes, it is the U.S. Securities and Exchange Commission.

References: <http://www.sec.gov/>

67 Is the financial regulatory agency effective?

- 67a: In law, the financial regulatory agency is protected from political interference.

Score: yes/1.00



Comments: The Securities and Exchange Commission has five commissioners who are appointed by the president of the United States with the advice and consent of the Senate. Their terms last five years and are staggered so that one commissioner's term ends on June 5 of each year. To ensure that the commission remains nonpartisan, no more than three commissioners may belong to the same political party.

References: <http://www.sec.gov/about/commissioner.shtml>

- 67b: In practice, the agency has a professional, full-time staff.

Score: almost always/1.00



Comments: The SEC has a staff of 3,100 people.

References: <http://www.sec.gov/about/whatwedo.shtml>

- 67c: In practice, the agency receives regular funding.

Score: almost always/1.00



Comments: The agency does not receive funding, but makes a profit.

References: <http://cf.heritage.org/budget/omb/>

- 67d: In practice, when necessary, the financial regulatory agency independently initiates investigations.

Score: almost always/1.00



Comments: The commission's enforcement staff conducts investigations into possible violations of the federal securities laws, and prosecutes the commission's civil suits in the federal courts as well as its administrative proceedings.

References: <http://www.sec.gov/divisions/enforce/about.htm>

- 67e: In practice, when necessary, the financial regulatory agency imposes penalties on offenders.

Score: often/0.75



Comments: In wake of the \$11 billion WorldCom accounting fraud in May of 2003 the Securities and Exchange Commission imposed a \$500 million fine on the company, which it agreed to pay. The fine was 50 times higher than the previous record-breaking fine against a corporation.

References: <http://www.sec.gov/divisions/enforce/about.htm>

Peer Review Comments: The record-breaking nature of the WorldCom fine may be indicative of a largely inactive (and clearly ineffectual) SEC prior to that point.

68 Can citizens access the financial records of publicly listed companies?

- 68a: In law, citizens can access the financial records of publicly listed companies.

Score: yes/1.00



Comments: Anyone can access and download company information filed with the SEC for free.

References: <http://www.sec.gov/edgar.shtml>

- 68b: *In practice, the financial records of publicly listed companies are regularly updated.*

Score: almost always/1.00



Comments: All publicly listed companies, foreign and domestic, are required to file registration statements, annual reports and other forms electronically through EDGAR.

References: <http://www.sec.gov/edgar.shtml>

- 68c: *In practice, the financial records of publicly listed companies are audited according to international accounting standards.*

Score: almost always/1.00



Comments: A company not following GAAP would be an exception. The exceptions include a series of high profile accounting scandals, such as the sudden collapse of Enron, where debts were hidden in "off-sheet" shell companies.

References: <http://www.sec.gov/>

- 68d: *In practice, citizens can access the records of disciplinary decisions involving publicly-listed companies.*

Score: almost always/1.00



Comments: In practice, citizens can almost always access these records.

References: <http://www.sec.gov/divisions/enforce/about.htm>

- 68e: *In practice, citizens can access the financial records of publicly listed companies within a reasonable time period.*

Score: < 1 month/1.00



Comments: Anyone can access and download company information filed with the SEC over the Internet.

References: <http://www.sec.gov/edgar.shtml>

- 68f: *In practice, citizens can access the financial records of publicly listed companies at a reasonable cost.*

Score: almost always/1.00



Comments: Anyone can access and download company information filed with the SEC for free.

References: <http://www.sec.gov/edgar.shtml>

69 Are business licenses available to all citizens?

- 69a: *In law, business licenses are not restricted to domestically-owned enterprises.*

Score: yes/1.00



Comments: Yes, in law, business licenses are not restricted to domestically-owned enterprises.

References: http://www.allbusiness.com/research/business_licenses.asp

- 69b: *In law, a complaint mechanism exists if a business license request is denied.*

Score: yes/1.00



Comments: Because the system for licensing businesses is decentralized at the state level, the administrative complaint mechanisms vary, but beyond those, citizens can seek redress in a court of law.

References:

- 69c: *In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.*

Score: < 1 month/1.00



Comments: Many governments offer expedited service for a fee. In California, a fee of \$350 guarantees a response within 24 hours; a fee of \$500 guarantees a response within four hours. In Massachusetts, the expedited service fee costs roughly 4.5 percent of the license.

References: http://www.ss.ca.gov/business/corp/corp_precexp.htm

- 69d: *In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.*

Score: almost always/1.00



Comments: For example, articles of organization cost \$100 in California and \$275 in Massachusetts.

References: <http://www.state.ma.us/sec/cor/corpdf/Feesched.pdf>;

U.S.A.: Anti-Corruption Mechanisms and Rule of Law

Sub-Category: VI -1 /Anti-Corruption Law

	Indicators	Scores
70	In law, is there legislation criminalizing corruption?	1.00
71	In practice, are anti-corruption laws enforced?	0.50

Indicator and sub-Indicator Details

70 In law, is there legislation criminalizing corruption?

- 70a: *In law, attempted corruption is illegal.*

Score: yes/1.00



Comments: Yes, in law, attempted corruption is illegal.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 70b: *In law, extortion is illegal.*

Score: yes/1.00



Comments: Yes, in law, extortion is illegal.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 70c: *In law, offering a bribe (i.e. active corruption) is illegal.*

Score: yes/1.00



Comments: Yes, in law, active corruption is illegal.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 70d: *In law, receiving a bribe (i.e. passive corruption) is illegal.*

Score: yes/1.00



Comments: Yes, in law, passive corruption is illegal.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 70e: *In law, bribing a foreign official while in domestic territory is illegal.*

Score: yes/1.00



Comments: The Foreign Corrupt Practices Act of 1977 covers this.

References:

- 70f: *In law, using public resources for private gain is illegal.*

Score: yes/1.00



Comments: Yes, in law, using public resources for private gain is illegal.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 70g: *In law, using confidential state information for private gain is illegal.*

Score: yes/1.00



Comments: Yes, in law, using confidential state information for private gain is illegal.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

- 70h: *In law, money laundering is illegal.*

Score: yes/1.00



Comments: Yes, in law, money laundering is illegal.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

Peer Review Comments: Corruption only became a predicate offense in Fall 2001.

- 70i: In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

Score: yes/1.00



Comments: The Racketeer Influence and Corrupt Organizations Statute of 1970 covers conspiracy to commit a crime.

References: <http://organizedcrime.about.com/library/blwyntkrico.htm>

71 In practice, are anti-corruption laws enforced?

Score: sometimes/0.50



Comments: In practice, instances of corruption involving federal government activities are higher than at any time since the savings and loan scandals of the 1980s, which cost American taxpayers billions of dollars. Recent corporate corruption shielded by government negligence and/or collusion involving pension and mutual funds may surpass the damage from savings and loan corruption. Society is more cynical about the government enforcing its own laws than any time since the Watergate scandals. One anti-corruption tool has worked effectively in practice: the False Claims Act, a private Attorney General statute that enfranchises whistle-blowers to go into court and file suit against fraud in government contracts. It breaks the Justice department's monopoly on this type of law enforcement. Before whistle-blowers received this right in 1986, the Justice Department annually collected from \$6 million to \$27 million in civil fraud recoveries. From 1986-96, that average jumped to \$300 million annually. Over the last three years, it has been over a billion dollars annually, with that total reached last year in one case alone. This may be the world's most effective anti-fraud statute, and it relies on legally-enfranchised whistle-blowers as its foundation.

References:

U.S.A.: Anti-Corruption Mechanisms and Rule of Law

Sub-Category: V1-2/Anti-Corruption Agency

	Indicators	Scores
72	In law, is there an agency (or group of agencies) with a legal mandate to address corruption?	1.00
73	Is the main anti-corruption agency effective?	1.00
74	Can citizens access the main anti-corruption agency?	0.75

Indicator and sub-Indicator Details

72 In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Score: yes/1.00



Comments: The 57 Offices of Inspector General within departments and agencies of the executive branch have the mandate to prevent waste, fraud and abuse.

References: <http://www.ignet.gov>

Peer Review Comments: In addition to the IGs, Congress has its own and very separate anti-corruption mechanism, as does the judicial branch. Also, corruption investigations frequently originate in the Department of Justice. This "fractured" system can result in less than effective enforcement, as each component can "pass the buck" to another. Such an arrangement can also lead to worries of one branch stepping on the toes of another. This is particularly the case with Congress, who jealously guards its constitutionally protected ability to "punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member." Art. I, Sec. 5. In short, the "separation of powers" aspect of the U.S. government (compared to parliamentary structures) is good for decreasing monolithic power but prevents the type of overarching anti-corruption mechanism used in some countries.

73 Is the main anti-corruption agency effective?

- 73a: In law, the agency is protected from political interference.

Score: yes/1.00



Comments: The Inspector Generals (IGs) serve under the general supervision of the agency head. Yet, by statute, IGs have a dual and independent reporting relationship to the agency head and to the congress. Neither the agency head nor the deputy can prevent or prohibit an IG from conducting an audit or investigation.

References: <http://www.ignet.gov/igs/faq.html>

- 73b: In practice, the agency is protected from political interference.

Score: almost always/1.00



Comments: In practice, the agency is almost always protected from political interference.

References:

- 73c: In practice, the head of the agency is protected from removal without relevant justification.

Score: almost always/1.00



Comments: The Integrity Committee of the President's Council on Integrity and Efficiency (PCIE) reviews any allegations of misconduct against an IG. Moreover, the president nominates IGs at cabinet-level departments and major agencies with Senate confirmation. These IGs can only be removed by the president. The agency heads appoint and can remove IGs at designated federal entities. Both houses of Congress must be notified if an IG is removed by the president or an agency head.

References: <http://www.ignet.gov/igs/faq.html>

- 73d: In practice, appointments to the agency are based on professional criteria.

Score: almost always/1.00



Comments: IGs are appointed without regard to their political affiliation. The appointment is based on integrity and ability in: accounting, auditing, financial analysis; law, management analysis, public administration; or investigations.

References: <http://www.ignet.gov/igs/faq.html>

- 73e: In practice, the agency has a professional, full-time staff.

Score: almost always/1.00



Comments: There are 11,000 professionals in the IG offices.

References: <http://www.ignet.gov/randp/fy02apr.pdf>

- 73f: In practice, the agency receives regular funding.

Score: almost always/1.00



Comments: The IG offices combined received about \$1.5 billion in funding in 2002.

References: <http://www.ignet.gov/randp/fy02apr.pdf>

- 73g: In practice, the agency makes regular reports to the legislature.

Score: almost always/1.00



Comments: IGs issue a variety of written reports such as: audit, investigative, and inspection/evaluation reports prepared in accordance with professional standards; semiannual reports to the Congress that describe the work of the OIG within the reporting period; and immediate correspondence to the agency head to report egregious and flagrant problems and/or abuses. The agency head then transmits this reporting, along with any comments by the agency head, to the Congress within seven days.

References: <http://www.ignet.gov/igs/faq.html>

- 73h: In practice, the agency has sufficient powers to carry out its mandate.

Score: almost always/1.00



Comments: In 2000, for example, OIG investigations resulted in the recovery of \$3.3 billion, contributed to over 5,500 successful criminal prosecutions and nearly 1,300 civil actions, contributed to 1,300 personnel actions taken against government employees, and contributed to nearly 7,700 suspensions and debarments of contractors, grantees, and other entities doing business with the government.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002

- 73i: In practice, when necessary, the agency independently initiates investigations.

Score: almost always/1.00



Comments: OIGs collectively conducted more than 20,000 investigations and processed almost 200,000 complaints in 2000.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

74 Can citizens access the main anti-corruption agency?

- 74a: *In practice, the main anti-corruption agency acts on complaints within a reasonable time period.*

Score: < 6 months/0.50



Comments: There is no data on this, but there is probably some variation across the IG offices. Nonetheless, the fact that they process more than 200,000 complaints annually suggests they handle complaints in a fairly expeditious fashion.

References: <http://www.ignet.gov/randp/fy02apr.pdf>

Peer Review Comments: While IGs may operate more expeditiously, Congressional investigations move at a snail's pace, if at all. Bob Dole called them "The Undertakers' Committees--they're always covering things up."

- 74b: *In practice, citizens complain to the agency without fear of recrimination.*

Score: almost always/1.00



Comments: IGs maintain hotlines for employees and others to report confidential information regarding allegations of fraud and abuse.

References: United States Government Response to the Questionnaire on the Implementation of the Inter-American Convention Against Corruption, May 24, 2002.

Peer Review Comments: In 1997, the House eliminated the ability of citizens to file an ethics complaint against a member. Now, an investigation can only be initiated if a representative sponsors the complaint. This has led to an ethics "ceasefire" where the public and interests groups have been completely shut out of the process. An illustrative article can be found in the July 29, 2002 issue of Roll Call. Also, while the Senate has not formally passed a similar rule, it operates similarly in practice.

U.S.A.: Anti-Corruption Mechanisms and Rule of Law

Sub-Category: VI-3/Rule of Law and Access to Justice

	Indicators	Scores
75	In practice, does the criminal justice process function according to the rule of law?	0.75
76	In law, is there a general right of appeal?	1.00
77	Are citizens protected from detention without trial?	0.75
78	Are individual economic rights guaranteed?	1.00

Indicator and sub-Indicator Details

75 In practice, does the criminal justice process function according to the rule of law?

Score: often/0.75



Comments: The main problem with the criminal justice process is that those with money can afford better legal representation.

References:

76 In law, is there a general right of appeal?

Score: yes/1.00



Comments: Yes, in law, there is a general right of appeal.

References: <http://www4.law.cornell.edu/uscode/>

77 Are citizens protected from detention without trial?

- 77a: *In practice, the government does not detain anyone without charging them for more than 48 hours.*

Score: often/0.75



Comments: This is true except for those held under the USA Patriot Act for possible terrorist activity.
References: <http://web.amnesty.org/report2003/Usa-summary-eng>

- 77b: In practice, the government does not detain anyone accused of petty theft for longer than two weeks without a resolution in a court trial.

Score: often/0.75



Comments: Bail is used to ensure the defendant's appearance at trial, but those who cannot meet bail are effectively detained. In the case of petty theft, bail should be set rather low if used at all, but some defendants could still not be able to post bail. In practice, this would probably be rather uncommon.

References: <http://www.jpp.org/fulltext-v2/jppv2n1-d.html>

78 Are individual economic rights guaranteed?

- 78a: In law, individual property rights are protected

Score: yes/1.00



Comments: Yes, in law, individual property rights are protected
References: <http://www4.law.cornell.edu/uscode/>

- 78b: In practice, individual property rights are protected.

Score: almost always/1.00



Comments: Yes, in practice, individual property rights are almost always protected.
References: General observation.

- 78c: In practice, the government does not expropriate property without appropriate compensation.

Score: almost always/1.00



Comments: Yes, in practice, the government almost always does not expropriate property without appropriate compensation.
References: General observation.

- 78d: In practice, legal contracts are honored.

Score: almost always/1.00



Comments: In practice, legal contracts are almost always honored.
References: General observation.

U.S.A.: Anti-Corruption Mechanisms and Rule of Law

Sub-Category: VI -4/Law Enforcement

	Indicators	Scores
79	Is the law enforcement agency (i.e. the police) effective?	0.92
80	Can law enforcement officials be held accountable for their actions?	1.00

Indicator and sub-Indicator Details

79 Is the law enforcement agency (i.e. the police) effective?

- 79a: In practice, appointments to the law enforcement agency are made according to professional criteria.

Score: almost always/1.00



Comments: Law enforcement is carried out primarily at the local level. By and large, to qualify as a police officer, candidates must pass a written examination, a character and background examination, a psychological exam, drug and alcohol screening, a medical physical and a physical agility test. Police departments are also now requiring two years of military service or college education, such as for New York and Washington, D.C.'s police departments.

References: <http://www.nypd2.org/html/recruit/faqs.html>;
<http://mpdc.dc.gov/about/employ/pominimum.shtm>

- 79b: *In practice, the agency has a budget sufficient to carry out its mandate.*

Score: almost always/1.00



Comments: Cities and towns across the country allocate resources for the police out of their budgets. It is hard to say across the board that the budgets are sufficient, but officers are typically paid adequately and departments typically have adequate facilities and equipment.

References: <http://www.nypd2.org/html/recruit/faqs.html>;
<http://cfo.washingtondc.gov/budget/2003/pbfp.shtm>

- 79c: *In practice, the agency is protected from political interference.*

Score: often/0.75



Comments: While evidence for this is anecdotal, politicians (for example, elected mayors and governors) may exert pressure on the police commissioner or police chief in high-profile cases.

References:

80 Can law enforcement officials be held accountable for their actions?

- 80a: *In practice, there is an independent mechanism for citizen complaints about police action.*

Score: almost always/1.00



Comments: The Internal Affairs Bureau of police departments or the Federal Bureau of Investigation respond to complaints about police action.

References: <http://www.nyc.gov/html/nypd/html/misc/pdfaq2.html#33>

- 80b: *In law, there is an agency to investigate and prosecute corruption committed by law enforcement officials.*

Score: yes/1.00



Comments: The Federal Bureau of Investigation carries out such investigations.

References: <http://www.fbi.gov/aboutus/faqs/faqsone.htm>

- 80c: *In law, law enforcement officials are not immune from prosecution.*

Score: yes/1.00



Comments: Yes, in law, law enforcement officials are not immune from prosecution.

References: <http://www.fbi.gov/aboutus/faqs/faqsone.htm>

- 80d: *In practice, law enforcement officials are not immune from prosecution.*

Score: almost always/1.00



Comments: In practice, law enforcement officials are almost always not immune from prosecution.

References: <http://www.fbi.gov/aboutus/faqs/faqsone.htm>

U.S.A.: Country Facts

Land	Facts
Land area (sq km)	9.16 million
Population	Facts
Life expectancy at birth (years)	77.54
Infant mortality rate (per 1,000 live births)	7
Population growth (annual %)	1.06
Population	285.32 million
Murder rate (per 100,000)	5.61
Political	Facts
Capital city	Washington, DC
Character of government	Federal republic; current constitution in effect since 1787.
Current president/prime minister	George W. Bush
Executive branch description	The president and vice president are elected for, at most, two four-year terms. They are formally designated by an Electoral College composed of popularly elected electors from each state.
Legislative branch description	The bicameral legislature is divided into the 435-voting-member House of Representatives (lower house) and the 100-member Senate. Both houses are directly elected. Each of the 50 states elects two senators. The number of representatives is determined by state population.
Judicial branch description	The federal judiciary is headed by a nine-member Supreme Court and includes courts of appeal, district courts and various special courts.
Percentage of women in legislature	14
Economics	Facts
Net foreign direct investment (current US\$)	2.96 billion
GDP growth (annual %)	0.03
GDP per capita (constant 1995 US\$)	31,592
Consumer prices inflation (annual %)	2.83
Military expenditure (% of central government expenditure)	15.97
Military expenditure (% of GDP)	3.1
Tax revenue (% of GDP)	19.36
Currency	US Dollar
Public spending on education (% of GDP)	4.85
Public health expenditure (% of GDP)	5.76
Main exports	Computers and electrical machinery, vehicles, chemical products, food and live animals, military equipment and aircraft
Unemployment (% of total labor force)	4.1

Information/Technology	Facts
<i>Radio:</i>	
Radio broadcast stations	10,304
Radios (per 1,000 people)	2,117
<i>Telephone:</i>	
Telephone mainlines (per 1,000 people)	667
Mobile phones (per 1,000 people)	451
<i>Television:</i>	
Television sets (per 1,000 people)	835
Television broadcast stations	1,574
<i>Other Media:</i>	
Daily newspapers (published at least four times a week) in circulation per 1,000 people	213
Internet users	142.82 million