

## **COALITION PROVISIONAL AUTHORITY ORDER NUMBER 59**

### **PROTECTION AND FAIR INCENTIVES FOR GOVERNMENT WHISTLEBLOWERS**

*Pursuant* to my authority as Administrator of the Coalition Provisional Authority, under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolutions 1483 and 1511 (2003),

*Reconfirming* the principles set forth in CPA Order Nos. 55, 57, and 77, which established, respectively, the Iraqi Commission on Public Integrity, the Inspectors General for individual ministries, and the Iraqi Board of Supreme Audit,

*Avowing* to protect the rights of every Iraqi to expose government corruption and wrongdoing by contacting and cooperating with these institutions,

*Committed* to providing meaningful avenues for the Iraqi people, individually and collectively, to hold government leaders and institutions accountable without fear of repercussion or retribution,

*Determined* to restore trust and confidence in the honesty and integrity of public officials at all levels of government, and to ensure that public offices in Iraq are truly public trusts of the Iraqi people,

*Recognizing* that the CPA is committed to the effective administration of Iraq, and that building the Iraqi capacity to fight corruption contributes to civilian administration,

I hereby promulgate the following:

#### **Section 1 Purpose**

This Order promotes active enforcement of anti-corruption laws by encouraging eyewitnesses to illegal activity, such as corruption or misuse of public resources, to contact and communicate with appropriate institutions in order to hold accountable those who abuse the public trust. The Order rests on the established principle that secrecy is the breeding ground for corruption and thus protects the right of every Iraqi to vigorously expose official wrongdoing at all levels of government in Iraq.

## **Section 2**

### **Prohibitions on Retaliation**

- 1) No government employee or government contractor shall be discharged, demoted, transferred, threatened, intimidated, discriminated against, harassed, and/or otherwise retaliated against in any way (“Adverse Action”) for reporting what he or she reasonably believes to be a violation of any law, rule, regulation, the Code for State Employees and Social Sector Discipline, Resolution No. 144, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to health or safety, or any other “Corruption Case” as defined in Section 2.4 of Annex A to CPA Order No. 55 (CPA/ORD/27 January 2004/55), establishing the Commission on Public Integrity (collectively “Government Wrongdoing”).
- 2) No Adverse Action shall be taken against any government employee or government contractor who cooperates with an investigation of or provides information to the Commission on Public Integrity, the Inspectors General of individual Ministries, the Board of Supreme Audit, or any other government entity charged with investigating and exposing evidence of illegal activity, public corruption, or official wrongdoing.
- 3) Sections 2.1 and 2.2 of this Order shall apply to Adverse Actions taken after the date this Order enters into force.
- 4) The provisions of Sections 2.1 and 2.2 shall not apply if the government can demonstrate that the decision to take the Adverse Action was not influenced in any way by the government employee’s or government contractor’s decision to report any Government Wrongdoing or to cooperate with or report information to any government entity charged with investigating and exposing evidence of illegal activity, public corruption, or official wrongdoing.
- 5) The provisions of Sections 2.1 and 2.2 shall not apply to persons who knowingly disclose false information or make false reports, make reports or disclose information that (from an objective viewpoint) is clearly untrue, or who make reports or disclose information about matters which by law cannot be reported or disclosed.
- 6) It shall be the government’s burden to demonstrate that a person is not entitled to the protections of Sections 2.1 and 2.2 of this Order.

### **Section 3 Remedies and Procedures**

- 1) Persons who violate Section 2 of this Order by taking an Adverse Action against government employees or government contractors who report Government Wrongdoing or cooperate with, or report to, institutions charged with investigating and exposing corruption and official wrongdoing in Iraq shall:
  - a) be liable to the aggrieved government employee or government contractor for money damages and any other relief deemed necessary by a court of competent jurisdiction to make an aggrieved government employee or government contractor whole, including reinstatement of employment with back pay; and/or
  - b) be liable for criminal sanction in accordance with all applicable laws, regulations, and standards of procedural due process.
- 2) Government employees or government contractors alleging a violation of Section 2 of this Order must, within 90 days of the Adverse Action, file an Initial Complaint with the Inspector General appointed to their relevant ministry unless the Complaint relates to actions taken by a minister or the Inspector General. The Commission on Public Integrity shall promulgate procedures and regulations which permit Inspectors General to receive and investigate such Complaints. These procedures and regulations shall require Inspectors General to issue a Final Report that analyzes the merits of any Complaint within 60 days of filing and recommends whether: (i) to dismiss the Complaint, (ii) to pursue civil and/or criminal charges in a court of competent jurisdiction consistent with Section 3.1(b) of this Order, or (iii) to take any other action deemed necessary under the particular facts and circumstances so long as such action is consistent with the law and due process.
- 3) Upon issuance of a Final Report, the Inspector General must forward it (and all accompanying records and files generated to create the Final Report) to the Commission on Public Integrity. The Commission on Public Integrity shall independently review the Final Report, records, and file and determine whether to adopt the Final Report in full, modify, wholly or partly reject, or resubmit the Final Report to the Inspector General with instructions. In the event the Complaint is dismissed, the aggrieved government employee or government contractor may bring a civil action in a court of competent jurisdiction seeking appropriate judicial relief. The court in such a case may consider the findings and analysis contained in the

Final Report, as well as any additional findings and analysis rendered by the Commission on Public Integrity.

- 4) If the Inspector General fails to issue a Final Report within 60 days after the Complaint's filing, or the Commission on Public Integrity fails to make any determination about whether to adopt, modify, reject, or resubmit the Final Report within 30 days after its receipt, and there is no showing that such delays are due to the bad faith of the claimant, the claimant may (within 30 days after the passage of either deadline) bring a civil action in a court of competent jurisdiction seeking appropriate judicial relief. The institution of any such civil action under this paragraph shall not prejudice the Inspector General from continuing its investigation and submitting its Final Report to the Commission on Public Integrity. The institution of any civil action under this paragraph shall not prejudice the Commission on Public Integrity from dismissing the Complaint, pursuing criminal penalties (as permitted under Sections 3 and 4 of this Order and Section 4 of Annex A to Order No. 55) against persons who violate Section 2 of this Order, or taking any other action deemed necessary under the particular facts.
- 5) The Commission on Public Integrity shall also promulgate procedures and regulations for receiving and investigating Complaints that relate to actions taken by ministers or Inspectors General. The regulations promulgated shall require the Commission on Public Integrity to analyze the merits of such Complaints and to issue a Final Report within 60 days of filing. Upon issuance of the Final Report, the Commission on Public Integrity shall: (i) dismiss the Complaint, (ii) pursue civil and/or criminal charges in a court of competent jurisdiction consistent with Section 3.1(b) of this Order, or (iii) take any other action (not including criminal or civil relief available in a court of competent jurisdiction) deemed necessary under the particular facts and circumstances so long as such action is consistent with law and due process. In the event the Complaint is dismissed, the aggrieved government employee or government contractor may bring a civil action in a court of competent jurisdiction seeking appropriate judicial relief. The court in such a case may consider the findings and analysis contained in the Final Report.
- 6) If the Commission on Public Integrity has not issued a Final Report within 60 days after the filing of a Complaint that relates to actions taken by a minister or an Inspector General and there is no showing that such delays are due to the bad faith of the aggrieved government employee or government contractor, then the aggrieved government employee or government contractor may bring a civil action in a court of competent jurisdiction seeking appropriate judicial relief. The institution of any such

civil action under this paragraph shall not prejudice the Commission on Public Integrity from pursuing criminal penalties (as permitted under Sections 3 and 4 of this Order and Section 4 of Annex A to Order No. 55) against ministers or Inspectors General who violate Section 2 of this Order.

- 7) To further encourage individuals to come forward with evidence of corruption and official misconduct, the Commission on Public Integrity shall promulgate and widely publicize procedures that permit the Government of Iraq to transfer to a person (or persons) who first reports particular actionable misconduct up to 25 percent of any recovery (regardless of whether such recovery is awarded to the government from a court of competent jurisdiction, received by settlement, or received by other means) by the government from a wrongdoer. The regulations promulgated shall not permit any person (or persons) to receive any portion of a recovery unless the recovery was, in substantial part, received because the person (or persons) reported the particular actionable conduct at issue.

#### **Section 4 Penal Code Amendment**

The Penal Code is amended by appending to the end of Paragraph 329 the following:

“(3) The same penalty applies to any public official or agent who discharges, demotes, transfers, threatens, intimidates, discriminates against, harasses, and/or otherwise retaliates against in any way any person reporting to, or otherwise cooperating with, the Iraqi Commission on Public Integrity, Inspectors General of the Ministries, the Board of Supreme Audit, or any other government body charged with investigating and exposing corruption and misconduct by those charged with the public trust.”

#### **Section 5 Entry into Force**

This Order shall enter into force on the date of signature, and shall remain in force unless the transitional Iraqi administration enacts superseding legislation.



L. Paul Bremer, Administrator  
Coalition Provisional Authority