

Overall Score:

68 - Weak

Legal Framework Score:

63 - Weak

Actual Implementation Score:

68 - Weak

Category I. Civil Society, Public Information and Media

I-1. ⁵⁰ Civil Society Organizations

1. Are anti-corruption/good governance CSOs legally protected?

33

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

YES | NO

Comments:

Not legally prohibited

References:

(UAE Constitution, Article 33) [Freedom of assembly and establishing associations shall be guaranteed within the limits of law”]; (Article 2, FEDERAL LAW NO . 2, 2008 CONCERNING ASSOCIATIONS AND DOMESTIC INSTITUTIONS OF PUBLIC INTEREST) [“.. the association of public interest shall be defined as every group permanently organized for specified or unspecified period . It shall be composed of natural or juridical persons to achieve social , religious , cultural , educational , technical , feminine , creative or artistic activity or to render humane services or achieve any of the charity objects or other caring purposes whether through financial or moral aid or technical expertise.”]; (Article 3, FEDERAL LAW NO . 2, 2008) [“The establishment of the association shall be subject to the fulfilment of the following conditions : ... 4 – All members , whether founders or employees , must be citizens of the United Arab Emirates State ...”]

YES: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | **NO**

Comments:

There are restrictions

References:

(Article 36, FEDERAL LAW 2, 2008) [The association resources shall consist of : ...Contributions , donations , wills and aids received by the association in accordance with the provisions hereof ...];

(Article 43, FEDERAL LAW 2, 2008) ["Aids may not be collected unless through declared associations in accordance with the provisions hereof and a prior authorization from the Ministry. The associations may not accept grants , wills or contributions or gather contributions from any person or party from outside the State , prior to the authorization of the Ministry. The Minister shall issue a decision regarding the regulating rules and procedures thereof "]

YES: A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

NO: A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | **NO**

Comments:

No requirement to publicly disclose – just disclosure to the government i.e. the Ministry

References:

YES – (Article 20, FEDERAL LAW 2, 2008) [The association shall be subject to the control of the Ministry from the financial aspects ...the Ministry is entitled to peruse at any time the association books , registers and documents"];

(Article 43, FEDERAL LAW 2, 2008) ["Aids may not be collected unless through declared associations in accordance with the provisions hereof and a prior authorization from the Ministry."]

YES: A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

NO: A NO score is earned if no such public disclosure requirement exists.

2. Are good governance/anti-corruption CSOs able to operate freely?

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

100 | 75 | 50 | 25 | 0

References:

They are encouraged, especially those organisations which have a focus on education and development. CSO's are treated as other businesses and must register with the relevant authority (Confirmed by Mr. Ali Ibrahim Mohammed, Deputy Director General for Economic Sector Development, meeting held on 29/04/10)

100: CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

75:

50: CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

Comments:

Hawkamah- The Institute for Corporate Governance is a Civil Society Organisation, by raising issues and offering recommendations in the private and public spheres. Its influence on public opinion can be significant but does not play a leading role in the shaping public opinion on political matters.

References:

CSO are treated as any other business, they sit in the non-profit sector therefore they would not be involved in any policy making decisions. That is not to say the members could not influence perhaps through the majlis setting or that they can, through their actions raise awareness. (Confirmed by Mr. Ali Ibrahim Mohammed, Deputy Director General for Economic Sector Development, meeting held on 29/04/10)

100: Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

YES | NO

References:

No anti-corruption or good governance organisation has been shut down in the period that this study has taken place (NO media reports)

YES: A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

NO: A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3. Are civil society activists safe when working on corruption issues?

100

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

YES | NO

References:

They are licenced and report to the local and federal authority, if there are issues with their business practice then this would be dealt with by the Department of Economic Development or with the Ministry (no media reports)

YES: A YES score is earned if there were no CSO activists imprisoned because of their work covering corruption. YES is a positive score.

NO: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that

the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned” is defined here as detention by the government lasting more than 24 hours.

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | NO

References:

No activists have been physically harmed. There have been no reported cases in the press and no known cases in recent years – confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10

YES: A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist’s work. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

References:

No activists have been physically harmed. There have been no reported cases in the press and no known cases in recent years – confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10

YES: A YES score is earned if there were no documented cases of CSO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual’s history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

4. Can citizens organize into trade unions?

50

4a. In law, citizens have a right to organize into trade unions.

YES | NO

Comments:

Citizens are not prohibited. For the purposes of this research, these indicators focus on UAE citizens despite a good portion of the population being expatriates.

References:

No apparent legislation to suggest they are not allowed however it is known that they don't exist in the UAE – just never been an issue in UAE. If citizens have a problem they have access to their government representative or they can raise issues in a majlis setting. (Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

YES: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

Comments:

There is no legislation permitting or prohibiting trade unions and trade unions do not exist in the UAE. If citizens have a problem they have access to their government representative or they can raise issues in a majlis setting.

References:

There is no legislation preventing this however there is no legislation permitting it either – it has never been an issue in the UAE and is not part of the society need for citizens. (Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

I-2. Media

5. Are media and free speech protected?

50

5a. In law, freedom of the media is guaranteed.

YES

NO

Comments:

According to the Journalist Association, a journalist has the freedom to discuss any topic, however under the journalism guidelines (which stem from a cultural background of respect and honour especially for those in senior positions or appointed by Royal Decree) journalists cannot mention someone by name or criticise a well known person directly. If a Minister has made an unfavourable decision a journalist can criticise the policy or criticise the Ministry but not the individual Minister (slander). Again in relation to the Royal Family and use of funds the Royal Family is inherently wealthy and any money they receive from the State is passed through the Federal Budget therefore if criticism was to be made about the use of funds the focus should be on the system and not on the individual doing the spending. Therefore journalists are not forbidden from covering certain topics however the way in which they approach their story may be different from that of other countries. It can be considered as self-censorship” from a Western point of view but we somehow need to take into account cultural considerations (such as respect and honour) how those values are reflected in how individuals/professionals act in the society.

References:

UAE Constitution – Article 30 – Freedom of opinion and expressing it verbally or in writing or by other means shall be guaranteed within the limits of the law . But -(Chapter 7, Prohibitions on publications, Federal law # 15 of 1980, publication and publishing law) governs the content and contains a list of restricted subjects

Journalists in the UAE must adhere to regulations when writing their articles and as such stories can be restraint – the regulations are as follows: 1 – No discussion about religion or religious controversy; 2 – No politics debates or topics which would create political debate i.e.: No talk about Royal Family or Ministers, you cannot criticise an individual or be personal, however you can discuss ministerial policies; 3 – Cannot write or discuss topics which will cause controversy or tension; 4 – cannot name someone involved in a case or regarding a story if they are just accused (especially if they are someone recognisable/known), the journalist can only name the person if the accusation has been proven or if it is confirmed. (Confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

The grading allows for restrictions regarding privacy or slander which is what is indicated in the media law (Federal Law 15 of 1980)

YES: A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

NO: A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

Comments:

Freedom of speech is guaranteed under the UAE constitution UAE Nationals are free to discuss or raise any issues which they feel necessary – rules may however differ for expatriates who are seen as guests or visitors in the country.

Journalists are not forbidden from covering certain topics however the way in which they approach their story may be different from that of other countries. It can be considered as self-censorship” from a Western point of view but we somehow need to take into account cultural considerations (such as respect and honour) how those values are reflected in how individuals/professionals act in the society.

Issues can be raised and dealt with directly in a majlis where nationals can meet with the State ruler in an informal setting. Much of the legislation and practices in the UAE are based on culture and traditions, deep respect and reverence is given to heads of State and to those appointed by Royal Decree. The guidelines for journalists are centred on these traditional values. There is little need to vent frustration or anger in the press regarding certain policies or actions of individuals because if someone has an issue they can raise it directly with either their parliamentary (Federal National Council FNC) representative or with the head of State in the majlis.

References:

YES – (Article 30, UAE Constitution) [Freedom of opinion and expressing it verbally or in writing or by other means shall be guaranteed within the limits of the law”]

YES: A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

NO: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form print media entities?

75

6a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | **50** | 25 | 0

Comments:

There are barriers involved in the registration process

References:

Article 2 and 3 of Federal Law 15 of 1980 there are barriers – you must go through the PMO or the National Media Council if you want to obtain a licence and this can be a difficult process (confirmed by Mohammed Yousif, Chairman, Journalist’s Association 14/04/10)

100: Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

6b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

YES | NO

Comments:

There is a formal mechanism

References:

(Article 5 of Federal law 15 of 1980 concerning publications and publishing) [Any person , whose licensing application for launching a printing press is rejected , shall be entitled to submit a grievance against this decision to the Minister within fifteen days from the date of his notification of the application refusal decision. The Minister must decide on the grievance within fifteen days from the date of its submission, his decision in this regard shall be irrevocable.”]

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

NO: A NO score is earned if there is no appeal process for print media licenses.

6c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Reasonable time period

References:

Dependent on what it is for, the type of licence ie size etc confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

There is a cost involved but it is not significant – visits to regulators are required to get the licence

References:

Dependent on what it is for, the type of licence etc (1000+) confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are citizens able to form broadcast (radio and TV) media entities?

50

7a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | **50** | 25 | 0

Comments:

There are barriers – including lots of paper work and meeting with representatives at the PMO or the National Media Council to prove ownership and intent.

References:

There are barriers, you must go through the PMO or the National Media Council if you want to obtain a licence and this can be a difficult process (confirmed by Mohammed Yousif, Chairman, Journalist's Association 14/04/10)

100: Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

25:

0: Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

7b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

YES | **NO**

Comments:

No appeals mechanism

References:

There is no appeal process, you can enquire but you cannot appeal the decision (Media Law – Federal Law 15 of 1980 – confirmed by Mohammed Yousif, Chairman, Journalist's Association 14/04/10)

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

NO: A NO score is earned if there is no appeal process for broadcast media licenses.

7c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Within a reasonable time which can be quick for citizens

References:

Dependent on what it is for, the type of licence ie size etc confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

7d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

There is a cost involved, not significant, however a visit to PMO/NEC is required

References:

Dependent on what it is for, the type of licence etc (1000+) confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

8. Can citizens freely use the Internet?

75

8a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | **50** | 25 | 0

Comments:

In some cases

References:

NO – there are proxies in the UAE, not for corruption stories or international news stories – even ones which may crisis the UAE or go against journalism rules in the UAE but for things deemed inappropriate or against religion (ie gambling websites). (confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

100: The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

75:

50: Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

8b. In practice, the government does not censor citizens creating content on-line.

100 | 75 | 50 | 25 | 0

Comments:

Do not stop citizens from uploading information onto the internet however some restrictions apply

References:

Citizens can freely create online content, however if it is deemed against the proxy filters the content may be blocked in the UAE but it cannot be removed – it will still be available to be seen in other countries. (confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

100: The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

75:

50: In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

25:

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

9. Are the media able to report on corruption?

9a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | **NO**

Comments:

The legislation protects government figures

References:

Journalists in the UAE must adhere to regulations when writing their stories and as such stories can be restraint – the regulations are as follows: 1 – No discussion about religion or religious controversy; 2 – No politics debates or topics which would create political debate ie: No talk about Royal Family or Ministers, you cannot criticise an individual or be personal, however you can discuss ministerial policies; 3 – Cannot write or discuss topics which will cause controversy or tension; 4 – cannot name someone involved in a case or regarding a story if they are just accused (esp if they are someone recognisable/known), the journalist can only name the person if the accusation has been proven or if it is confirmed... (confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

(Article 70 of Federal law 15 of 1980 concerning publications and publishing) It is prohibited to criticize the President of the State or the Emirates Governors];

(Article 84 of Federal law 15 of 1980 concerning publications and publishing) It is not allowed to oppose to the acts of a public employee or a person of public representative capacity or assigned to a public service by any material which includes defamation against him . The writer shall be exempted from the responsibility if it is ascertained that he is of good intent and is convinced by the veracity of the incidents which he has attributed to the public officer , or the person of public representative capacity or the person assigned to the public service , and should his conviction be based on reasonable reasons

YES: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

NO: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

9b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | **50** | 25 | 0

Comments:

Some restrictions are in place – if there is a criminal matter ie slander, it is passed to the MoJ/Attorney General.

These restrictions applies only to criticism using someones name directly, journalists are allowed to challenge or comment on government policy or Ministerial decisions. It is up to the publisher to assess whether the regulations are being followed and whether adjustment to the content need to be made it is the publisher who would be liable not the journalist.

References:

Journalists in the UAE are free to write what they want, it is when it is passed to the publisher that the publisher must check if the article complies with the regulation and censor it accordingly; so self-censorship exists on the part of the media owner. (confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10) Journalists in the UAE must adhere to regulations when writing their articles and as such stories can be restraint – the regulations are as follows: 1 – No discussion about religion or

religious controversy; 2 – No politics debates or topics which would create political debate i.e.: No talk about Royal Family or Ministers, you cannot criticise an individual or be personal, however you can discuss ministerial policies; 3 – Cannot write or discuss topics which will cause controversy or tension; 4 – cannot name someone involved in a case or regarding a story if they are just accused (especially if they are someone recognisable/known), the journalist can only name the person if the accusation has been proven or if it is confirmed. (Confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

100: The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

75:

50: The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

9c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | **25** | 0

Comments:

There are restrictions

References:

Journalists in the UAE must adhere to regulations when writing their articles and as such stories can be restraint – the regulations are as follows: 1 – No discussion about religion or religious controversy; 2 – No politics debates or topics which would create political debate ie: No talk about Royal Family or Ministers, you cannot criticise an individual or be personal, however you can discuss ministerial policies; 3 – Cannot write or discuss topics which will cause controversy or tension; 4 – cannot name someone involved in a case or regarding a story if they are just accused (esp if they are someone recognisable/known), the journalist can only name the person if the accusation has been proven or if it is confirmed... (confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10. Are the media credible sources of information?

10a. In law, print media companies are required to publicly disclose their ownership.

YES | NO

References:

(Media Law – Federal Law 15 of 1980), it must be clear, printed somewhere on each edition. (confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

YES: A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

YES | NO

References:

They must disclose ownership, this is also a requirement when applying for the licence, Federal Law 15 of 1980, chapter 2, article 10 which states "The name of printer and his address in addition to the name of the publisher and his address if he is not the printer and the printing date must be clearly inscribed in one of the pages of the publication" (confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

YES: A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

Comments:

Journalists are only restricted from using individual's names, journalists are free to criticise policies and Ministerial decisions. Journalists are free to use someone's name in an article if the person has been convicted and the allegations relating to criminal activity are proved true, prior to the allegation being proven the journalist can print the article but not use the person's name – i.e John Smith would usually be represented as J.S.

References:

YES – they must follow strict guidelines (confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

Journalists in the UAE must adhere to regulations when writing their articles and as such stories can be restraint – the regulations are as follows: 1 – No discussion about religion or religious controversy; 2 – No politics debates or topics which would create political debate i.e.: No talk about Royal Family or Ministers, you cannot criticise an individual or be personal, however you can discuss ministerial policies; 3 – Cannot write or discuss topics which will cause controversy or tension; 4 – cannot name someone involved in a case or regarding a story if they are just accused (especially if they are someone recognisable/known), the journalist can only name the person if the accusation has been proven or if it is confirmed. (Confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

75:

50: Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

25:

0: Editors and journalists are widely known to sell” favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

Comments:

The election process in the UAE has only taken place once – in 2006, the term of the Federal National Council is 4 years and the next term is up in February 2011 and elections are expected to be held in late 2010 or early 2011. The process being so new the press coverage was extensive but more related to the process rather than the individual candidates.

References:

The media campaign is monitored by the National Election Committee to ensure a fair view and that transparency is high (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

There was news coverage from across the world, from the US and UK to Korea. The local and regional press covered the process in detail, outlining information on the new election process and the developments – some of the stories focused on the candidates, mentioning names and (<http://news.google.co.uk/archivesearch?q=candidate+for+FNC+elections+2006&hl=en&ned=uk&scoring=a>)-

100: All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

50: Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

0: The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

Comments:

All media outlets in the UAE are owned, in some percentage, by the state. This allows for equal, unbiased views to be broadcast and allows all candidates to get fair representation in the press.

The election process in the UAE has only been through one cycle – in 2006 and as such any information can only be based on what happened during that election and campaign.

References:

The media campaign is monitored by the National Election Committee to ensure a fair view and that transparency is high (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

75:

50: The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

11. Are journalists safe when investigating corruption?

100

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | NO

References:

A Directive issued by PM Sheik Mohammad on 24 September 2007 stated that no journalist could be imprisoned for reasons related to his journalist work – there have been no incidences of such things, and the Directive passed by Sheik Mohammed in 2007 has allowed for more protection for journalists. 1 – No discussion about religion or religious controversy; 2 – No politics debates or topics which would create political debate ie: No talk about Royal Family or Ministers, you cannot criticise an individual or be personal, however you can discuss ministerial policies. (confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

YES: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

NO: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | NO

References:

There have been no incidences of such things, and the Directive passed by Sheik Mohammed in 2007 has allowed for more protection for journalists. 1 – No discussion about religion or religious controversy; 2 – No politics debates or topics which would create political debate ie: No talk about Royal Family or Ministers, you cannot criticise an individual or be personal, however you can discuss ministerial policies. (confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

YES: A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

NO: A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

References:

There have been no incidences of such things, and the Directive passed by Sheik Mohammed in 2007 has allowed for more protection for journalists. 1 – No discussion about religion or religious controversy; 2 – No politics debates or topics which would create political debate ie: No talk about Royal Family or Ministers, you cannot criticise an individual or be personal, however you can discuss ministerial policies. (confirmed by Mohammed Yousif , Chairman, Journalists Association 14/04/10)

YES: A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

NO: A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

68
I-3. Public Access to Information

12. Do citizens have a legal right of access to information?

0

12a. In law, citizens have a right of access to government information and basic government records.

YES | **NO**

Comments:

No such legislation however there is the National Documentation and Research Centre which gathers records and documents – access for all citizens

References:

There is no specific legislation regarding public access to information (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10) However all FNC meeting minutes are available on the FNC website and the Official Gazette is published and available to all citizens.

YES: A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

NO: A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | **NO**

Comments:

There is no formal process

References:

There is no specific legislation regarding public access to information and therefore there is no appeals mechanism in place (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

YES: A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

NO: A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | **NO**

Comments:

Although there is no legislation there is a mechanism through the government offices of the National Statistics Office and the National Documentation and Research Centre

References:

There is no specific legislation regarding the public's right to information – however there are two centres opened by Presidential Decree which are designed to centralise the storage of information, improve transparency and disclosure for inter-government and for citizens – they are the National Statistics Centre and the National Documents Centre. <http://www.dsc.gov.ae/en/pages/home.aspx> / <http://www.cdr.gov.ae/ncdr/English/index.aspx> (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

YES: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

NO: A NO score is earned if there is no such formal mechanism or institution.

13. Is the right of access to information effective?

42

13a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

This is a recent development

References:

The National Centre for Documentation and Research was set up under Federal law No. (7) for 2008 transforming the Centre for Documentation and Research into an all-out national entity". This is still a fairly new concept and the centre is working at ensuring

all past records are preserved and stored, however it will mean that all government documentation will be available for citizens to view and access from one central point rather than approaching each Ministry or government department in turn. (HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Low cost – free of charge

References:

To access articles from the National Centre for Documentation and Research is free of charge.

<http://www.cdr.gov.ae/ncdr/English/aboutCdr/chairmanMessage.aspx>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Has not been tested yet, the centre is still relatively new.

References:

Our Mission is Preserving the documentary heritage to provide decision makers and the public with trusted information and to enhance civic spirit and national identity" .(<http://www.cdr.gov.ae/ncdr/English/aboutCdr/visionMission.aspx>).

100: Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

75:

50: Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

25:

0: The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

13d. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There is no formal appeals mechanism. If the information is available in the database then citizens are able to access it through the newly established center.

References:

<http://www.cdr.gov.ae/ncdr/English/aboutCdr/chairmanMessage.aspx>

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There is no formal appeals mechanism. If the information is available in the database then citizens are able to access it through the newly established center.

References:

<http://www.cdr.gov.ae/ncdr/English/aboutCdr/chairmanMessage.aspx>

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

25:

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13f. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

Comments:

If there was a reason documents could not be given out from the National Centre for Documentation and Research then the civil servants or government employees working in the Centre would give reasons.

References:

<http://www.cdr.gov.ae/ncdr/English/aboutCdr/chairmanMessage.aspx> –

The centre is a relatively new entity and as such the testing of their disclosure rates is difficult. It was discussed in a meeting with HE Tariq Lootah, Director General, Ministry of State for Federal National Council Affairs on 08/04/10, that response rates are good and if there is a problem the centre is usually transparent in its response and will explain the reason for non-disclosure, he said the usefulness of such a service will become more apparent overtime.

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.

II-1. ⁶⁴Voting & Citizen Participation

14. Is there a legal framework guaranteeing the right to vote?

50

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | **NO**

Comments:

No legislation regarding elections, the first voting process was held in 2006 (prior to this positions were just appointed)

References:

No election legislation but all citizens holding UAE citizenship can vote – the citizens of the UAE choose half of the members of the FNC, the rulers of each emirate the other half (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10) [<http://www.mfnca.ae/?lang=en&m=options&act=index&page=FNC%20Elections&category=34> / <http://www.uaenec.ae/>]

YES: A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

NO: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

Comments:

There is a mandate in the legislation for elections to be held regularly

References:

Elections should happen every four years however the election process is new and the first ever formal election process happened in December 2006. The last election was seen as a trial and it went very well – the next dates are due to be discussed. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

Article 6, Federal Decree number 97 of 24/12/1977

(Article 72 -amended in Feb 2009-, UAE Constitution) [Membership in the Federal National Council shall be two Gregorian years commencing from the date of its first meeting . The Council shall thereafter be renewed for the period remaining up to the expiry of the period of transition referred to in Article 144 of this Constitution. Any member who has completed his term may be re – elected”]

YES: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

NO: A NO score is earned if no such framework exists.

15. Can all citizens exercise their right to vote?

100

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

Comments:

voting open to all

References:

All citizens holding UAE citizenship can vote (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

Comments:

Ballots are secret

References:

All voting is done electronically, where the citizens must swipe either their passport or their national ID card; this allows them to access the voting portal and cast their vote electronically in the voting centre. This is then printed and they post the print out in the ballot box, the votes are counted through the electronic system – the ballot boxes are just used as a back up. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

Comments:

There has only been one election so far so it is a new process and difficult to judge, there are legal structures in place – and no exceptions have been made or decisions which would indicate the next election will not happen on time and dates of this are being discussed.

There has only been one election in the UAE so far and this took place in December 2006 and the members elected took position in the Federal National Council (FNC) in February 2007. By law the Council sits for term of four years. This would mean the end of the current term is February 2011. It is currently being decided as to when exactly the next election will take place toward the end of 2010 or early 2011. There are discussions as to whether to adopt changes to the process before the next elections, allowing more members into the parliament, addressing the balance between appointed members and publically elected members and making changes to the election regulation.

References:

A term of office of the Council is four years instead of two years under the recent constitutional amendments to Article (72) and Article (78), called the duration of the legislative term, as such elections should happen every four years however the election process in new and the first ever formal election process happened in December 2006 with the Council taking office in February of 2007. The last election was seen as a trail and it went very well – the next election is due to take place at the end of 2010 or beginning of 2011. Discussions will continue to take place and elections are only discussed approximately 2 months prior to the election date. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

<http://gulfnews.com/news/gulf/uae/general/fnc-seeks-steps-on-broader-political-participation-1.634639> 31/05/10

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

16. Are citizens able to participate equally in the political process?

70

16a. In law, all citizens have a right to form political parties.

YES | NO

Comments:

There are no restrictions barring parties from being formed. There are no restrictions or legal prohibitions to citizens forming political parties – it is noted in the Constitution that citizens could form ‘political or administrative units’ by law. Citizens have chosen not to form parties at present, this may be for several reasons including them being satisfied with the system in place or the direct access citizens have to their emirate representatives in order to raise issues.

References:

(UAE Constitution, article 118) [Two or more Emirates may , after obtaining the approval of the Supreme Council , agglomerate in a political or administrative unit “]

There is no specific election related legislation (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

YES: A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

NO: A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

YES | NO

Comments:

There are no legal frameworks in place. In the most recent elections the candidates are hand picked based on a ‘straw-polling’

methodology which aims at balancing community representation, similar to a party-list system. The UAE process differs for Western style elections and therefore the criteria does not address the system as it stands. The criterion for a no score does not justify the UAE system, which does not have any legal restrictions in place or bar any group from running in office. In the UAE, all citizens do have the right to apply to the Electoral College and therefore all citizens have a right to run for the first stage of the election process.

References:

All citizens can run for office through their application to the electoral college – (UAE Constitution – Article 70) Citizens must be first chosen to be in the Electoral College – Citizens can apply for nomination – the request to run according to the form prepared for this purpose during the period set to run accompanied by the required documents, namely: –

1. A copy of the passport to be valid.
2. A copy of the summary of the constraint.
3. Three recent color photos of the candidate.
4. Certificate of good conduct to effect addressed to the National Commission for the elections.
5. Copy of ID card issued by the Emirates Identity Authority, if any.
6. To provide a message indicating obtaining leave from his work
7. Amount (1000) AED paid in cash or check issued in favour of the Ministry of Finance and Industry, and will not accept checks dated subsequent to the day of submitting the request to run.

[\[http://www.uaenec.ae/?page_id=40\]](http://www.uaenec.ae/?page_id=40)

Candidates are then chosen from a group of citizens hand picked by the ruler of each of the Emirates from a mix and range of the population, it is out of this pool of people that the rulers choose half the members for the FNC and the other half are elected by the general public (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

NO: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

Comments:

In practice there are no limitations in place which would stop members forming an alliance. There are no barriers and no one is barred or threatened in election process. The UAE Constitution as mentioned in a previous question, allows for the formation of 'political units.'

References:

There is no legislation preventing the organisation of political parties however there has never been a need or reason for anyone to set up a party – if a citizen has an issue they can raise it with the ruler of their Emirate through the majilis. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

Noting the young nature of the political system in the UAE there has been no movement to form political parties or alliances, realistically it is possible that in the future members of the FNC or candidates for election might form alliances.

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some

political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | **50** | 25 | 0

Comments:

There is a formal process which is fairly applied – i.e. in the UAE the National Election Committee (NEC) deals with the election process and the candidates which are chosen for the Election Committee have the option to be funded through private or company means, monitored by the NEC when their campaign plan is submitted. However this process is essentially a party list process. Citizens have the right to apply to be nominated by the Electoral College but they cannot run without this approval. As an additional step, citizens then must be either randomly selected through straw-polling, added to a party-list or approved by the Emirate rulers before he or she can run.

References:

UAE Constitution – Article 70) Citizens must be first chosen to be in the Electoral College – Citizens can apply for nomination – the request to run according to the form prepared for this purpose during the period set to run accompanied by the required documents, namely: –

1. A copy of the passport to be valid.
2. A copy of the summary of the constraint.
3. Three recent color photos of the candidate.
4. Certificate of good conduct to effect addressed to the National Commission for the elections.
5. Copy of ID card issued by the Emirates Identity Authority, if any.
6. To provide a message indicating obtaining leave from his work
7. Amount (1000) AED paid in cash or check issued in favour of the Ministry of Finance and Industry, and will not accept checks dated subsequent to the day of submitting the request to run.

[\[http://www.uaenec.ae/?page_id=40\]](http://www.uaenec.ae/?page_id=40)

Candidates are then chosen from a group of citizens hand picked by the ruler of each of the Emirates from a mix and range of the population, it is out of this pool of people that the rulers choose half the members for the FNC and the other half are elected by the general public (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

Comments:

The FNC is made up of different members from all emirates, they will hold views focused on their emirate level issues as well as personal views. However, no opposition parties exist.

References:

There are currently no political parties in the UAE let alone opposition parties. There is no legislation allowing or preventing political parties however there has never been a need or reason for anyone to set up a party – if a citizen has an issue they can raise it with the ruler of their Emirate through the majlis. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10) The election process in the UAE is new – only one cycle has taken place in 2006, it may be the case in the future that alliances are formed.

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75:

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

25:

0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

II-2. Election Integrity

18. Is the election monitoring agency effective?

95

18a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

Comments:

Yes but keep in mind there are no political parties

References:

The NEC is considered an independent body. Its members include the Minister for State Affairs, Minister of Culture, Minister of Health, Minister of Justice, Minister of Presidential Affairs and two members from the private sector. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

(Presidential decree number 3, 15/08/2006)

YES: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

No party loyalties as the majority is made up of Ministers with two private sector members – this allows for a skill mix

References:

The NEC must have a mix of members from the public and private sector (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

It has sufficient staff to fulfill its mandate

References:

When the elections are not being held, the Ministry of State for Federal National Council Affairs deals with all election queries; therefore when the NEC is not in session the Ministry is in place as a professional body. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

Article 7, UAE President directive number 3, 15/08/2006);

100: The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

75:

50: The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

Comments:

Reports are issued on a predictable schedule

References:

All reports are issued directly after the election. There is a general report issued after the appointment of the members and all reports are available on the NEC website. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

Comments:

The NEC acts when any issues arise but as of yet they have not had to.

References:

The National Election Committee (NEC) oversee all the election processes as well as the campaign monitoring and they deal with any issues as they arise (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10) The first, and only elections in the UAE took place in 2006, this was monitored carefully and there was no need to impose penalties on any offenders during that election process.

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

19. Are elections systems transparent and effective?

79

19a. In practice, there is a clear and transparent system of voter registration.

Comments:

The NEC provide full guidelines for the voting and election process

References:

There has only been one election process so far and the system used was as follows: Citizens are all eligible to vote and the voting system is electronic, they do not need to register – all citizens are registered and those of the correct age are automatically entered into the system. Voters must use their passports or National ID cards to access the voting portal, they are recognised by their name and form of ID which is checked by personnel at the voting area. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost" voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

YES | NO

Comments:

The NEC will deal with issues – they are seen as the judicial mechanism, issues are passed to the judiciary if there are criminal or fraudulent allegations

References:

There is no specific election related legislation but results can be appealed but through the NEC who act as the agency in charge of the election process (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

Article 8, 61,62 & 64 Executive Regulations – (Translated from the Arabic – Members are entitled to challenge the Electoral College to nominate a candidate for reasons acceptable, and that through the Commission in the emirate during the period specified by the National Elections Commission) , www.uaenec.ae

YES: A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

NO: A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

The NEC will deal with issues – they are seen as the judicial mechanism, issues are passed to the judiciary if there are criminal or fraudulent allegations. There has been no delay in dealing with complaints or delay in the announcement of election results in the previous elections.

References:

The election process is new, with only one election having taken place. There were no appeals during this election cycle. Mechanisms exist – appeals can be made but through the National Election Committee (NEC) who acts as the agency in charge of the election process. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

References:

No military personnel or anyone connected to the security forces are allowed to vote in the elections. There was some level of security at the voting stations, not to 'keep the peace' but in case to any security issues. The last elections took place with no incidents reported, there were no reports or complaints of people feeling uncomfortable – the elections process was seen a total success. (Confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10

100: The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

75:

50: The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

25:

0: The military or other security forces are an active and explicit player in politics and overly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

Comments:

there is no specific election related legislation or legislation which either prohibits or allows observers

References:

There is no specific election legislation – but the NEC oversee the process and they work closely with the media in the UAE to ensure transparency in the reporting of election progress and results but no international observers are allowed to monitor elections.(confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

YES: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

NO: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

Comments:

The government does not interfere with observers – it is up to the independent body of the NEC to monitor the process and ensure a fair election

References:

There is no specific election legislation – but the NEC oversee the process and they work closely with the media in the UAE to ensure transparency in the reporting of election progress and results but no international observers are allowed to monitor elections.(confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers’ activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers’ movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

Comments:

The National Election Committee – independent

References:

(Chapter 3, Presidential decree number 3, 15/08/2006) forming the National Election Committee

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

NO: A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

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II-3. Political Financing

20. Are there regulations governing the financing of political parties?

0

20a. In law, there are limits on individual donations to political parties.

YES | NO

References:

Non-applicable, there are no political parties in the UAE

YES: A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20b. In law, there are limits on corporate donations to political parties.

YES | **NO**

References:

Non-applicable, there are no political parties in the UAE

YES: A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20c. In law, there are limits on total political party expenditures.

YES | **NO**

References:

Non-applicable, there are no political parties in the UAE

YES: A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

NO: A NO score is earned if there are no limits on political party expenditures during an election. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are requirements for the disclosure of donations to political parties.

YES | **NO**

References:

Non-applicable, there are no political parties in the UAE

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

YES | **NO**

References:

Non-applicable, there are no political parties in the UAE

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties' finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

20f. In law, there is an agency or entity that monitors the financing of political parties.

YES | **NO**

References:

Non-applicable, there are no political parties in the UAE

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and civil society organizations.

21. Are there regulations governing the financing of individual political candidates?

100

21a. In law, there are limits on individual donations to political candidates.

YES | NO

Comments:

The law states a spending cap for the campaigns to be 2 million dirhams this money can be raised through individual or company donations, therefore the cap for donations, individual or company, must not exceed 2 million dirhams either in one lump sum or in total. This is an indirect limit but a limit none the less. If candidates raise funds over 2 million dirhams the excess funds are donated to the Commission of their Emirate. The monitoring of this is conducted by the NEC.

References:

YES – there is a ceiling amount decided by the National Election Committee (NEC), all candidates must declare their donation amounts and their campaign plan (confirmed by HE Tariq Lootah, Director General of the Ministry of State or Federal National Council Affairs 08/04/10)

Yes – (Article 50 Executive Regulations, www.uaenec.ae) [Translated from the Arabic – Abide by all the candidates, including the following: –

1. Do not exceed the spending cap on advertising and promotional campaigns for the amount of 2 million dirhams.
2. Disclosure of sources of financing and electoral campaigning and Delivery Management Committee of the election campaign plan and budget for approval.]

(Article 48 Executive Regulations, www.uaenec.ae)

Google translate – [“Any candidate who receives contributions from natural or legal persons shall not exceed the expenditure ceiling for a promotional campaign and candidate to account for these donations go to the Commission on the emirate”]

The above refers to the 2 million dirham cap for campaigns, candidates who raise more than this amount must donate the extra funding to the Commission of their Emirate.

YES: A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21b. In law, there are limits on corporate donations to individual political candidates.

YES | NO

Comments:

The law states a spending cap for the campaigns to be 2 million dirhams this money can be raised through individual or company donations, therefore the cap for donations, individual or company, must not exceed 2 million dirhams either in one lump sum or in total. This is an indirect limit but a limit none the less. If candidates raise funds over 2 million dirhams the excess funds are donated to the Commission of their Emirate. The monitoring of this is conducted by the NEC.

References:

YES – there is a ceiling amount decided by the National Election Committee (NEC), all candidates must declare their donation amounts and their campaign plan (confirmed by HE Tariq Lootah, Director General of the Ministry of State or Federal National Council Affairs 08/04/10)

Article 50 Executive Regulations, www.uaenec.ae

[Translated from the Arabic – Abide by all the candidates, including the following: –

1. Do not exceed the spending cap on advertising and promotional campaigns for the amount of 2 million dirhams.
2. Disclosure of sources of financing and electoral campaigning and Delivery Management Committee of the election campaign plan and budget for approval.]

Article 48 Executive Regulations, www.uaenec.ae: Google translate – [“Any candidate who receives contributions from natural or legal persons shall not exceed the expenditure ceiling for a promotional campaign and candidate to account for these donations go to the Commission on the emirate”]

The above refers to the 2 million dirham cap for campaigns, candidates who raise more than this amount must donate the extra funding to the Commission of their Emirate.

YES: A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are requirements for the disclosure of donations to individual political candidates.

YES | NO

Comments:

Candidates must disclose their campaign plan to the committee at Emirate level and the National Election Committee (NEC)

References:

YES – all disclosure amounts must be disclosed to the local committees in each Emirate and decisions are monitored by the NEC – (confirmed by HE Tariq Lootah, Director General of the Ministry of State for Federal National Council Affairs 08/04/10)

Article 50 Executive Regulations, www.uaenec.ae

Translated as:

All the candidates abide: –

1. Do not exceed the spending cap on advertising and promotional campaigns for the amount of 2 million dirhams.
2. Disclosure of sources of financing and electoral campaigning and Delivery Management Committee of the election campaign plan and budget for approval.

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

YES | NO

Comments:

Auditing is done through the NEC who review and check all campaign plans to ensure there is a fair election process

References:

The amount of financial assistance must be declared and submitted to the election committee of each emirate, the National Election Committee can then investigate further if necessary (HE Tariq Lootah, Director General of the Ministry of State for Federal National Council Affairs 08/04/10)

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

21e. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

YES | NO

Comments:

The NEC does all the monitoring of the campaigns and the election processes – the municipality and the RTA hold some responsibility for monitoring in terms of posters/banners, the size and placement of these.

References:

YES – part of the mandate of the NEC – which monitor the entire process and ask for a campaign plan with a run down of the costs and the media campaign in order to maintain a fair election process; the Municipalities and the RTA also hold a monitoring role, they ensure guidelines for media campaigns are upheld – ie the size and number of posters/banners/style etc. (Confirmed by HE Tariq Lootah, Director General of the Ministry of State for Federal National Council Affairs)

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and civil society organizations.

22. Are the regulations governing the political financing of parties effective?

0

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

References:

Non – applicable, no political parties in UAE

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

References:

Non – applicable, no political parties in UAE

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

References:

Non – applicable, no political parties in UAE

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

References:

Non – applicable, no political parties in UAE

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

References:

Non – applicable, no political parties in UAE

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

References:

Non – applicable, no political parties in UAE

100: Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

23. Are the regulations governing the political financing of individual candidates effective?

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

Comments:

According to the government official interviewed (HE Tariq Lootah, Director General, Ministry of State for Federal National Council Affairs 08/04/10), the limits were strictly followed during the last election and each candidate's campaign plan was assessed and reviewed to ensure they conformed to the regulations in place.

However, there appears to be no guidelines on how much can be received from individual sources (individuals or companies). The limit exists on how much can be spent on the campaign and this total amount usually needs to be raised, unless the candidate is using their personal wealth, therefore the total amount that can be raised is equal to the limit for the campaign. The campaign plan needs to be submitted to the National Election Committee and only then when all costs and advertising have been agreed can the candidate begin the process of a campaign trail."

Although a reasonable overall cap on expenditures exists, in practice, one donor could potentially fund a candidate's entire campaign, allowing for influence peddling and making the candidate beholden to that one donor (individual or corporate).

References:

There has only been one election process in the UAE and there were no breaches of the legislation, which was strictly followed, the NEC ran checks to ensure the legislation is followed- As per the legislation approximately 2million dirhams for the media campaign, the campaign plan and all financial assistance received must be submitted to the NEC. (HE Tariq Lootah, Director General of the Ministry for Federal National Council Affairs)

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

Comments:

According to the government official interviewed (HE Tariq Lootah, Director General, Ministry of State for Federal National Council

Affairs 08/04/10), the limits were strictly followed during the last election and each candidate s campaign plan was assessed and reviewed to ensure they conformed to the regulations in place.

However, there appears to be no guidelines on how much can be received from sources (individuals or companies), the limit exists on how much can be spent on the campaign and this total amount usually needs to be raised unless the candidate is using their personal wealth, therefore the total amount that can be raised is equal to the limit for the campaign. The campaign plan needs to be submitted to the National Election Committee and only then when all costs and advertising have been agreed can the candidate begin the process of a campaign trail .

Although an overall cap on expenditures exists, in practice, one donor could potentially fund a candidates entire campaign, allowing for influence peddling and making the candidate beholed to that one donor (individual or corporate).

References:

There has only been one election process in the UAE and there were no breaches of the legislation, which was strictly followed, the NEC ran checks to ensure the legislation is followed- As per the legislation approximately 2million dirhams for the media campaign, the campaign plan and all financial assistance received must be submitted to the NEC. (HE Tariq Lootah, Director General of the Ministry for Federal National Council Affairs)

100: Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

According to the government official interviewed (HE Tariq Lootah, Director General, Ministry of State for Federal National Council Affairs 08/04/10) the NEC reviewed all candidates plans, the campaign plan needs to be submitted to the National Election Committee and only then when all costs and advertising have been agreed can the candidate begin the process of a campaign trail .

In 2006 all candidates disclosure forms were reviewed by the NEC according to HE Tariq Lootah, Director General of the Ministry for Federal National Council Affairs – 08/04/10

In 2006 this was done for all candidates to ensure a fair and just election. It is the Committee s job to oversee and regulate the election process; in the 2006 election this included the campaign trails by candidates. The NEC having seen the plan for all candidates prior to the campaign would monitor the progress of each of the candidates to ensure they were adhering to the plan submitted and that no additions had been made, if so they would investigate the candidate and their campaign in more detail.

References:

The election process in the UAE is new – no investigations took place during the 2006 election process however under the National Election Committee (NEC) regulations if the NEC feels there are irregularities then they can investigate or pass it to the relevant party to investigate further – ie if it is a corruption issue it will be passed to the police/Ministry of Justice. The NEC are proactive about all other issues and monitored the election process successfully – this as an issue would be treated, as any other, under the existing regulations (HE Tariq Lootah, Director General, Ministry of State for Federal National Council Affairs 08/04/10)

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power. It may be reluctant to cooperate with other investigatory agencies.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The NEC hold the powers to penalise

References:

The NEC can impose penalties – The election process in the UAE is new and no investigations took place during the 2006 election process however under the National Election Committee (NEC) regulations if the NEC feels there are irregularities then they can investigate or pass it to the relevant party to investigate further – ie if it is a corruption issue it will be passed to the police/Ministry of Justice. The NEC are proactive about all other issues and monitored the election process successfully – this as an issue would be treated, as any other, under the existing regulations an penalties would be imposed (HE Tariq Lootah, Director General, Ministry of State for Federal National Council Affairs 08/04/10)

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

Comments:

The campaign plans and financials must be reviewed and inspected prior the candidate commencing their campaigning. The NEC reviews the campaigns and also oversees the candidates campaigns from beginning through to election ensuring they are adhering to their proposed plans. This is usually done informally through spot checks or observations. (HE Tariq Lootah, Director General of the Ministry for Federal National Council Affairs 08/04/10)

References:

Each candidate must issue a full campaign plan to the election committee who review the financial plan and the financial aid.

100: The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

75:

50: The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

25:

0: The finances of individual candidates' campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

24. Can citizens access records related to the financing of political parties?

0

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Non-applicable, no political parties in UAE

100: Political parties disclose their sources of funding and expenditures at least every quarter.

75:

50: Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Non-applicable, no political parties in UAE

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Non-applicable, no political parties in UAE

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

References:

Non-applicable, no political parties in UAE

100: Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

25. Can citizens access records related to the financing of individual candidates' campaigns?

0

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Candidates file their campaign and media plan to the National Election Committee (NEC) prior to their canvassing – once this is approved they can begin their campaign, which is monitored by the NEC. This disclosure of financial support happens once (unless the candidate is asked for information during the campaign by the NEC) and the information is not released to the public if it is within the guidelines. Once the elections are over there is no more disclosure from the candidates. Those who are appointed are then monitored through the Ministries – there is no asset disclosure form required in the UAE

100: Individual candidates disclose their sources of funding and expenditures at least every quarter.

75:

50: Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Non-applicable, the disclosures to the National Election Committee are not released to the public

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Non-applicable disclosures made to the National Election Committee are not released to the public

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | 25 | 0

References:

Non-applicable, the disclosures made to the National Election Committee are not released to the public

100: Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

Category III. Government Accountability

III-1. ~~49~~ Executive Accountability

27. Can the chief executive be held accountable for his/her actions?

38

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

Comments:

Explanations are given through the issuance of meeting minutes – and the Prime Minister holds question sessions with the public and journalists.

Although the President in the UAE is more than a figure head, the major policy making is done through parliamentary processes with the final decision lying with the Cabinet before approval from the President. The Cabinet being made up of all State heads.

The debate regarding policy happens at the Federal National Council level of which all decisions as stated above (by HE Lootah) are documented and minuted and available on the Council website.

The Prime Minister also holds regular media sessions, and all Cabinet members hold majlis sessions in which citizens can raise concerns or discuss policy decisions directly with them. In reference to the media not being able to scrutinize the decisions or policy making by Royal family members, please refer to the media section in which it is explained that the media can make reference to and scrutinize policy decision but not scrutinize the person who developed the policy. For this reason we stand by our original score.

References:

FNC give reasons for their decisions through the documenting of minutes on their website (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10). HE Sheik Mohammed Bin Rashid Al Maktoum holds a question and answer sessions regularly on the Prime Minister’s website, these are open to media and the general public.

100: The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

75:

50: The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

25:

0: The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

27b. In law, the judiciary can review the actions of the executive.

YES | **NO**

Comments:

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board a board made up of the Chiefs of the Courts (Chief of Appeal, Chief of First Instance etc). The Judicial Board will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

References:

The judiciary can pass comment (through the Judicial Board) and the Ministry of Justice reviews draft legislation prior to it being sent to the Federal National Council for approval. The judiciary does not review laws already passed. The process of issuing and developing legislation goes through the Ministry of Justice. The process is as follows: A draft is written by the Ministry it then goes to the Ministry of Justice before going to the Federal Technical Committee, once it is approved here it is sent to the Cabinet before going to the FNC. the FNC have the power to change or amend the legislation before it is sent to the President for approval. If the President want to make changes or does not agree to the draft as it stands then it is sent back to the FNC. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

Article 99, UAE Constitution

YES: A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

Comments:

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board a board made up of the Chiefs of the Courts (Chief of Appeal, Chief of First Instance etc). The Judicial Board will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

References:

The judiciary can pass comment (through the Judicial Board) and the Ministry of Justice reviews draft legislation or policy documentation prior to it being sent to the Federal National Council for approval. The judiciary does not review laws or policies already passed. The process of issuing and developing legislation goes through the Ministry of Justice. The process is as follows: A draft is written by the Ministry it then goes to the Ministry of Justice before going to the Federal Technical Committee, once it is approved here it is sent to the Cabinet before going to the FNC. the FNC have the power to change or amend the document before it is sent to the President for approval. If the President wants to make changes or does not agree to the draft as it stands then it is sent back to the FNC. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

75:

50: The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

Comments:

Executive orders are used when there is no exiting legislation – they would not be used to by-pass the formal process. Recent examples include UAE Federal Law No. 6 of 2009 Regarding the Peaceful Uses of Nuclear Energy which needed to be passed quickly to meet international guidelines

References:

Executive orders are used, i.e. Decrees. The structure of the UAE allows for state leaders, the rulers of each Emirate, to establish legislation but they must not conflict or contradict the existing legislation (Law firm in Dubai dealing with Federal issues, 16/04/10)

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

28. Is the executive leadership subject to criminal proceedings?

100

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | NO

References:

YES – Ministers and members of the FNC have immunity but if there are accused of a criminal act or fraudulent practices – then the immunity is removed and they are treated as any other citizen. The removal of their immunity is instant upon arrest or investigation and will only be reinstated if all charges are found to be false and the person freed without charge. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10 and by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10)

Article 99 of UAE Constitution

YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

Comments:

Government representatives can be prosecuted for criminal allegations

References:

YES – Ministers and members of the FNC have immunity but if there are accused of a criminal act or fraudulent practices – then the immunity is removed and they are treated as any other citizen. The removal of their immunity is instant upon arrest or investigation and will only be reinstated if all charges are found to be false and the person freed without charge (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10 and Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10)

Article 99 of UAE Constitution

YES: A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

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

22

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

Comments:

No – not applicable in UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | **NO**

Comments:

No – not required in the UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

NO: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

Comments:

There are formal guidelines

References:

This falls under the HR law and internal FNC and Cabinet regulations. There is a cap on what is permitted – a limit on the value of gifts and no money is allowed to be accepted. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

(Article 70, Federal law decree # 11, 2008 – Federal Government Human Resources law)

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | **NO**

Comments:

No – not applicable in the UAE, not required

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | **NO**

Comments:

No such restrictions

References:

Members of the FNC can hold private sector jobs at the same time as their position in government. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

YES: A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | **0**

Comments:

No regulation

References:

NO – members of the government can hold private sector jobs at the same time as their position in government. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

Comments:

The monitoring of gifts received is a self-regulated process. If someone is found to be breaching the regulations the penalties can be severe, they are taken on a case by case basis. The society is a close one and citizens are well known within their positions, it would often be obvious if someone took a gift beyond the threshold without declaring it.

References:

This falls under the HR law and internal FNC and Cabinet regulations. There is a cap on what is permitted – a limit on the value of gifts and no money is allowed to be accepted. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

Comments:

Non-applicable (there are no requirements for asset disclosure forms in the UAE)

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

30. Can citizens access the asset disclosure records of the heads of state and government?

0

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | **NO**

Comments:

Non-applicable in the UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Non-applicable in the UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some additional delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Non-applicable in the UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

References:

N/A no asset disclosure forms required in the UAE (Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10)

100: The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

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

100

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

YES | NO

Comments:

Complaints mechanism in legislation – all Ministries have their own complaints mechanism internally, dependent on the complaint being made citizens can address the appropriate Ministry, bring a case to court or address the ruler directly in a majlis setting.

References:

(Article 41, UAE Constitution) [Every person shall have the right to submit complaints to the competent authorities , including the judicial authorities concerning the violation of the rights and liberties set forth in this Part"]

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

NO: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

References:

Under the election regulations no government funds must be used to assist a candidate in their campaign – this would mean no government cars etc. Under the Federal Human Resource legislation (No. 11 of 2008) no civil servant must do anything within his job role which will lead to private gain – this includes not being allowed to sit in policy decisions which there might be personal interest and this applies to the 4th degree (ie family ties). With the Emirates having a very close knit community citizens are aware of each others family or business ties and as such it would be difficult to by-pass this.

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

III-2. Legislative Accountability

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

33

32a. In law, the judiciary can review laws passed by the legislature.

YES | NO

Comments:

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board a board made up of the Chiefs of the Courts (Chief of Appeal, Chief of First Instance etc). The Judicial Board will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

References:

The judiciary can pass comment and the Ministry of Justice reviews draft legislation prior to it being sent to the Federal National Council for approval. The judiciary does not review laws already passed.

YES: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

Comments:

The judiciary reviews laws before executive input and does not have the right to review laws after they have been passed.

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board a board made up of the Chiefs of the Courts (Chief of Appeal, Chief of First Instance etc). The Judicial Board will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

References:

The judiciary can pass comment and the Ministry of Justice reviews draft legislation prior to it being sent to the Federal National Council for approval. The judiciary does not review laws already passed. (Dubai lawyer, K.B 13/05/10)

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

YES | NO

References:

YES – Ministers and members of the FNC have immunity but if there are accused of a criminal act or fraudulent practices – then the immunity is removed and they are treated as any other citizen. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

Articles 18 – 20, Federal Decree No 97, 1977

YES: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

NO: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

33. Are there regulations governing conflicts of interest by members of the national legislature?

25

33a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

References:

No law that specifically requires asset disclosure – however if there is a violation or case in which proof of the source of wealth or assets is required then the individual can be asked to prove the source. Anything criminal or that when source is questioned and the accused has access to public money and the case is then passed directly to the Attorney General who will investigate. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10. SAI can however through the central bank cease assets if it is thought that that public money is being misused.

YES: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the legislature is not required to disclose assets.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | **NO**

References:

Members of the FNC can hold private sector jobs at the same time as their position in government. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

YES: A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | NO

Comments:

Formal guidelines in place

References:

YES – this falls under the HR law and internal FNC regulations. There is a cap on what is permitted – a limit on the value of gifts and no money is allowed to be accepted. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | **NO**

Comments:

non-applicable, not required in UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

Legislators routinely take jobs in the private sector following government employment

References:

Members of the FNC can hold private sector jobs at the same time as their position in government. (confirmed by HE Tariq Lootah, Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

References:

The monitoring of gifts received is a self-regulated process. If someone is found to be breaching the regulations the penalties can

be severe, they are taken on a case by case basis. The society is a close one and citizens are well known within their positions, it would often be obvious if someone took a gift beyond the threshold without declaring it. (Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

Non-applicable in the UAE, not required

Any irregularities which are discovered during investigations or audits will be investigated either internally or passed to the relevant party (ie if criminal activity is suspected or found to be taking place then the case would be passed to the police). Investigations can be done by the State Audit Institution who oversee state owned enterprises and government entities – audits can be undertaken internally by the Ministries. If it is felt that a senior member of staff is involved in anything untoward then the case is passed to the Attorney General to investigate further.

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

34. Can citizens access the asset disclosure records of members of the national legislature?

0

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | **NO**

Comments:

Non-applicable, not required in the UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | **0**

Comments:

Non-applicable, not required in the UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Non-applicable, not required in the UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Non-applicable, not required in the UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

35. Can citizens access legislative processes and documents?

100

35a. In law, citizens can access records of legislative processes and documents.

YES | NO

Comments:

Formal rules apply

References:

YES – legislative documents are available through the Official Gazette (UAE Constitution Article 110 and 114) or the Ministry of Justice website. Internal regulation by FNC – FNC meeting minutes are available on their website and any legislative changes or amendments as well as any new legislation is published in the Official Gazette (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10) The Emirates Institute for Information was established under the Federal Law No. 5 of 1999, A public Institution & [which] aims to take part in the rise of the information and culture in the State while focusing on the national culture within the frame of the public policy of these two fields , and leaning on its Arab and Islamic cultural constituents”.

YES: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

NO: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records are available online

References:

YES – FNC meeting minutes are available on their website approximately one week after the meetings; the time schedule will shorten in the future as the government are trialing new technology which will type the minutes through voice recognition software. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Records are available online free of charge

References:

The FNC meeting minutes are available on their website free of charge, the Official Gazette has a nominal yearly change and is given to all Ministries and Government offices free of charge. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

40
III-3. Judicial Accountability

36. Are judges appointed fairly?

67

36a. In law, there is a transparent procedure for selecting national-level judges.

Comments:

Prior to working as a judge in the UAE court system you must be enrolled and complete the one year course at the Federal Judicial Institute. After a year – which is made up of 6 months of theory and 6 months of ‘on-the-job training’ i.e: assisting with cases; trainees graduate from the Institute and are then permitted to work in the Court of First Instance. To move up to the Court of Appeal or Public Prosecution a Judge would need approximately 10 years experience and then only the best and most experienced Judges would be chosen for the Supreme Court and the clauses for this are as follows:

Federal Law No. 10 of 1973 (Article 4)

The candidates appointed as judges in the Supreme Court should comply with the following conditions :

- 1 – To be a citizen of the United Arab Emirates State enjoying full civil capacity .
- 2 – Not to be less than thirty – five years of age .
- 3 – To be holder of a Bachelor’s Degree in Islamic Law and in Law from one of the accredited universities or higher education institutions .
- 4 – To have previously worked for a period not less than fifteen years in judicial or legal activities in one of the courts or its corresponding occupations at the Public Prosecution , the Fatwa and legislation , or government litigation department , or in teaching law or Islamic Shari’a at accredited universities or higher institutions , in legal practice or in other legal activities that are considered as counterpart for the judiciary .
- 5 – To be of good conduct and reputation , not previously convicted by any of the courts or disciplinary councils for any matter relating to honour even if rehabilitated .

References:

(Article 96 of UAE Constitution) – Translated from the Arabic: The Union Supreme Court shall consist of a President and a number of Judges – not exceeding five in all, who shall be appointed by decree issued by the President of the Union after approval by the Supreme Court. The law shall prescribe the number of chambers in the Court, their orders and procedures, conditions of service and retirement for it members and the preconditions required of them.

Articles 18 – 21, Federal law No 3, 1983

Article 2, Ministrial decree No 123, 1987

YES: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

References:

Prior to working as a judge in the UAE court system you must be enrolled and complete the one year course at the Federal Judicial Institute. After a year – which is made up of 6 months of theory and 6 months of ‘on-the-job training’ i.e: assisting with cases; trainees graduate from the Institute and are then permitted to work in the Court of First Instance. To move up to the Court of Appeal or Public Prosecution a Judge would need approximately 10 years experience and then only the best and most experienced Judges would be chosen for the Supreme Court (Dubai based lawyer, K.B. 13/05/10). The regulation regarding the appointment to the Supreme Court is as follows: Federal Law No. 10 of 1973 (Article 4)

The candidates appointed as judges in the Supreme Court should comply with the following conditions :

- 1 – To be a citizen of the United Arab Emirates State enjoying full civil capacity .
- 2 – Not to be less than thirty – five years of age .

3 – To be holder of a Bachelor’s Degree in Islamic Law and in Law from one of the accredited universities or higher education institutions .

4 – To have previously worked for a period not less than fifteen years in judicial or legal activities in one of the courts or its corresponding occupations at the Public Prosecution , the Fatwa and legislation , or government litigation department , or in teaching law or Islamic Shari’a at accredited universities or higher institutions , in legal practice or in other legal activities that are considered as counterpart for the judiciary .

100: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES

NO

Comments:

Requirements for judges of all levels mandate that they have completed and pass the course in the independent Federal Judicial Institute in order to become a judge in the UAE. Nominations by the Supreme Council are only made in relation to high level positions such as those in the Supreme Court as part of the criteria for appointment of high level, experienced judges. There is no indication that Supreme Court appointees are confirmed by an independent body.

References:

Prior to working as a judge in the UAE court system you must be enrolled and complete the one year course at the Federal Judicial Institute. After a year – which is made up of 6 months of theory and 6 months of ‘on-the-job training’ i.e: assisting with cases; trainees graduate from the Institute and are then permitted to work in the Court of First Instance. To move up to the Court of Appeal or Public Prosecution a Judge would need approximately 10 years experience and then only the best and most experienced Judges would be chosen for the Supreme Court. (Dubai based lawyer, K.B 13/05/10)

Federal Law No. 10 of 1973 (Article 4)

The candidates appointed as judges in the Supreme Court should comply with the following conditions :

1 – To be a citizen of the United Arab Emirates State enjoying full civil capacity .

2 – Not to be less than thirty – five years of age .

3 – To be holder of a Bachelor’s Degree in Islamic Law and in Law from one of the accredited universities or higher education institutions .

4 – To have previously worked for a period not less than fifteen years in judicial or legal activities in one of the courts or its corresponding occupations at the Public Prosecution , the Fatwa and legislation , or government litigation department , or in teaching law or Islamic Shari’a at accredited universities or higher institutions , in legal practice or in other legal activities that are considered as counterpart for the judiciary .

YES: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity independent from the body appointing the judges.

NO: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

Comments:

Judges must justify their decisions so that the Judicial Board and the Inspections Department are both content with the decision

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board/Council – this Federal Supreme Judicial Council was formed in the 1983 law governing the judiciary. It is headed by the minister of justice, the deputy minister, the attorney-general, the director of the office of judicial inspection, and three senior judges. It is consulted in matters related to assignments and promotion. The Judicial Council will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

References:

Judges must give reasons for their decisions and the Judicial Board/Council as well as the Judicial Inspections Department based in the Ministry of Justice which is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Council (see more below) The Judicial Council will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

YES: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

NO: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

Comments:

Judges must justify their decisions so that the Judicial Board and the Inspections Department are both content with the decision

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board/Council – this Federal Supreme Judicial Council was formed in the 1983 law governing the judiciary. It is headed by the minister of justice, the deputy minister, the attorney-general, the director of the office of judicial inspection, and three senior judges. It is consulted in matters related to assignments and promotion. The Judicial Council will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

References:

Judges must give reasons for their decisions and the Judicial Board/Council as well as the Judicial Inspections Department based in the Ministry of Justice which is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Council (see more below) The Judicial Council will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES

NO

Comments:

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board/Council – this Federal Supreme Judicial Council was formed in the 1983 law governing the judiciary. It is headed by the minister of justice, the deputy minister, the attorney-general, the director of the office of judicial inspection, and three senior judges. It is consulted in matters related to assignments and promotion. The Judicial Council will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

References:

There is a tier system for discipline for all government employees, dependant on their rank or position. Dependent on the charge – criminal or civil the case will be reviewed and dealt with accordingly. No government employees are immune from investigation. (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10)

Within the Judicial system the Judicial Board/Council (see comments for more information) will decide if a case has been conducted fairly. Cases, court conduct and decisions are also reviewed by the Judicial Inspections Department (see comments). If there is any indication that there is an issue with the handling of a case by a judge then either of these boards will investigate. If there is a criminal allegation i.e. bribery or fraud conducted by a judge then the case will be passed to the Attorney General or the Police to conduct further investigation and impose penalties.

Article 73, Federal law No 3, 1983

Ministrial Decree No 123, 1987

Article 41, Federal law No 3, 1983

YES: A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to the judiciary.

NO: A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | **NO**

Comments:

The judicial disciplinary committee is not free of influence from the other branches of government as the minister of justice serves as the chairman of this council.

References:

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board/Council – this Federal Supreme Judicial Council was formed in the 1983 law governing the judiciary. It is headed by the minister of justice, the deputy minister, the attorney-general, the director of the office of judicial inspection, and three senior judges. It is consulted in matters related to assignments and promotion. The Judicial Council will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

YES: A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

NO: A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board/Council – this Federal Supreme Judicial Council was formed in the 1983 law governing the judiciary. It is headed by the minister of justice, the deputy minister, the attorney-general, the director of the office of judicial inspection, and three senior judges. It is consulted in matters related to assignments and promotion. The Judicial Council will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

References:

The Judicial Board/Council (see comments for more information) will decide if a case has been conducted fairly. Cases, court conduct and decisions are also reviewed by the Judicial Inspections Department (see comments). If there is any indication that there is an issue with the handling of a case by a judge then either of these boards will investigate. If there is a criminal allegation i.e. bribery or fraud conducted by a judge then the case will be passed to the Attorney General or the Police to conduct further investigation and impose penalties.

Either of the boards will investigate any misconduct fully and will impose penalties or pass the case to a more appropriate party – i.e. the police.

100: The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

75:

50: The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

25:

0: The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board/Council – this Federal Supreme Judicial Council was formed in the 1983 law governing the judiciary. It is headed by the minister of justice, the deputy minister, the attorney-general, the director of the office of judicial inspection, and three senior judges. It is consulted in matters related to assignments and promotion. The Judicial Council will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

References:

The Judicial Board (see comments for more information) will decide if a case has been conducted fairly. Cases, court conduct and decisions are also reviewed by the Judicial Inspections Department (see comments). If there is any indication that there is an issue with the handling of a case by a judge then either of these boards will investigate. If there is a criminal allegation i.e. bribery or fraud conducted by a judge then the case will be passed to the Attorney General or the Police to conduct further investigation and impose penalties.

The Judicial Boards will investigate and impose penalties if necessary but if there is an issue relating to a criminal act such as fraud then the Police would handle the case and it would be then who would impose penalties based on the legislation.

100: When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

38. Are there regulations governing conflicts of interest for the national-level judiciary?

25

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | **NO**

Comments:

Not required in UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | NO

Comments:

There are formal guidelines

References:

This falls under the HR law and internal FNC regulations. There is a cap on what is permitted – a limit on the value of gifts and no money is allowed to be accepted. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

Article 88, Federal Law No 3, 1983

Article 70, Federal law decree No 11, 2008 – Federal Government Human Resources law

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | **NO**

Comments:

Non-applicable, not required

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | **NO**

Comments:

No restrictions in UAE

References:

Members of the government – including those in the Courts can hold private sector jobs at the same time as their position in government, as can any government employee. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

YES: A YES score is earned if there are regulations restricting national-level judges' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | **0**

Comments:
No regulations

References:

NO – members of the government – including those in the Ministry of Justice can hold private sector jobs at the same time as their position in government. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

Comments:

The monitoring of gifts received is a self-regulated process. If someone is found to be breaching the regulations the penalties can be severe, they are taken on a case by case basis. The society is a close one and citizens are well known within their positions, it would often be obvious if someone took a gift beyond the threshold without declaring it.

References:

This falls under the HR law and internal FNC regulations. There is a cap on what is permitted – a limit on the value of gifts and no money is allowed to be accepted. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

Non – applicable, no requirement

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

39. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

YES | NO

Comments:

Non-applicable, not required in UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Non-applicable, not required in UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Non-applicable, not required in UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Non-applicable, not required in UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

III-4. Budget Processes

40. Can the legislature provide input to the national budget?

100

40a. In law, the legislature can amend the budget.

YES | NO

Comments:

The budget has to pass through the legislator before approval

References:

The budget, like legislation moves from Ministry level to the FNC, in this case from the Ministry of Finance to the Federal National Council and upward to the Cabinet for final approval (MoF website – <http://www.mof.gov.ae/AR/Pages/default.aspx>)

YES: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

NO: A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

Comments:

The budget is passed from the Ministry of Finance to the Federal National Council (FNC). If there is a need for a change in the budget or if there is a need to spend further funds then the budget would need to be amended and it would then pass through the same process as it did originally – Ministry of Finance approved before going to the FNC and then to the President for final approval.

References:

(Ministerial Decision No 184, 2006 – On The Implementing Regulations of The Federal Law No 23 of 2005 On Rules of The Preparation of The State Budget and Final Accounts)

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75:

50: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

25:

0: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

Comments:

The FNC plays a significant role in the approval of the budget, they have the power to make recommended changes and stop the

progress of the budget. If the FNC do not agree or approve the budget it does not go any further, it will go back to the Ministry of Finance. Any changes or recommendations made to the budget by the FNC must be passed back to the Ministry of Finance who is responsible for making the required adjustments before it is resubmitted to the FNC.

References:

(Ministerial Decision No 184, 2006 – On The Implementing Regulations of The Federal Law No 23 of 2005 On Rules of The Preparation of The State Budget and Final Accounts)

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

41. Can citizens access the national budgetary process?

67

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | **50** | 25 | 0

Comments:

Budget debates – initial debates in the FNC are announced in the minutes issued to the public but the second phase is not disclosed. This indicator score reflects the fact that the President/Supreme Council can make changes with no public oversight/visibility into the process.

References:

The budget would pass from the Ministry of Finance to the Federal National Council before the Supreme Council and then finally to the President for approval. All meeting of the Supreme Council are held in secret (Article 48.1 of UAE Constitution) and as national budgets are confirmed in the Council then the debating stage would not be disclosed. The Supreme Court sessions are closed to members of the public and no minutes are issued. The budget will pass through the Federal National Council prior to being sent to the Supreme Court, the discussions and debates that take place in the FNC are minuted and released for public view.

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | **50** | 25 | 0

Comments:

Debate regarding the budget happens at the Ministerial and Federal National Council level. The FNC debates are open to the public and minutes made available. The budget will not pass to the Supreme Council and then the President without it being finalized by the Council. Budget debates and discussions in the Supreme Council are closed to the public. Although the Supreme Council have the power to request changes it is rare as the budget has been carefully scrutinized before it reaches this stage.

References:

Budgets are discussed by citizen representatives in the Assembly (Article 89 of UAE Constitution)

100: Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

75:

50: Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or CSOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

Comments:

All budget information is available on the MoF website

References:

All budget information is available on the Ministry of Finance's website including the budget plan, the new zero-based budgeting information and handbook and the budgetary legislation <http://www.mof.gov.ae/Budget/EN/SitePages/Background.aspx>

100: Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

43. Is the legislative committee overseeing the expenditure of public funds effective?

42

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

References:

A legislative committee for auditing does not exist. However, regular reports are submitted to the SAI by Ministries and by State Owned Enterprises. The SAI also carries out individual audits. (Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10)

100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

75:

50: Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

25:

0: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

Comments:

In the approval phase, the federal budget goes through the process the Federal National Council – made up of 40 members from all seven emirates – these people are from wide and diverse backgrounds and are usually from different socio-economic groups, each member will have their own view and their own priorities which allows for comprehensive debate. The Cabinet – made up of all the Ministers of federal departments and the final decision regarding the budget lies with the Supreme Court which is made up of the seven rulers of each of the emirates, prior to its approval by the President – each of the rulers will have their own priorities based on their emirate level policies.

References:

There is no legislative oversight committee to monitor budget expenditures and ministry-level budgetary spending. These audits and reviews are completed by the Supreme Audit Institution.

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

75:

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | **50** | 25 | 0

References:

Peer reviewers: Our research team is still working on this indicator. We welcome any scoring and reference suggestions from you.

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

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

0

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

YES | NO

References:

It is the State Audit Institution (Federal Law No. 7 of 1976 On the Establishment of The State Audit Institution) which is responsible for auditing the funds of the state and under Article 10 of the Law above to ensure that the expenditures have been adequately disbursed within the limits of appropriations allocated in the budget. There is no legislative committee.

YES: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

NO: A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

Category IV. Administration and Civil Service

IV-1. Civil Service Regulations

44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

Comments:

There are formal rules stating that civil service carry out duties independent of political interference

References:

Federal Law number 21 (2001) concerning the Civil Service in the Federal Government / Council Ministers must not exploit position and they must promote public welfare etc (Article 63 – Constitution)

YES: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

NO: A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

References:

Article 64 of Federal Law number 21(2001) 'The official obligations and prohibited activities – It is specifically prohibited for the official to....'

Article 73, Federal law decree No 11of 2008 – Federal Government Human Resources law

Legislation does exist addressing these issues – applies to all levels of the civil service, the legislation – still in Arabic – refers to the areas of cronyism, nepotism and patronage although not directly using these terms. This was confirmed by Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, in a meeting on 19/04/10.

YES: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

NO: A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.

YES | NO

Comments:

Disciplinary boards are seen as being independent: These exist within the framework of each of the Federal Ministries, they are classed as totally independent and do not cross over or have links to the Ministry outside their role as a panel – There is a panel for disciplinary issues, one for penalties and one for appeals.

References:

Article 65-67 of Federal Law number 21 (2001) The Disciplinary Board will investigate.

Articles 95 – 100, Federal law decree No 11, 2008 – Federal Government Human Resources law

YES: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

NO: A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

Comments:

There are regulations

References:

Yes – Article 21 of Federal Law 21 (2001) 21.5 The following requirements must be satisfied for the appointment in any of the public functions : – ‘He must not be previously dismissed from service by an irrevocable judgment or disciplinary decision unless at least one year has elapsed from its issuance’ or Article 19.6 of DECISION OF THE COUNCIL OF MINISTERS NO . 12 (2003), CONCERNING THE IMPLEMENTING REGULATION TO Federal Law 21 (2001) ‘Appointment in any of the Positions shall be conditioned upon submitting the following documents : & 6 – Acknowledgment of no previous dismissal from service by judgment or Disciplinary Decision which one year has not elapsed from its issuance . The Board shall set down a specimen of this acknowledgment ‘

Article 15, Federal law decree # 11, 2008 – Federal Government Human Resources law

YES: A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

NO: A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

45. Is the law governing the administration and civil service effective?

75

45a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Based on our interview, civil servants have no more pressure in terms of political influence as another citizens working in the private sector. Civil Servants are seen as independent employees (confirmed above by the Director General of the Federal Authority for Human Resources) and do not or could not influence political decisions.

References:

Civil servants although government employees, are unaffected by political interference – civil servants, unless it is within their job criteria or regarding work within their Ministry or department, will not make comments regarding government policies. They work within the limits of their job descriptions within their departments and not influenced by the ‘political process’. (Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | **50** | 25 | 0

References:

There are job descriptions and specifications which need to be met for specific positions, there maybe some personal loyalties or family connections but not often (Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | **50** | 25 | 0

Comments:

Can be appointed through family or friends recommendation

References:

Sometimes recommendations can be made, especially with family ties, for senior positions – appointments are based on reference. (Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

References:

They all have job descriptions (Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.

75:

50: Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

25:

0: Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

Comments:

Civil servants do not receive bonuses so it can be classed as a minimal amount.

References:

Civil servants do not receive bonuses in the non-profit governmental sector. Dr. Abdulrahman Al Awar – Director General of the

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

25:

0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

References:

The government used to disclose this but it was decided that the system was not being used effectively and therefore did not provide a clear, informed or transparent picture so it was decided that the 'useless' system would be removed and it would remain the Minister's job to monitor and decide which positions to fill – any issues would then be taken up with the Federal Human Resources Department or the Ruler directly. (Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: The government publishes such a list on a regular basis.

75:

50: The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

25:

0: The government rarely or never publishes such a list, or when it does it is wholly incomplete.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

Comments:

We have been told by the Director General of the Federal Authority for Government Human Resources – Dr. Abdulrahman Al Awar (19/04/10) that the independent redress mechanisms are effective, they are present and being used in government departments.

References:

There are simple channels which under the new HR legislation each Ministry now needs to create panels for penalties and for appeal and a further central appeal process is available through the federal Authority for Government HR. Disciplinary boards are seen as being independent: The panels exist within the framework of each of the Federal Ministries, they are classed as totally independent and do not cross over or have links to the Ministry outside their role as a panel – There is a panel for disciplinary issues, one for penalties and one for appeals. These exist and are used as per the legislation. (Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

75:

50: The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

25:

0: The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

References:

YES they have all been paid on time (Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: In the past year, no civil servants have been paid late.

75:

50: In the past year, some civil servants have been paid late.

25:

0: In the past year, civil servants have frequently been denied due pay.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

Comments:

Formal process

References:

There is an exemption process, if integrity issues are breached then the employee will not be re-employed. (Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

46. Are there regulations addressing conflicts of interest for civil servants?

42

46a. In law, senior members of the civil service are required to file an asset disclosure form.

YES | **NO**

Comments:

Not required in the UAE

References:

No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

Comments:

There are regulations in this regard

References:

Council Ministers must renounce personal benefit (Article 63 of UAE Constitution)

Article 71, Federal law decree # 11, 2008 – Federal Government Human Resources law

YES: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

NO: A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | **NO**

Comments:

no restrictions

References:

Members of the government can hold private sector jobs at the same time as their position in government. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

YES: A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

Comments:

There are formal guidelines

References:

This falls under the HR law and internal FNC regulations. There is a cap on what is permitted – a limit on the value of gifts and no money is allowed to be accepted. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

Article 70, Federal law decree # 11, 2008 – Federal Government Human Resources law

YES: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

NO: A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

YES | **NO**

Comments:

Not required in UAE

References:

No law that specifically requires asset disclosure – however if there is a violation or case in which proof of the source of wealth or assets is required then the individual can be asked to prove the source. Anything criminal or that when source is questioned and the accused has access to public money and the case is then passed directly to the Attorney General who will investigate. No asset disclosure forms are required to be completed by any government employees. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | **0**

Comments:

Government members can hold private sector positions after leaving government

References:

Members of the government can hold private sector jobs at the same time as their position in government. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

The monitoring of gifts received is a self-regulated process. If someone is found to be breaching the regulations the penalties can be severe, they are taken on a case by case basis. The society is a close one and citizens are well known within their positions, it would often be obvious if someone took a gift beyond the threshold without declaring it.

References:

This falls under the HR law and internal FNC regulations. There is a cap on what is permitted – a limit on the value of gifts and no money is allowed to be accepted. (confirmed by HE Tariq Lootah , Director General of Ministry of State for Federal National Council Affairs – meeting on 08/04/10)

100: The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

Comments:

We have been assured through interview with the Director General that the practice is indeed followed. It was explained to us that with such a small community all the citizens know each other or know of each others family groups, they are aware what companies people own or what groups they may be associated with. This means it is easy to identify conflict of interest and for this reason the practice is closely followed as it is difficult for people to hide areas of which they might have an interest. As is stated above the conflict of interest regulation refers to any policy decisions to the 4th degree of association.

References:

They should not be involved in any decision which might lead to some personal gain. The policy is that noone should take part in

policy decisions to the 4th degree of association. (Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

75:

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

Non-applicable – not required in the UAE

References:

No law that specifically requires asset disclosure – however if there is a violation or case in which proof of the source of wealth or assets is required then the individual can be asked to prove the source. Anything criminal or that when source is questioned and the accused has access to public money and the case is then passed directly to the Attorney General who will investigate. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10.

100: Civil service asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

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

0

47a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | NO

Comments:
not required in UAE

References:

No law that specifically requires asset disclosure – however if there is a violation or case in which proof of the source of wealth or assets is required then the individual can be asked to prove the source. Anything criminal or that when source is questioned and the accused has access to public money and the case is then passed directly to the Attorney General who will investigate. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10. SAI can however through the central bank cease assets if it is thought that that public money is being misused.

YES: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

NO: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Not required in UAE

References:

No law that specifically requires asset disclosure – however if there is a violation or case in which proof of the source of wealth or assets is required then the individual can be asked to prove the source. Anything criminal or that when source is questioned and the accused has access to public money and the case is then passed directly to the Attorney General who will investigate. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Not required in UAE

References:

No law that specifically requires asset disclosure – however if there is a violation or case in which proof of the source of wealth or assets is required then the individual can be asked to prove the source. Anything criminal or that when source is questioned and the accused has access to public money and the case is then passed directly to the Attorney General who will investigate. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Not required in UAE

References:

No law that specifically requires asset disclosure – however if there is a violation or case in which proof of the source of wealth or assets is required then the individual can be asked to prove the source. Anything criminal or that when source is questioned and the accused has access to public money and the case is then passed directly to the Attorney General who will investigate. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10.

100: The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

IV-2. Whistle-blowing Measures

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

100

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

Comments:

There are complaints departments in all of the Ministries, these departments are independent and deal with the complaints quickly dependent on the issue. If the complaint can be dealt with in-house it will be passed to a senior member of staff for review and an investigation will take place. If a senior member of staff is implicated or if the complaint refers to a criminal matter the complaint will be passed to the appropriate agency.

The State Audit Institution (SAI) has a separate independent reporting tool for all civil servants and members of the public to make complaints regarding any government body or state-owned enterprise.

References:

The SAI has an independent mechanism the 'ReportFraud' section on their website – giving an email address and post address to send complaints or reports (open to all, not just civil servants) to report any fraudulent or corrupt behaviour in any government office or state owned institution. The SAI define fraud as: Fraud is defined as the use of deception to unjustly obtain a benefit.

State Audit Institution (SAI) legislation and regulations (Federal Law No 7 of 1976) SAI state that all 'information received will be safeguarded by the SAI and kept confidential'

– SAI does not require the name of the person making the report to be given. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

References:

Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – (meeting held 07/04/10). The SAI acts on complaints as if they had discovered the information themselves, the person making the complaint will remain completely anonymous and their identity protected.

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

Comments:

There are specific regulations

References:

YES – Part of the SAI regulations (Federal Law No 7 of 1976) – Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – (meeting held 07/04/10). The SAI acts on complaints as if they had discovered the information themselves, the complainant remains completely anonymous and their identity protected.

YES: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for private-sector whistleblowers.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:

Mechanism in place

References:

Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – (meeting held 07/04/10). The SAI acts on complaints as if they had discovered the information themselves, the person making the complaint will remain completely anonymous and their identity protected.

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

100

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

the agency has sufficient staff to fulfill its mandate

References:

YES – Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: The agency/entity has staff sufficient to fulfill its basic mandate.

75:

50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

References:

YES – It receives a budget from the Federal government. (confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10)

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

SAI acts quickly to complaints, usually passed to the SAI head within one day and the process moves swiftly from there – this is confirmed by the SAI Under Secretary, no examples can be given as this may impact on the anonymity of the 'ReportFraud' service.

References:

YES – once the SAI receives the complaint it is examined and SAI arranges a site visit/inspection. Then the complaint and the issues raised are transferred to the relevant department within the SAI for follow up – there is a separate department for finance related issues. (confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10)

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

SAI is aggressive in investigating the government or other agencies when irregularities are discovered – this is confirmed by the Under Secretary however no examples can be given as this may effect the anonymity of the reporting mechanism.

References:

YES – The State Audit Institution (SAI) is divided into departments which cover different Ministries, agencies etc and each of these investigate/examine issues related to their area (confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10)

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

YES | NO

Comments:

SAI has various means, through email/website link or by post

References:

State Audit Institution – 'ReportFraud' section on their website – giving an email address and post address to send complaints or reports (open to all, not just civil servants). They define fraud as: Fraud is defined by SAI as the use of deception to unjustly obtain a benefit. The reporting mechanism can be used for both financial and non-financial issues of corruption regarding any

government office or state-owned enterprise, if the issue is outside of the limits of SAI it will pass the complaint to a more relevant body or the Ministry involved in the complaint to follow up.

YES: A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

NO: A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

100 IV-3. Procurement

51. Is the public procurement process effective?

90

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

Comments:

There are formal regulations

References:

YES – (Article 71, Federal law decree # 11, 2008 – Federal Government Human Resources law)

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

NO: A NO score is earned if no such rules exist.

51b. In law, there is mandatory professional training for public procurement officials.

YES | NO

References:

Legislation – Federal Regulation of Conditions of Purchases, Tenders and Contracts, Financial Order No. 16 of 1975

There is mandatory training for procurement officials as outlined under the Ministry of Finance regulations. Procurement officials must undertake an initial training programme and must also undergo regular training (Ministry of Finance Official, 26/05/10).

YES: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

NO: A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

Comments:

We have been assured through interview with the Director General of the Federal Authority for Human Resources that the practice is indeed followed for all civil servants. It was explained to us that with such a small community all the citizens know each other or know of each others family groups, they are aware what companies people own or what groups they may be associated with. This means it is easy to identify conflict of interest and for this reason the practice is closely followed as it is difficult for people to hide areas of which they might have an interest. As is stated above the conflict of interest regulation refers to any policy decisions to the 4th degree of association.

References:

Officials working in the public procurement department of the Ministry of Finance are government employees and therefore subject to the Human Resources legislation. By law no government employee shall be involved in any decision in which they have a personal interest. The UAE is a small country and citizens are aware of the family connections of others so the legislation is followed in practice. (Ministry of Finance Official 26/05/10)

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict-of-interest regulations do not exist, or are consistently ineffective.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | NO

Comments:

No asset disclosure forms are required to be completed by any government employees. It is important to note that no citizens money is (there is no tax in the UAE) being used in Federal Government or in SOEs – so there is less obligation to report spending patterns and disclose asset. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

References:

Legislation – Federal Regulation of Conditions of Purchases, Tenders and Contracts, Financial Order No. 16 of 1975

YES: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

NO: A NO score is earned if no such mandate exists.

51e. In law, major procurements require competitive bidding.

YES | NO

Comments:

The Ministry of Finance must receive different bids before a decision can be made and a contract awarded, this is covered by the Ministry regulations (Confirmed by government official K.A; Ministry of Finance, 06/06/10)

References:

Legislation – Federal Regulation of Conditions of Purchases, Tenders and Contracts, Financial Order No. 16 of 1975

YES: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

NO: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

51f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

Comments:

Sole-sourcing is limited by the tender regulations; there are provisions under the general tender regulations which do not allow for sole sourcing unless receiving multiple bids is impossible. (Confirmed by government official K.A; Ministry of Finance, 06/06/10)

References:

Legislation – Federal Regulation of Conditions of Purchases, Tenders and Contracts, Financial Order No. 16 of 1975

YES: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

NO: A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

Comments:

Bidders are informed via the e-procurement website that they have been unsuccessful in their bid and the reasons for their bid not being accepted are outlined. If a bidder wished to make a complaint they can do this through the central complaints committee in the Ministry of Finance. This falls under the tendering and procurement regulations in the Ministry of Finance (Confirmed by government official K.A; Ministry of Finance, 06/06/10)

References:

Legislation – Federal Regulation of Conditions of Purchases, Tenders and Contracts, Financial Order No. 16 of 1975

YES: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

NO: A NO score is earned if no such process exists.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

Comments:

Bidders are informed via the e-procurement website that they have been unsuccessful in their bid and the reasons for their bid not being accepted are outlined. If a bidder wished to make a complaint they can do this through the central complaints committee in the Ministry of Finance. If a bidder wishes to take this further they can go to court to pursue better reasoning. This falls under the tendering and procurement regulations in the Ministry of Finance (Confirmed by government official K.A; Ministry of Finance, 06/06/10)

References:

Legislation – Federal Regulation of Conditions of Purchases, Tenders and Contracts, Financial Order No. 16 of 1975

YES: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

NO: A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

Comments:

Companies guilty of major violations are prohibited under the tendering legislation and procurement regulation of the Ministry of Finance from participating in future projects for at least one year, case dependant. (Confirmed by government official K.A; Ministry of Finance, 06/06/10)

References:

Legislation – Federal Regulation of Conditions of Purchases, Tenders and Contracts, Financial Order No. 16 of 1975

YES: A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

NO: A NO score is earned if no such process exists.

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

All companies are subject to cooling off periods of at least one year should they be found guilty of violations.

References:

Companies guilty of major violations are prohibited under the tendering legislation and procurement regulation of the Ministry of Finance from participating in future projects for at least one year, case dependant. This is enforced by the Ministry and is applied to all companies who are registering for application to bid. (Confirmed by government official K.A; Ministry of Finance, 06/06/10)

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

52. Can citizens access the public procurement process?

88

52a. In law, citizens can access public procurement regulations.

YES | NO

Comments:

There is an e-procurement system.

References:

Legislation – Federal Regulation of Conditions of Purchases, Tenders and Contracts, Financial Order No. 16 of 1975

citizens, or any company wishing to bid, can access the procurement regulations directly from the Ministry of Finance. (Confirmed by government official K.A; Ministry of Finance, 06/06/10)

YES: A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

NO: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:

The Ministry does announce the results, they are not kept hidden or secret.

References:

Legislation – Federal Regulation of Conditions of Purchases, Tenders and Contracts, Financial Order No. 16 of 1975

under the regulations of the Ministry of Finance the results of contracts are announced to all suppliers and contractors, this announcement can be made publically addressing them or made in a more targeted fashion relaying the information directly to them. (Confirmed by government official K.A; Ministry of Finance, 06/06/10)

YES: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

The regulations are available free of charge from the Ministry and can be obtained within a short period of time from the time of inquiry, a day or two at most. (Confirmed by government official K.A; Ministry of Finance, 06/06/10)

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

the regulations are available free of charge from the Ministry. (Confirmed by government official K.A; Ministry of Finance, 06/06/10)

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

<http://www.mof.gov.ae/En/AboutMinistry/Departments/Documents/e-precurment%20Guide/Eng.pdf>

References:

All Procurements issued by the Ministry of Finance are available to UAE citizens. There is a portal on the Ministry of Finance website, those wishing to access the procurement contracts available need to register through a simple process online and then they have access to all the procurements, they just need to log-in to the portal and check the listings. All public procurements through the Ministry of Finance are listed on this portal (Ministry of Finance Official, 26/05/10)

100: There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | **50** | 25 | 0

References:

under the regulations of the Ministry of Finance the results of contracts are announced to all suppliers and contractors, this announcement can be made publicly addressing them or made in a more targeted fashion relaying the information directly to them. (Confirmed by government official K.A; Ministry of Finance, 06/06/10)

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

IV-4. Privatization

53. Is the privatization process effective?

53a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

Comments:

Regulations and laws are formulated on an individual case basis and therefore when a privatisation is taking place regulation exists. Businesses are not excluded even in the creation of localized, privatization-specific regulations. The government did not privatize any assets during the study period

References:

There is no specific national privatisation legislation – if an agency or company was going to be privatised then a decree – a new law, usually on a local level, changing the businesses status would be issued prior to the buy out or bidding. ('Privatisation Potential in Dubai' – Corporate Commercial, Law Update, May 2009. (confirmed by Ali Ibrahim Mohammed, Deputy Director General for Economic Sector Development, meeting held on 29/04/10)

YES: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

NO: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

Comments:

No regulations

References:

NO specific privatisation legislation – if an agency or company was going to be privatised then a decree changing its status would be issued prior to the buy out or bidding. ('Privatisation Potential in Dubai' – Corporate Commercial, Law Update, May 2009. (confirmed by Ali Ibrahim Mohammed, Deputy Director General for Economic Sector Development, meeting held on 29/04/10)

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

NO: A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

Comments:

Regulations are enforced

References:

YES – civil servants should not be involved in any decision which might lead to some personal gain. The policy is that no one should take part in policy decisions to the 4th degree of association. (Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

54. Can citizens access the terms and conditions of privatization bids?

15

54a. In law, citizens can access privatization regulations.

YES | **NO**

Comments:

No regulations exist until the process is begun and a decree, a new law, is issued changing the business' status allowing its privatisation

References:

NO specific privatisation legislation – if an agency or company was going to be privatised then a decree – new legislation usually issued at a local level rather than federal – changing its status of the company would be issued prior to the buy out or bidding and this would allow for notification of the privatisation to be released for citizens and companies prior to the bidding process. ('Privatisation Potential in Dubai' – Corporate Commercial, Law Update, May 2009.) Any decree which is made can be accessed by the public via the Official Gazette. (confirmed by Ali Ibrahim Mohammed, Deputy Director General for Economic Sector Development, meeting held on 29/04/10)

YES: A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

NO: A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

We have been informed by a local law firm that effective advertising with sufficient time for bidders to respond. However, the fact that regulations are only drawn up after the privatization is announced makes it hard to specify a time period. Each case is very different.

References:

Yes as a practice they would be advertised – where they would be advertised is decided on a case by case basis – after the decree is issued as there might be specific restrictions to the form of advertising used. (Confirmed by local law firm dealing with Federal issues in Dubai)

100: There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

Comments:

No requirements

References:

NO specific privatisation legislation – ('Privatisation Potential in Dubai' – Corporate Commercial, Law Update, May 2009.) (confirmed by Ali Ibrahim Mohammed, Deputy Director General for Economic Sector Development, meeting held on 29/04/10)

YES: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

N/A – no legislation or regulations

References:

N/A – There are no set regulations (confirmed by Ali Ibrahim Mohammed, Deputy Director General for Economic Sector Development, meeting held on 29/04/10) – whether the citizens can access regulation will depend on the case and whether the government announce the privatisation and whether a Decree is announced to make the changes.

100: Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

N/A – no legislation or regulation

References:

N/A – There are no set regulations (confirmed by Ali Ibrahim Mohammed, Deputy Director General for Economic Sector Development, meeting held on 29/04/10) – whether the citizens can access regulation will depend on the case and whether the government announce the privatisation and whether a Decree is announced to make the changes.

100: Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category V. Oversight and Regulation

V-1. ⁷⁶National Ombudsman

56. Is the national ombudsman effective?

64

56a. In law, the ombudsman is protected from political interference.

YES | **NO**

References:

Most of the complaints mechanisms, although considered independent departments, still fall under mandate of the Ministries and as such the government.

YES: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | **0**

References:

Most of the complaints mechanisms, although considered independent departments, still fall under mandate of the Ministries and as such the government.

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

The criteria for this question does not allow for multiple organisations to be considered, if we are counting the complaint mechanisms in each of the Ministries as a form of ombudsman then it is difficult to note whether the heads of all the complaints divisions, as a generalisation, are protected – some are and some would serve a particular term or contract. It was confirmed that the SAI President however is irremovable by law, as are SAI professional officials (Article 31 and 40 of FL No.7, 1976) Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10).

References:

Meeting with SAI and legislation protecting SAI President and professional officers – Article 31 and 40 of FL No.7, 1976

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

All government agencies- those receiving funding from government sources – independent or otherwise, are sufficiently resourced and have adequate staff to carry out their mandate. This includes departments and agencies working as complaint centres within government agencies.

(Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources, 19/04/10)

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | **50** | 25 | 0

References:

All of the complaints departments or agencies have independence and administrative control, all appointments to these departments are based on specific job criteria, candidates are carefully chosen and those appointed must agree to confidentiality clauses. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10. According to Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources (19/04/10) some appointments can be made on the recommendation of family or friends but they must still meet the job criteria.

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

References:

All of the complaints departments or agencies have independence and administrative control from the government but they are funded through government sources and as such have a consistent method of finance. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

References:

Reports are kept out of public view unless it is necessary to unveil wrong doing for the good of the public- usually investigations and their outcomes are kept quiet so as to protect the identity of the person who made the complaint. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

References:

Some of the agencies that are described under the criteria as 'ombudsmen' mechanisms are used purely to follow up on

complaints and investigate as necessary. They conduct investigations once a complaint or allegation has been made and they will often use support from other parties such as other Ministries or the police. The SAI undertake their own investigations and audit checks on government departments and SOEs and will refer to relevant parties when needed – such as the police if it is found there is a criminal act taking place. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

75:

50: The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

References:

Some of the agencies that are described under the criteria as 'ombudsmen' mechanisms are used purely to follow up on complaints and investigate as necessary. They conduct investigations once a complaint or allegation has been made and they will often use support from other parties such as other Ministries or the police. The SAI undertake their own investigations and audit checks on government departments and SOEs and will refer to relevant parties when needed – such as the police if it is found there is a criminal act taking place. Penalties are imposed through the police if it is a criminal matter, an investigation will be passed to the Attorney General to continue if it is found there is a senior member of staff or senior government representative at fault. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

Comments:

Complaints are dealt with quickly and confidentially, if contact details are left when the complaint is made SAI ReportFraud staff will contact the person to update them on the progress of their complaint. This will usually be done within a couple of days. If the person does not leave details then they are free to contact the hotline again to check on the progress if they wish.

It was not possible to get any examples of complaints or cases dealt with as SAI prides itself on its confidentiality policy regarding the hotline.

References:

As per meeting with Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

No National Ombudsman in the UAE however there are various agencies which have complaint mechanisms and allow for citizens to file complaints against government agencies or civil servants (confirmed by Law firm in Dubai who specialise in Federal legislation, 15/04/10). All government Ministries have a complaints mechanism, most of these are available as a link on the Ministries individual websites. The complaints mechanisms are all checked by an independent section under the Ministry who will process the complaint and ensure it is dealt with by the correct party ie passed to a senior member of staff or passed to the police if it is felt the complaint or allegation is addressing a criminal activity. The case would be passed to the Attorney General to investigate if the person involved is a senior member of staff. Also any irregularities which are discovered during investigations or audits will be investigated either internally or passed to the relevant party (ie if criminal activity is suspected or found to be taking place then the case would be passed to the police). Investigations can be done by the State Audit Institution who oversee state owned enterprises and government entities – audits can be undertaken internally by the Ministries themselves.

If the complaint is regarding corruption or fraud a citizen can complain about any civil servant or government department through the ReportFraud mechanism run by the SAI – this is investigated and site inspections conducted if necessary. The SAI issue reports on all their investigations and audits these are issued directly to the Federal National Council and then to the Supreme Council, if there are any issues from a policy perspective these can be addressed by the legislators directly.

100: Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

References:

In the case of the State Audit Institution once a complaint is received it is examined and SAI arranges a site visit/inspection. Then the complaint and the issues raised are transferred to the relevant department within the SAI for follow up – there is a separate department for finance related issues. (confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10)

SAI acts quickly to complaints, usually passed to the SAI head within one day and the process moves swiftly from there – this is confirmed by the SAI Under Secretary, no examples can be given as this may impact on the anonymity of the 'ReportFraud' service.

As confirmed by Dr. Abdulrahman Al Awar – Director General of the Federal Authority for Government Human Resources (19/04/10), most complaints are addressed within a couple of days – within a week at most, if the person who has made the complaint has let their details then they will be updated on the progress.

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

57. Can citizens access the reports of the ombudsman?

0

57a. In law, citizens can access reports of the ombudsman(s).

YES | **NO**

References:

Reports are kept out of public view unless it is necessary to unveil wrong doing – usually investigations and their outcomes are kept quiet so as to protect the identity of the person who made the complaint. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

YES: A YES score is earned if all ombudsman reports are publicly available.

NO: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | **0**

References:

Reports are kept out of public view unless it is necessary to unveil wrong doing – usually investigations and their outcomes are kept quiet so as to protect the identity of the person who made the complaint. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Reports are kept out of public view unless it is necessary to unveil wrong doing – usually investigations and their outcomes are kept quiet so as to protect the identity of the person who made the complaint. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

References:

No National Ombudsman in the UAE however there are various agencies which have complaint mechanisms and allow for citizens to file complaints against government agencies or civil servants (confirmed by Law firm in Dubai who specialise in Federal legislation, 15/04/10). All government Ministries have a complaints mechanism, most of these are available as a link on the Ministries individual websites. The complaints mechanisms are all checked by an independent section under the Ministry who will process the complaint and ensure it is dealt with by the correct party ie passed to a senior member of staff or passed to the police if it is felt the complaint or allegation is addressing a criminal activity. The case would be passed to the Attorney General to investigate if the person involved is a senior member of staff. Also any irregularities which are discovered during investigations or audits will be investigated either internally or passed to the relevant party (ie if criminal activity is suspected or found to be taking place then the case would be passed to the police). Investigations can be done by the State Audit Institution who oversee state owned enterprises and government entities – audits can be undertaken internally by the Ministries themselves. If the complaint is regarding corruption or fraud a citizen can complain about any civil servant or government department through the ReportFraud mechanism run by the SAI – this is investigated and site inspections conducted if necessary.

YES: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

NO: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

V-2. Supreme Audit Institution

59. Is the supreme audit institution effective?

94

59a. In law, the supreme audit institution is protected from political interference.

YES | NO

Comments:

SAI is administratively independent from the government

References:

YES (Article 1 of Federal Law No. 7, 1976) An independent authority called the 'State Audit Institution' shall be established and attached to the Federal national Council. According to Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10) the SAI is considered an independent body as it is completely independent in its administration.

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

References:

YES – The President is irremovable, as are SAI professional officials (Article 31 and 40 of Federal Law No.7, 1976) Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

SAI has sufficient staff to fulfill its mandate

References:

YES – Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.

Comments:

All employees must also swear an oath of confidentiality and agree to follow the SAI regulations and legislation, following a strict professional criteria

References:

All appointments are made as per job criteria and each position will have differing criteria depending on its level. There is usually no other factors influencing the recruitment of a particular candidate but recommendations can be taken into account from family members or friends. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

59e. In practice, the audit agency receives regular funding.

References:

YES – It receives a budget from the Federal government. (confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10)

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

References:

YES – the SAI issues two semi-annual reports and one annual report in which it will address its general findings including administrative and financial ie wasting of finance/budgets, administrations which are not effective, unproductive investments or suggestions of ways to improve efficiency etc. No names will be mentioned however companies or ministries may be mentioned in the reports. These reports are issued first to the ministries concerned in any investigations then to the Federal National Council before being issued to the Supreme Council and the Cabinet. The reports will be available on the SAI website or directly from the SAI through the post/email.

According to Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

25:

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

References:

The Ministry being audited or the Supreme Council or Cabinet (after receiving the report) will always issue a mandate to comply to the findings or suggestions noted by SAI. If an individual is named in a report or found to be doing something wrong then there are personal implications and the person themselves must comply – there is no immunity no matter who they are. Any person reported to be committing fraud are called directly to the institution for investigation with all the necessary paper work.

Administrative issues can be dealt with by the SAI directly but any criminal issues must be passed to the Attorney General.

(Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10)

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

Comments:

SAI run its own investigations at its own pace

References:

YES – the SAI runs its own investigations and has the budget and capacity to do so. It may link with other Ministries if this is necessary, ie to gather more information. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

60. Can citizens access reports of the supreme audit institution?

83

60a. In law, citizens can access reports of the audit agency.

YES | NO

Comments:

The reports will be available on the SAI website or directly from the SAI through the post/email

References:

By law the reports must be issued to the Federal Government body – the FNC and the Supreme Council (Article 12 of Federal Law No 7, 1976). The annual and semi-annual reports can be accessed by citizens after they are passed by FNC and the Supreme Council and the Cabinet- this is usually within a year of then being issued. (Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10)

YES: A YES score is earned if all supreme auditor reports are available to the general public.

NO: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

The reports take some time to pass through the FNC etc before they are released, but once they have been approved they are available online. These are available directly from the SAI, they may be posted on the SAI website or through the FNC website

References:

The annual and semi-annual reports can be accessed by citizens after they are passed by FNC and the Supreme Council and the Cabinet- this is usually within a year of then being issued. (Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10)

100: Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

YES – the reports are available to all at no cost, usually within a year as mentioned above. These are usually available directly from the SAI or may be posted on their website, they can also be posted on the FNC website (Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10).

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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

100

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

YES | NO

References:

YES – Federal Law No.7 1976, Establishment of the State Audit Institution (SAI)

YES: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

NO: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

92
V-3. Taxes and Customs

62. Is the tax collection agency effective?

0

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

There is no direct tax in the UAE for citizens or expatriates -and no income or sales tax for citizens at all. Government revenue is built into other things at Ministerial or government department level i.e. road tolls (SALIK). Corporation tax is dealt with by the

Chamber of Commerce/Municipalities/Departments for Economic Development. Therefore grading this question is difficult in the UAE context.

References:

Non-applicable (there is no federal taxation or emirate level tax agency)

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

There is no direct tax in the UAE for citizens or expatriates -and no income or sales tax for citizens at all. Government revenue is built into other things at Ministerial or government department level i.e. road tolls (SALIK). Corporation tax is dealt with by the Chamber of Commerce/Municipalities/Departments for Economic Development. Therefore grading this question is difficult in the UAE context.

References:

Non-applicable (there is no federal taxation or emirate level tax agency)

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

65. Is the customs and excise agency effective?

100

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

YES – (confirmed by Mr. Ahmed AbdulSalam Kazim, Director, Strategy & Corporate Excellence of Dubai Customs, 19/04/10)

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:

YES – Funded through the budget agreements of the FNC (Article 12 – 14, Federal Decree on Law No. 1 of 2003 (confirmed by Mr. Ahmed AbdulSalam Kazim, Director, Strategy & Corporate Excellence of Dubai Customs, 19/04/10)

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

61. In law, is there a national tax collection agency?

0

61. In law, is there a national tax collection agency?

YES | **NO**

Comments:

There is no direct tax in the UAE for citizens or expatriates -and no income or sales tax for citizens at all. Government revenue is built into other things at Ministerial or government department level i.e. road tolls (SALIK). Corporation tax is dealt with by the Chamber of Commerce/Municipalities/Departments for Economic Development.

References:

There is no federal tax legislation in the UAE, instead each Emirate has its own tax law” (Al Tamimi document – <http://www.zu.ac.ae/library/html/UAEInfo/documents/UAETaxationLaw.pdf>).

YES: A YES score is earned if there is a national agency formally mandated to collect taxes.

NO: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

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

0

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

100 | 75 | 50 | 25 | **0**

Comments:

There is no direct tax in the UAE for citizens or expatriates -and no income or sales tax for citizens at all. Government revenue is built into other things at Ministerial or government department level i.e. road tolls (SALIK). Corporation tax is dealt with by the Chamber of Commerce/Municipalities/Departments for Economic Development. Therefore grading this question is difficult in the UAE context.

References:

Non-applicable (there is no federal taxation or emirate level tax agency)

100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

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

100

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

YES | NO

References:

YES – Federal Customs Authority, Federal Decree on Law No. 1 of 2003 regarding Federal Customs Authority

YES: A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

NO: A NO score is earned if that function is spread over several agencies, or does not exist.

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

100

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

100 | 75 | 50 | 25 | 0

References:

YES – the customs laws and strategies are implemented uniformly without discrimination. Customs officials follow strict procedures and conduct investigations and searches as they see fit within the boundaries of the law and in order to follow professional practice (confirmed by Mr. Ahmed AbdulSalam Kazim, Director, Strategy & Corporate Excellence of Dubai Customs, 19/04/10)

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

V-4. State-Owned Enterprises

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

100

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

Comments:

SAI has formal operational independence

References:

YES – SAI is an administrative independent agency (Article 1 of Federal Law No 7, 1976) Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

YES: A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

SAI has sufficient staff to fulfil its mandate

References:

YES – department within SAI – Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

References:

YES – part of SAI so as mentioned before it receives a budget from the Federal government. (confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10)

100: The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

When irregularities are discovered SAI are aggressive in investigating government or other bodies. No recent examples can be given as SAI does not announce its investigations.

References:

YES – SAI has sufficient resources to initiate its own investigations and the power to do so is granted in its mandate. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – (meeting held 07/04/10)

100: When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

We are unable to obtain an example of a penalty imposed as the SAI do not comment on any of the case they are working on or have worked on. It is within the SAI's mandate that they have the power to enforce penalties.

References:

YES – if the issues relate to administrative problems then this is dealt with by SAI themselves with their resources, if the issues relate to fraud or corruption these are passed to the Attorney General who will investigate criminal links. SAI can impose penalties on companies, report and name individuals in their report and outline problems within certain organisations. They can refer civil servants to disciplinary boards in their respective Ministries or if a criminal allegation is made then it is transferred to the Police or Attorney General who will impose penalties after investigating.

Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

69. Can citizens access the financial records of state-owned companies?

69a. In law, citizens can access the financial records of state-owned companies.

YES | **NO**

Comments:

not required

References:

There is no legislation which specifies that SOEs must publish accounts – many however do and therefore if the company chooses to publishes their financials then they are available to the public. Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

YES: A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | **75** | 50 | 25 | 0

Comments:

Of those who do disclose the grade would be CODE 100 (code 050 or 000 do not fit as they refer to flawed financials – SAI would not allow flawed financials as they advocate good practice and international standards and monitor the financials of federal owned- SOEs)

References:

As above it is up to the businesses themselves to publish reports if they wish – there is no mandate in place. Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

75:

50: State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

25:

0: Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

Comments:

SAI reviews the accounts and it does promote better practice, however not all companies issue accounts and international standards are not always applicable

References:

In principle it is the preferred style of reporting is international standards, however it is not always possible in practice as it may not be applicable to all companies so it is not mandated, just seen as best practice. Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

For those who publish reports they are usually done on an annual basis. Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

For those which issue reports – CODE 100 (the reports are available online, free of charge)

References:

Those who produce reports will usually make them available on their website. Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

YES | NO

Comments:

There is an agency tasked

References:

YES – SAI oversee all Federal owned (25% ownership +) companies or any companies which receive government funds or financial assistance. Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

YES: A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

85
V-5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

94

70a. In law, anyone may apply for a business license.

YES | NO

Comments:

no group of citizens would be exempt

References:

Under the Commercial Companies law, the only exemption is for a person who is considered dishonourable or a criminal. (Law firm in Dubai 16/04/10) also: (<http://www.dubaied.gov.ae/English/reglcing/prabus/default.aspx>) IN DUBAI – United Arab Emirates nationals may operate all commercial, professional and industrial activities, when they fulfil all Terms and Conditions. They may carry on activities through any of the following legal forms: Individual Establishment; Limited / Joint Liability Company; Private / Public Shareholding Company; Civil Business Company. [www.government.ae/gov/en/biz/howdoi/start.jsp] Commercial Companies Law (No. 8 of 1984/ No.3 and 15 1988. Trade licences are issued at a local level

YES: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

NO: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required

70b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

Comments:

Federal law no . 5 of 1975 – Concerning the commercial register
Article 13

If the competent authority refuses the registration, notation or cancellation claim, the concerned person shall be entitled to oppose to the refusal decision before the competent court within thirty days from the date of his knowledge of it.

References:

Under the company law a complaint can be filed with the appropriate Ministry, Federal Law No. 8 of 1984, amended by Federal Law no. 13 of 1988. (law firm in Dubai specialising in Federal legislation, 16/04/10)

YES: A YES score is earned if there is a formal process for appealing a rejected license.

NO: A NO score is earned if no such mechanism exists.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

YES – less than one week for citizen (law firm in Dubai specialising in federal legislation, 16/04/10)

100: Licenses are not required, or licenses can be obtained within roughly one week.

75:

50: Licensing is required and takes around one month. Some groups may be delayed up to a three months

25:

0: Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Costs are low but visit required

References:

Yes – relatively low. (law firm in Dubai specialising in federal legislation, 16/04/10) or YES – costs are shown to be very low – (<http://www.dubaided.gov.ae/English/reglcinging/Fees/default.aspx>).

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

Comments:

rules are transparent

References:

Consumer Protection Law, Federal Law No. 24/2006 of the Consumer Protection: Article 6: The Supplier shall not offer, present, promote, and advertise any defect, fake, damaged, false or misleading goods or services that may harm the consumer's interest or health in the normal use.

YES: A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

Comments:

rules are transparent

References:

Federal law no 24 (1999) On the protection and development of the environment;
Article 2;

Section: 2 – The control of all kinds of pollution, and the avoidance of any immediate or long – term damages or adverse effects resulting from the plans and programs of economic, agricultural, industrial or constructional development or other development

programs aiming at ameliorating life standards , and the coordination between the Agency and the competent authorities and pertinent bodies for the protection of the environment and the preservation of the quality and natural balance thereof , as well as the consolidation of the environmental awareness and the principles of pollution control

Section: 4-The protection of the society , the human health as well as the health of other living beings from all activities and acts which are harmful to the environment or which constitute an impediment to the legal use of the environmental milieu .

YES: A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO

Comments:

rules are transparent

References:

Consumer Protection Law, Federal Law No. 24/2006 of the Consumer Protection: Article 6: The Supplier shall not offer, present, promote, and advertise any defect, fake, damaged, false or misleading goods or services that may harm the consumer s interest or health in the normal use .

YES: A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

100

72a. In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

References:

Yes – usually done by the Municipalities in each Emirate at a local level, the Ministries may also decide to do checks or inspections i.e. Ministry of Health may check hospitals directly. Checks or inspections are done on a regular basis (confirmed by Ali Ibrahim Mohammed, Deputy Director General for Economic Sector Development, meeting held on 29/04/10)

100: Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

References:

Yes – usually done by the Municipalities in each Emirate at a local level, the Ministries may also decide to do checks or inspections i.e. Ministry of Health may check hospitals directly. Checks or inspections are done on a regular basis (confirmed by Ali Ibrahim Mohammed, Deputy Director General for Economic Sector Development, meeting held on 29/04/10)

100: Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

References:

Yes – usually done by the Municipalities in each Emirate at a local level, the Ministries may also decide to do checks or

inspections i.e. Ministry of Health may check hospitals directly. Checks or inspections are done on a regular basis (confirmed by Ali Ibrahim Mohammed, Deputy Director General for Economic Sector Development, meeting held on 29/04/10)

100: Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category VI. Anti-Corruption and Rule of Law

VI-1. ⁹⁷ Anti-Corruption Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

YES | NO

Comments:

covers both act and attempt

References:

It is and the UAE is a signatory to the UN Convention against Corruption – there will be a more comprehensive anti – corruption legislation being issued soon, it is in draft form and is awaiting approval (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10) [under the Criminal Law/Penal Code – covers attempt and the act of corruption – Law firm in Dubai specialising in Federal law, 16/04/10]

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

YES | NO

Comments:

covers both

References:

YES it is – there will be a more comprehensive anti – corruption legislation being issued soon, it is in draft form and is awaiting approval (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10) [under the Criminal Law/Penal Code – covers attempt and the act of corruption – Law firm in Dubai specialising in Federal law, 16/04/10]

YES: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

NO: A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

References:

YES – (Articles 234 and 239 of Federal Penal Code) – imprisonment from 2months to 10years

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

References:

YES – imprisonment 2months to 10years (Articles 234 and 239 of Federal Penal Code)

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

YES | NO

References:

YES – imprisonment 2months to 10years (Articles 234 and 239 of Federal Penal Code)

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

YES | NO

References:

YES – no one should misuse public funds confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10) [under the Criminal Law – covers attempt and the act of corruption – Law firm in Dubai specialising in Federal law, 16/04/10]

YES: A YES score is earned if using public resources for private gain is illegal.

NO: A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

YES | NO

References:

YES (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10) [under the Criminal Law – covers attempt and the act of corruption – Law firm in Dubai specialising in Federal law, 16/04/10]

YES: A YES score is earned if using confidential state information for private gain is illegal.

NO: A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

YES | NO

References:

YES – Federal Law No.4 of 2002 and an intelligence unit in Central Bank

YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

References:

YES (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10) [under the Criminal Law – covers attempt and the act of corruption – Law firm in Dubai specialising in Federal law, 16/04/10]

YES: A YES score is earned if organized crime is illegal.

NO: A NO score is earned if this is not illegal.

VI-2. Anti-Corruption Agency

75. Is the anti-corruption agency effective?

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

References:

YES – the SAI is an independent body (Article 1 of Federal Law No 7 of 1976), if the person being investigated is a Minister or higher position, they are not immune, the judgements are taken by Supreme Council not by SAI

YES: A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

SAI is independent and operates without government interference.

References:

YES – confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

directors cannot be removed without significant justification

References:

YES – The President is irremovable, as are SAI professional officials (Article 31 and 40 of Federal Law No.7, 1976) Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

Appointments are made based on professional qualifications and swear an oath to be professional and to be confidential etc

References:

YES – Article 2 Federal Law No 7 1976, and employees swear an oath – Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

SAI have sufficient staff to fulfil its mandate

References:

YES – department within SAI – Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI (meeting held 07/04/10)

100: The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

References:

YES – part of SAI so as mentioned above it receives a budget from the Federal government. (confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – meeting held 07/04/10)

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

References:

YES – Part of the SAI and incorporated in their reports – the SAI issues two semi-annual reports and one annual report in which it will address its general findings including administrative and financial ie wasting of finance/budgets, administrations which are not effective, unproductive investments or suggestions of ways to improve efficiency etc. No names will be mentioned however companies or ministries may be mentioned in the reports. These reports are issued first to the ministries concerned in any investigations then to the Federal National Council before being issued to the Supreme Council and the Cabinet.

100: The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

References:

YES – Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – (meeting held 07/04/10). SAI can conduct investigations, there is no limit on this, they are responsible for holding people accountable and can take action through a tribunal (everyone but Ministers can be sent to tribunal – Ministers or above must be dealt with at a higher level, a Federal Judge). The SAI has the power to freeze assets, prevent travel and stop a person working. If there are higher level issues then there is a disciplinary committee.

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

References:

YES – Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – (meeting held 07/04/10)

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

76. Can citizens access the anti-corruption agency?

100

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

YES – Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – (meeting held 07/04/10). Complaints are made through the website, email or by post and these go directly to the head of the SAI, once he is aware of the issue it is sent to the Ministry or Agency involved where it must be investigated and overseen by the SAI

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

Comments:

the process of complaints being made is done completely anonymously and the person who is making the complaint is not required to leave any details, therefore they will not fear retribution. The processes seem robust enough to protect whistleblowers

References:

YES – Confirmed by Mohamed Rashid Al Zaabi, Assistant Under Secretary of the SAI – (meeting held 07/04/10). The SAI acts on complaints as if they had discovered the information themselves, the person making the complaint remains completely anonymous and their identity protected.

100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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

100

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

YES | NO

References:

YES – All the government Ministries have a complaints mechanism where citizens or employees can make complaints. The ReportFraud mechanism in the State Audit Institution have a legal mandate within their legislation (Federal Law No 7 of 1976) covering fraud and corruption, this is a mechanism covering all government departments and allows citizens and civil servants to report any fraud or corrupt practice – not limited to financial issues but encompassing all areas of fraud and corruption. If there is an issue raised then SAI will refer the complaint to the appropriate body ie the Ministry concerned, the police or Attorney General.

YES: A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

NO: A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

98
VI-3. Rule of Law

77. Is there an appeals mechanism for challenging criminal judgments?

100

77a. In law, there is a general right of appeal.

YES | NO

References:

YES – appeals structure in place, court structure in the UAE Articles 121 and 150 of the Union Law no. 11 of 1992 concerning civil procedures and amending the procedural Law no. 39 of 2005; as well as articles 21 and 22 of the Law on the Organization of the Courts in Dubai Emirate no. 3 of 1992. (http://www.dubaicourts.gov.ae/portal/page?_pageid=53,72555,53_72571:53_93421:53_125421&dad=portal&schema=PORTAL).

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

NO: A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The appeal process may take up to a year which, in international standards, is not a long time period. Appeals are common, many people take the option to appeal.

References:

YES they are processed within a reasonable time in accordance with international practices – also covered by the civil and criminal procedural law on how to apply and appeal [Law firm in Dubai specialising in Federal law, 16/04/10]

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Costs are determined on the type of case, the severity, minor or major, and the classification. All costs can be assessed on the Ministry of Justice's 'court calculator' on their website – <http://ejustice.gov.ae/portal/page/portal/eJustice%20MOJ%20Portal/services/calculator>

Federal Law No . 2 of 2007 :

A proportional fee shall be imposed on the appeal against judgments rendered in lawsuits of determined value in compliance with the categories indicated in Article 6 of this Law . For the assessment of fees , the value of the appeal shall be considered .

A fixed fee of two hundred Dirhams shall be imposed on appeal against judgments issued in personal status lawsuits except for lawsuits of financial support . A fixed fee shall be imposed on appeals of undetermined value as follows :

- 1 – Five hundred Dirhams on appeals submitted against judgments rendered from summary courts .
- 2 – One thousand Dirhams on appeals submitted against the decisions or judgments of the Judge of Execution .
- 3 – Two thousand Dirhams on other appeals .
- 4 – The fees shall be reduced to the half in all lawsuits if the appealed judgment is in collateral issue .

References:

YES they are processed for a reasonable cost in accordance with international practices – also covered by the civil and criminal procedural law on how to apply and appeal [Law firm in Dubai specialising in Federal law, 16/04/10]

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

78. In practice, do judgments in the criminal system follow written law?

78. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board a board made up of the Chiefs of the Courts (Chief of Appeal, Chief of First Instance etc). The Judicial Board will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

References:

YES the decisions in the Courts follow written law – if there are any doubts regarding a decision then the Judicial Board will review the case. Decisions are also regulated by Ministry of Justice [Law firm in Dubai specialising in Federal law, 16/04/10]

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

79. In practice, are judicial decisions enforced by the state?

100

79. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

Comments:

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board a board made up of the Chiefs of the Courts (Chief of Appeal, Chief of First Instance etc). The Judicial Board will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

References:

YES the state will always back the judicial system and support the the court system and Ministry of Justice who review cases [Law firm in Dubai specialising in Federal law, 16/04/10]

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

80. Is the judiciary able to act independently?

100

80a. In law, the independence of the judiciary is guaranteed.

YES | NO

References:

Federal law no. 3 (1983) Concerning the federal judicial corps

Title one – Independence of the judiciary and establishment of a federal supreme judicial council, Article 1 – Justice is the basis of ruling and judges are independent and not subject to any authority in performing their duties other than that of the Islamic Shari’a provisions, the applicable laws and their consciences. No person or authority may impair the independence of the judiciary or interfere in the affairs of justice.

The federal judicial authority consists of the federal courts and the federal public prosecution.

YES: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence includes financial issues (drafting, allocation, and managing the budget of the courts).

NO: A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Judges are seen as independent and therefore they cannot be influenced by anyone else for risk of losing their position. Judges would never comment on political debates and individual judgements are rarely praised or criticised by political figures – it is rare that a judge’s name would ever be mentioned in the reporting of a case in the media.

References:

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board a board made up of the Chiefs of the Courts (Chief of Appeal, Chief of First Instance etc). The Judicial Board will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

100: National-level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National-level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National-level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | **NO**

Comments:

Under the Constitution (Article 94) the judicial system including the judges must be independent and not have any external interference impacting their work. The court system in the UAE, although seen as independent are overseen by the Ministry of Justice. The Judicial Inspections Department based in the Ministry of Justice is responsible for overseeing the decisions made in the courts, ensuring a fair hearing/trial and investigating any complaints which might be made against the courts or one of the judges. The Ministry does not interfere with decisions but purely acts as a monitoring agency. The Minister of Justice is also the Chairman of the Judicial Board a board made up of the Chiefs of the Courts (Chief of Appeal, Chief of First Instance etc). The Judicial Board will review and monitor judges, their decisions and their conduct. (Dubai based lawyer, K.B 13/05/10)

References:

When a case is brought it first goes through the Public Prosecution who then distributes the cases dependent on the court and the type of case. The distribution happens fairly and equally under the Judicial Regulations. (Dubai based lawyer, K.B 13/05/10)

YES: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

NO: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

References:

Their tenure of office shall not be terminated except for one of the following..."(Article 97 of the UAE Constitution) Public Prosecutors Office law protects appointment/dismissal/resignation etc (Article 106 of the UAE Constitution)

YES: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

NO: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

References:

No documented cases – This was confirmed by a Dubai based lawyer K.B – at meeting on 13/05/10. There has never been any incidence of this in any of the courts – at Emirate or Federal level.

YES: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

References:

No judges have ever been killed while adjudicating corruption cases in any of the courts, at Emirate or Federal level. (Dubai based lawyer, K.B 13/05/10)

YES: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

82. Do citizens have equal access to the justice system?

71

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

decisions are not affected

References:

There is no racism or ethnic bias in the courts, decisions should follow the legislation (Law firm Dubai, specialising in federal legislation, 16/04/10)

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

code 50/000 do not reflect the Sharia element, it is not bias against women it or discrimination just different legislation/regulations which mean women may, in some cases, receive a different verdict than a man because of the law

References:

YES – excluding some Sharia law factors which may affect the way women are dealt with within the courts – in these cases women are favoured in the court system over men who may be punished more severely. Women have full access to the court system and women would be at no disadvantage in the courts. (Law firm Dubai, specialising in federal legislation, 16/04/10).

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | **NO**

References:

There is no national level law providing for this. Court costs in the UAE although based on they type of case are relatively low and should not exclude UAE citizens from being able to afford representation. Although not in law some law firms around the UAE conduct 'pro-bono' work. The Dubai International Financial Centre (DIFC) Courts which are for commercial cases have established and operate the region's only pro-bono scheme within the courts, offering free legal advice to those that cannot afford it. (M.B, Judge, Dubai UAE 16/05/10)

YES: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

NO: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | **0**

References:

Court costs in the UAE although based on they type of case are relatively low and should not exclude UAE citizens from being

able to afford representation. Although not in law some law firms around the UAE conduct 'pro-bono' work. The Dubai International Financial Centre (DIFC) Courts which are for commercial cases have established and operate the region's only pro-bono scheme within the courts, offering free legal advice to those that cannot afford it. (M.B, Judge, Dubai UAE 16/05/10)

100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

the cost does not represent a high cost for the majority

References:

YES, it should be very affordable to the majority of citizens (Law firm in Dubai, specialising in Federal legislation, 16/04/10)

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney fees do not represent a major cost to citizens.

75:

50: In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits. Attorney fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

References:

YES its should be able to afford to bring a law suit (Law firm in Dubai, specialising in Federal legislation, 16/04/10)

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

Comments:

all citizens have access

References:

YES, all citizens have access to the court system (Law firm in Dubai, specialising in Federal legislation, 16/04/10)

100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

VI-4. Law Enforcement

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

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

As is noted in other questions there can be some influence regarding the employment of civil servants from family or friends and this is reflected in the scores for those questions, the Police however have specific guidelines in which no appointment will be made based on conflicts of interest or influence.

References:

Appointments are based on professional criteria – job criteria must be met, this differs from position to position. The Police Chief is committed to reducing corruption and he focuses on running a professional force – and this includes appointments being made without bias. (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10)

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

References:

YES – sufficient budget, each police force receives their budget through the individual state budget (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10)

100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

We interpreted this question as referring to the law enforcement agency – ie the Police and not the Judiciary which is referred to in a separate section. In that case we are referring to the independence and the operational independence of the police force in the decisions they make. And as such we stand by our original grading.

References:

YES – If someone is guilty then no one can interfere, there is operational independence within the Police force (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10)

100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

84. Can law enforcement officials be held accountable for their actions?

100

84a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

Comments:

the e-complain system and there is an anti-corruption agency – SAI.

As with all of the ‘complaint’ mechanisms in the UAE within government departments those dealing with the complaints are seen as being independent from the organisation under which they fall. The policies and procedures followed by the ‘complaint’ section staff are different to those of the overall department/Ministry, they hold powers to go above the Director General or above the Minister if required.

References:

YES – (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10) this is part of the internal regulation of the police service. 'Complaints may be submitted in either Arabic or English through the e-complain system on the Dubai Police website www.ecomplain.ae or through a hotline number 800 404040' (Source: The National – <http://www.thenational.ae/apps/pbcs.dll/article?AID=/20091026/NATIONAL/710259837>) Police are considered government employees and therefore the mechanism used in SAI to fight corruption and fraud the 'ReportFraud' programme can be used to report issues relating to the police.
AID=/20091026/NATIONAL/710259837)

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

NO: A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

YES – within 5 working days the complaint has been assessed and the complaint has been responded to, it takes 7days for the complaint to be assessed and reviewed and the investigation to be dealt with and closed. (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10)

100: The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

Comments:

SAI for issues relating to fraud and corruption and the disciplinary committees for other issues – both of which are independent of the police for and of government pressure

All government Ministries must have a complaints and a disciplinary section, any form of complaint can be made and if it cannot be dealt with within the Ministry itself it is passed to the relevant body ie Ministry of Justice. The SAI ReportFraud mechanism which can be used to make corruption or fraud allegations covers both financial and non-financial corrupt practices; again SAI will pass the complaint to the relevant body if they cannot deal with it themselves. For law enforcement officials the internal disciplinary body will investigate and a full investigation will take place, if it cannot be dealt with internally or if a senior member of staff is involved then the complaint or penalties are investigated by the Attorney General

References:

YES – all citizens regardless of their role will be investigated if there is just reason, there are 3 different councils dependant on the role of the citizen it their rank. i.e. the disciplinary committee for the low level and straight to the Attorney General if the citizen is a high level government employee. (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10)

Federal Law No. 23 of 2006, Concerning Civil Defence Title 6, Sanctions.
(Some provisions of Federal Law No 12 of 1972, Concerning the Police and Security Forces)

YES: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

NO: A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

Comments:

the disciplinary committees deal with any irregularities discovered

Recent news articles have shown the police complaints department will act on any allegations made against law enforcement officers and act independently to investigate claims and prosecuting if necessary. (<http://www.thenational.ae/apps/pbcs.dll/article?AID=/20100510/NATIONAL/705099831/1010>)

References:

YES – the disciplinary committee manages and deals with the complaint and the investigation as well as imposing penalties (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10)

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

Comments:

Recent news articles have shown the police complaints department will act on any allegations made against law enforcement officers and act independently to investigate claims and prosecuting if necessary and that police officers are not immune to criminal proceedings and face the normal court system as any other citizen or expatriate. (<http://www.thenational.ae/apps/pbcs.dll/article?AID=/20100510/NATIONAL/705099831/1010>)

References:

YES – Although immunity is granted for other matters, if any government employee – including the police force is accused or being investigated for criminal matters ie relating to fraud or corruption then immunity is immediately removed and the person investigated as any other person. (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10)

YES: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

NO: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

Comments:

law enforcement are subject to criminal investigations – no criminal crimes are exempt
Recent news articles have shown the police complaints department will act on any allegations made against law enforcement officers and act independently to investigate claims and prosecuting if necessary. (<http://www.thenational.ae/apps/pbcs.dll/article?AID=/20100510/NATIONAL/705099831/1010>)

References:

YES – Although immunity is granted for other matters, if any government employee – including the police force is accused or being investigated for criminal matters ie relating to fraud or corruption then immunity is removed. (Confirmed by Chief of Dubai Police Lt. General Dhahi Khalfan Tamin in meeting on 08/04/10)

100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.
