



**Integrity Chamber Sint Maarten**  
**Government Housing Management Proposal**  
*Component of the Facility Services Policy*

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# 1 General Introduction

## 1.1 Preface

The Integrity Chamber is authorized to give advice and make proposals on policies to generally improve integrity within government and its entities. The basis for this authorization is found in Articles 16 through 18 of the National Ordinance Integrity Chamber (hereinafter: NOIC).

The advices and proposals can be given on the Integrity Chamber's own initiative, or on the request of the Prime Minister, the responsible minister, or Parliament, insofar as the nature of the tasks of the Integrity Chamber allows. The Integrity Chamber is further tasked with overseeing the implementation of advice and proposals. Advices and proposals are published in the National Gazette.

By giving advice and making proposals, the Integrity Chamber strives to fill gaps and address procedures aimed at bettering the functioning of government and its entities, and ultimately the overall integrity infrastructure of the country.

## 1.2 Rationale

On February 23, 2021, the Integrity Chamber was requested by the Prime Minister, to advise on the Facility Services Policy (hereafter: FSP) of the Department of Facility Services<sup>1</sup>, as well as on the final report of agreed procedures by the 'Stichting Overheids Accountant Bureau' (hereinafter: SOAB). The request was the result of previous discussions with the Minister and her cabinet regarding the implementation of a Facility Services Policy. The FSP was not fully implemented at the time.

## 1.3 Relevance

A Facility Services Policy plays a significant role within the integrity infrastructure of the Government of Sint Maarten. This integrity infrastructure is the entirety of the integrity-related legal and regulatory framework of the administrative body and all additional elements necessary for the fulfilment of organisational objectives.

The Department of Facility Services plays a significant role within the services provided to the various administrative bodies, and affects various subjects related to the management of government resources. Processes within the FSP include *housing management, central purchasing, cleaning, warehouse management, government vehicles*, etc. These processes are sensitive to integrity risks, misconducts or other inappropriate behaviour by management or employees.

As the Department of Facility Services provides services for all seven (7) ministries within the Government of Sint Maarten, the consequences of the above-mentioned risks can be far reaching.

The Integrity Chamber recognizes that a comprehensive FSP is an important component within the Government's integrity infrastructure and by means of this proposal wishes to aid in its enhancement.

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<sup>1</sup> Facilitaire Zaken Beleid en Richtlijnen: *Faciliterend Facilitair Management! Een uniform facilitair management voor de overheid van Sint Maarten, eerste versie, auteur Rignald Martina.*

## 1.4 The FSP

The Facility Service Policy is not only applicable to the Department of Facility Services and its employees, but also to all executing agencies, civil servants/employees, third party users, and other stakeholders of the various ministries. The Department of Facility Services is not solely responsible for all tasks or activities mentioned in the policy and therefore works in collaboration with other government organisations.

The FSP reviewed by the Integrity Chamber consists of five (5) categories, namely:

- Cleaning ('schoonmaak'),
- Support ('ondersteuning'),
- Assets ('eigendom'),
- Catering, and
- Security ('beveiliging').

The category "assets": is sub-divided into six (6) categories:

- IT-hardware and software,
- Unusable and surplus public goods ('onbruikbare en overtollige overheidsgoederen'),
- Purchasing facilities goods and stock management ('inkoop facilitaire goederen en voorraadbeheer'),
- Company vehicles ('dienstauto's'),
- Mobile phones ('mobiele telefoon'), and
- Housing Management ('beheer huisvesting van de bestuursorganisatie').

## 1.5 Scope

Due to the size of the policy and the desire to be as comprehensive as possible, the Integrity Chamber made the decision to divide the policy by the (sub)categories and provide proposals in segments according to priority and comprehensiveness. Although the Integrity Chamber aims to be as complete as possible in this proposal, the proposal was approached mainly from an integrity perspective.

The first (sub)category for which a proposal is presented is the **Government Housing Management** (Chapter 8 of the FSP). This proposal was developed with input and involvement from key stakeholders within Government, in particular the Department of Facility Services.

## 1.6 Findings FSP: Government Housing Management

The Integrity Chamber reviewed the FSP of the Department of Facility Services and determined that there were insufficient explanatory contents, guidelines, checks and balances, and other provisions to prevent possible misuse of government resources. Specifically, regarding the Government Housing Management Policy, it was determined that elements such as the importance of the housing policy, the risk areas, determining the demand and availability of housing, transparency and accountability and compliance with the Housing Management Policy were lacking.

In addition, the Integrity Chamber proposes a detailed Government Housing registry. The registry provides an overview of all Housing Management aspects, such as the type of housing, the state of the building, and its size. This information is not only necessary for proper housing management, but

also for other facility services, such as cleaning. To minimize (integrity) risks, a multi-disciplinary work group is also proposed to play a role in certain procedural elements of the Housing Management Policy. More details are provided in the proposal.

Furthermore, the Integrity Chamber believes that the FSP is not always specific or comprehensive enough to avoid misunderstanding or misuse. For example, the paragraph "Entering Maintenance Agreements" (Aangaan verplichtingen onderhoud), describes very briefly the required amounts of quotations needed and the persons responsible for authorization. This paragraph was broadened to include other relevant housing agreements (not just for maintenance), procedures, and additional checks and balances.

In March 2021, the General Audit Chamber, published a "Mini Audit Housing Policy ('*Mini Audit: Huisvestingsbeleid*'). The General Audit Chamber presented four considerations:

1. Need for an Office Space/Housing Policy or Plan
2. Importance of Data
3. Clear Responsibility
4. Benchmarking

These considerations were taken into account within the policy proposal of the Integrity Chamber.

The proposal of the Integrity Chamber is presented in the following chapter. The basis for the proposal is the reviewed FSP, which was translated from Dutch to English to reach a wider public and enhanced to address the above-mentioned shortcomings.

## 2 Proposal: Government Housing Management Policy

### Section 1: Introduction

For the provision of adequate government services, proper housing is necessary. Employees, citizens, and visitors alike should be provided with an adequate (work)space where public services can be provided and received, and employees can safely execute their tasks. The Department of Facility Services, as a subdivision of the Department of Resource and Support Services (DMO), is responsible for ensuring optimal housing management for the Government of Sint Maarten, including all building-related installations (e.g., standby power generators and air-conditioning units). This is essential for the delivery of internal and public services, thereby fulfilling their assigned tasks and enabling sound decision-making for the Government of Sint Maarten in general.

The overall Housing Management goals of the Government of Sint Maarten are:

- **Centralisation of the provision of public services:** to reduce the number of buildings utilized for Government Housing, optimizing occupation of the existing buildings, and reducing costs as much as possible.
- **Maintenance plan for Government Housing:** proactive in identifying maintenance needs such as repairs and necessary replacements of the existing building and its inventory. The Department of Facility Services will operate as the central maintenance coordinator and will advise the various ministries about scheduled maintenance activities.
- **Strategic relationship with third-party providers:** Establishing strategic relationships for the maintenance of existing government buildings which will be further formalized in the necessary Service Level Agreements.

This policy explains the importance of a Government Housing Policy, the integrity risks that can occur as it pertains to Housing Management, other identified risks, and the ways that these risks can be mitigated or managed.

### Section 2: Importance and Risks

#### 2.1 Importance of a Government Housing Policy

It is important that Government Housing is managed and maintained in a way that enables public entities to provide their services according to organisational standards, in an economically responsible manner. The Government Housing Policy is established to clarify the procedures and guidelines necessary within housing management, for civil servants and employees. This creates uniformity in approach.

The Government Housing Management Policy has the following specific objectives:

- To ensure consistency, efficiency, and transparency in the (financial) decision-making of Government and for its stakeholders.
- Proper documentation of the housing assets and their characteristics (such as: size, location, accessibility, condition, occupation, parking, market value, Service Level Agreements).
- To ensure uniformity in housing management and other housing related services.
- To provide public services in the most suitable and economically responsible manner, while maintaining the level of service expected by the public.

- To provide an accurate assessment and overview of the state of the government housing and the users' satisfaction.
- To provide an accurate assessment and overview of the current housing operational budget.
- To avoid wastage of resources when managing and occupying government-owned or leased space.
- To provide detailed information for a Housing Management year-plan based on the currently utilized standards.

## 2.2 Integrity Risks

There is an inherent vulnerability to certain integrity risks within Housing Management. For example, regarding procedures pertaining to contracting third-party services/goods, (public) procurement procedures, and procedures on decision making to buy or lease housing. The integrity risks may present themselves in several ways. The list of integrity risks described below are not exhaustive, but are the common integrity risks associated with Housing Management:

**Conflicts of interest:** it can be considered a conflict of interest if an employee or someone in his social environment benefits from a decision made, such as an acquisition or maintenance contract.

**Corruption/Bribery:** it can be considered corruption or bribery if an employee receives money, goods, or services in return for a favourable act (quid pro quo).

**Abuse of authority:** it can be considered an abuse of authority when actions are taken, or decisions are made in personal interest or against prevailing policy or procedure. An example can be the affording of bids to third parties that have not met the conditions of the public procurement.

**Favouritism and Nepotism:** This may present itself when a person of authority hires or shows preference to relatives or friends, advancing their interests or their company's interest.

## 2.3 Other Risks

The following risks are also possible.

**Unclear roles and responsibilities:** all stakeholders must be aware of their roles and responsibilities. There is a distinct difference between having an oversight role and being responsible for implementation and for (timely) reporting in return.

**Operating autonomously:** housing management is a highly integrated activity requiring employees across the various ministries to interact and share knowledge and data. If various ministries operate in an autonomous manner this could be counterproductive to efficiency and effectiveness.

**Lack of a long-term (financial) plan:** one of the key principles of Housing Management is the link between asset management and the long-term financial plan. To develop such a plan, the Government of Sint Maarten has to be aware of all assets, upcoming plans, housing management costs, and has to formulate a range of potential revenue strategies and plan for any expected revenue shortfalls. Taking such an approach will help the Government of Sint Maarten achieve service and asset financial sustainability over the long term. The lack of long-term financial planning has risks for the continuity of government performance and decision-making.

## 2.4 Managing (Integrity) Risks

To curb the (integrity) risks, such as the ones mentioned above, the following elements need to be incorporated in the execution of the policy:

- A process to determine the housing acquisition (including need, availability, and appropriate housing).
- A multi-disciplinary workgroup to oversee and/or advise the relevant decision-makers on specific aspects within the policy (see elaboration of multi-disciplinary workgroup below).
- A proper housing valuation system of buildings.
- Ensuring that all the legally required permits are available, and up to date.
- Ensuring periodic inspection of all services or works carried out by third parties.
- Instituting due diligence on third parties (e.g., background checks, tax registration, possible conflicts of interest).
- Transparency of Facility Service Housing Management processes.

Above is not a comprehensive list of elements to manage risks. It does, however, assist the Department of Facility Services in meeting the goals of the Government of Sint Maarten. The list should be adjusted over time, depending on new developments within the administrative bodies.

### Multi-disciplinary workgroup

The multi-disciplinary workgroup oversees and/or advises the relevant decision-makers on specific aspects as indicated within the policy and ensures that the stipulations in the policy are adhered to. The workgroup consists of members of different disciplines, professions and/or departments collaborating for the necessary purpose. The multi-disciplinary workgroup is formed temporarily for the specific task and varies therefore in the composition of disciplines and professions, based on the needed expertise. The multi-disciplinary workgroup consists of at least one representative of the Department of Facility Services, the requesting party, and a neutral party. The neutral party can be internal or external depending on the needed expertise. Additional persons, e.g., representatives of the Department of Legal Affairs or other departments, can also be part of the workgroup when necessary.

## Section 3: Obtaining Housing

In this section the Government Housing Register, determining the need for (additional) housing, and building acquisitions are presented.

### 3.1 Government Housing Register

The Department of Facility Services can only execute proper Housing Management if there is full insight into the existing housing and the demand and availability for (office) space. To achieve this a "Government Housing Register" will be established. This Government Housing Register serves to manage housing more effectively and efficiently, analyse housing demand and availability, and to establish a specific multi-annual housing plan, including maintenance and cleaning, to advise Government. The Government Housing Register contains the following details: *size, location, accessibility, parking availability, functional purpose, condition, occupancy, installations, market value, Government owned land, Service Level Agreements, date of purchase/lease, yearly costs (including lease/mortgage, maintenance, insurance), owner/lessor details, acquisition costs, and inventory.*

This Government Housing Register provides transparency and accountability as it pertains to Government's assets, budget, and any decisions regarding purchasing or leasing of housing.

The Government Housing Register is managed by the Department of Facility Services. The information for the Registry is provided by the relevant stakeholders or occupants/users of the buildings. The information in the Government Housing Register will be updated as needed to ensure the constant availability of current and relevant information for the Department of Facility Services and for Government in general.

### 3.2 Determining the Need for (Additional) Housing

The need for (additional) housing may arise due to several reasons, such as, the expansion of an already existing public service, the creation of a new public service, the merging of several public services, or a current housing asset has been condemned or declared unsuitable for the service.

The Department of Facility Services reviews the need for (additional) housing, after receiving a request from the concerned Government organisation. The organisation requesting housing has to provide written motivation along with the requested criteria for the housing, e.g., the amount of spaces needed, accessibility requirements, necessary parking, the number of emergency exits. (The NEN-standards can be used as a guideline for this.)

To validate the request on demand by the Department of Facility Services, a multi-disciplinary workgroup is established, to decide on the need, availability, and appropriate housing. The Government Housing Register is the basis for handling requests and advising Government on (additional) housing.

To reduce costs and centralize Government services, existing and not fully occupied Government Housing will first be utilized (if it fulfils the requirements) when there is a new demand. Attention is also paid to the current Housing financial plan in combination with the Government's annual budget. If suitable government owned/leased space is unavailable and the multi-disciplinary workgroup determines that there is a need for (additional) housing, the multi-disciplinary workgroup provides a motivated advice to the relevant decision-makers, including the criteria to acquire/lease (additional) housing.

### 3.3 Building Acquisition

The acquisition of (additional) housing needs an approved advice, including the availability of resources or budget. The Government Housing Register is the basis for the advice and the advice is established by the multi-disciplinary workgroup for the relevant decision-makers. When necessary, the Department of Facility Services may make their search for a building, including the criteria, public (e.g., advertisement, website). The Department of Facility Services ensures that all acquired buildings have obtained the relevant government permits prior to purchase or lease.

#### 3.3.1 Purchasing Buildings

After receiving a request with the criteria from the Government organisation in need of (additional) housing, a short-list of potential buildings for purchase is drafted by the Department of Facility Services to mitigate integrity risks, such as, a conflict of interest. When drafting this short-list, several aspects are taken into consideration. The aspects are:

- The size of the building, and its potential future use (possibilities for expansion, occupation of different Government organizations).
- The building provides a quality workplace environment that enhances employee productivity.
- The cost of purchase and other one-time costs to determine whether it fits within the national budget.
- A due-diligence check is done by the Department of Facility Services in cooperation with other stakeholders (e.g., background checks, tax registration, possible conflicts of interest) to avoid potential integrity risks. The seller should not be a legal or natural person barred from contracting with the Government.
- An assessment of the building to determine the market value.
- An inspection of the building to determine the state of the building and current and future costs, such as maintenance and insurance (for the purpose of establishing inspection and maintenance plans).

The multi-disciplinary workgroup advises the relevant decision-makers with written motivation on which building appears to be the most suitable. After purchase, the building information is added to the Government Housing Register.

### 3.3.2 Leasing Buildings

After receiving a request with the criteria from the Government organisation in need for (additional) housing, a short-list of potential buildings for lease is drafted by the Department of Facility Services to mitigate integrity risks, such as, a conflict of interest. When drafting this short-list, several aspects are taken into consideration. The aspects are:

- The size of the building, and its potential future use (possibilities for expansion, occupation of more than one (1) Government organisation).
- The building provides a quality workplace environment that enhances employee productivity.
- The economic benefits for (long-term) leasing instead of purchasing.
- A due-diligence check is done by the Department of Facility Services in cooperation with other stakeholders (e.g., background checks, tax registration, possible conflicts of interest) to avoid potential integrity risks. The lessor should not be a legal or natural person barred from contracting with the Government.
- An assessment of the market value for leasing and comparison of lease prices for buildings of similar size and location.
- An inspection of the building to determine the state of the building and current and future costs, such as maintenance and insurance (for the purpose of establishing inspection and maintenance plans).
- The lease agreement and the necessary conditions therein, which provide economic and other advantages to Government, is consistent with the Government's short and long-term budgetary goals.

The multi-disciplinary workgroup advises the relevant decision-makers with written motivation on which building appears to be the most suitable. After leasing, the building information is added to the Government Housing Register.

## Section 4: In-House and Third-Party Services

Some services that are susceptible to (integrity) risks are maintenance, insurance, inspection, etc. These are also services that may involve the use of third parties. It is important that services that require third-party activities are provided in a transparent and accountable manner.

All third-party services, regardless of the service or the party responsible for its execution, is performed in a manner that maintains continuity of government operations, extends the useful life of buildings and related building systems, and provides a quality workplace environment that enhances employee productivity.

### 4.1 Maintenance

Maintenance entails actions such as repairs, alterations and/or modernizations, required for buildings and related building systems to achieve its expected useful life, to maintain or upgrade the purpose of the building and to preserve or enhance the value of the property.

The Government of Sint Maarten is fully responsible for the maintenance of government-owned buildings and partially responsible for the maintenance of leased property. The Department of Facility Services differentiates between three (3) types of maintenance: (1) daily/small maintenance, (2) requested/incidental maintenance, and (3) major/planned maintenance.

The Department of Facility Services is responsible for maintenance on these buildings. The maintenance is executed internally in collaboration with other departments or by contracting third parties. To determine the maintenance needs and create a maintenance plan, the Government Housing Register is utilized.

### 4.2 Third-party Maintenance Services

The third-party services are contracted via the standard public procurement procedures. The third parties present the Department of Facility Services with a Maintenance Management Plan or a Service Level Agreement after an assessment of the properties. During the maintenance assessment, aspects such as the building's physical condition, functional purpose, any future plans and associated costs, along with the desired needs, are taken into consideration.

Maintenance for leased buildings is arranged as determined by Service Level Agreements or rental/lease Agreements (landlord obligations/lessee obligations). Major maintenance of leased buildings falls, unless otherwise determined, under the responsibility of the landlord.

The costs associated with the Maintenance Management Plan are added to the Government Housing Register and the annual national budget, once approved.

### 4.3 Insurance

Government-owned and government-leased buildings, and their physical and material assets, should be adequately insured. An exception can be made if the cost of insurance exceeds the risk of damage, or if the building is (partly) insured by a third-party (lessor). The insurance coverage covers loss against man-made (e.g., vandalism and burglary damage) and natural disasters (e.g., hurricane) and major damages such as fire, water, and property damage. Insurance agreements must be periodically evaluated, updated, and renewed as necessary.

Buildings are insured collectively, as much as possible, to secure more favourable insurance terms and save on costs. The Department of Facility Services conducts (public) procurements for this purpose every three (3) years. This is led by the multi-disciplinary workgroup which, based on the procurement procedure, selects an insurance company and provide the Minister with an advice. After approval of the tender by the Council of Ministers, the selected insurance company is contracted. Any subsequent buildings bought or leased by government, should be added to the existing insurance contract as necessary.

#### 4.4 Inspections

Government-owned and government-leased buildings are inspected yearly. The Department of Facility Services is responsible for conducting inspections. The inspection services can be outsourced if necessary. If the inspection is outsourced, the Department of Facility Services will regularly follow-up on provided services. Special inspections are conducted after disasters, in the case of emergency situations, or on specific requests.

During the periodic inspection, the building is assessed based on existing plans (e.g., maintenance, cleaning, physical and electronical surveillance security), and is also monitored based on its user satisfaction, accessibility, its continuity of service provision, etc.

Inspections also allows for determining the level of compliance with regulatory requirements of public buildings (e.g., fire safety). Inspections are followed by an inspection report and results are incorporated in the existing plans.

#### 4.5 Procurement Procedures

For different aspects of housing management, such as acquisition, maintenance or insurance, procurement is required. Procurement is used to promote fair competition, provide transparency, and provide service providers with equal opportunities. Procurement procedures also mitigates the integrity risks mentioned in Section 2. To minimize the occurrence of misconducts the following general procurement procedures are followed:

- The Secretary-General of the requesting Ministry submits a motivated request for services/goods via the Head of Resource and Support Services, at the Department of Facility Services.
- The Department of Facility Services receives expert advice, if needed, for the procurement of specific services/goods.
- The necessary amount of quotations are provided. (See below the specifications for the amount of quotations per price range.) Projects cannot not be divided into separate parts/phases to avoid the rules pertaining to the threshold amounts.
- Quotations include the full scope of the requested services/goods, the time frame necessary for execution and completion, and the pricing of the activity.
- The Financial Controller is notified of the quotations and reviews the available budget in order to proceed with the advice.
- Quotations are assessed on completeness by the Department of Facility Services.
- A due-diligence check is done by the Department of Facility Services in collaboration with other stakeholders (e.g., background checks, tax registration, possible conflicts of interest) to avoid potential integrity risks.

- The Department of Facility Services provides a written advice about the services/goods and the selected third-party, via the Financial Controller and Head of Resource and Support Services, to the person(s) able to authorize the advice (see specifications below).
- The Head of Resource and Support Services supervises the completion of the necessary procurement procedure.
- The Department of Facility Services oversees the services/goods provided by the third party.

The procurement procedure varies based on the sum of the estimated services, goods or works to be completed. The guidelines are given below.

- **Services, Goods or Works estimated under NAf 5000,-,**

One (1) quotation is requested by the Department of Facility Services. The Head of Resource and Support Services (DMO) authorizes the advice and the quotation. As only one quotation is requested, extra care must be taken to avoid conflicts of interests and ensure that all available providers receive a fair chance. If the service is recurring, it is recommended that the service provider is alternated.

- **Services, Goods or Works estimated between NAf 5000,- and NAf 25.000,-**

Two (2) quotations are requested by the Department of Facility Services. The Minister of General Affairs and the Head of Resource and Support Services (DMO) authorizes the advice and the quotations.

- **Services, Goods or Works estimated between NAf 25.000,- and NAf 150.000,-**

Three (3) quotations are requested by the Department of Facility Services. The Minister of General Affairs and the Head of Resource and Support Services (DMO) authorizes the advice and the quotations. Services and goods above **NAf 50.000,-** require a public procurement procedure, which is initiated and authorised by the Council of Ministers.

- **Services, Goods or Works estimated above NAf 150.000,-**

Services, Goods or Works estimated above NAf 150.000,- require a public procurement procedure, which is initiated and authorised by the Council of Ministers.

The Department of Facility Services utilizes the multi-disciplinary workgroup for amounts above **NAf 25.000,-** to ensure the transparency and accountability of the procedures. The multi-disciplinary workgroup reviews the received requested services/goods, the quotations, the assessment of the third parties (due-diligence) and the advice for the relevant decision-makers.

## Section 5: Contract Management, Transparency and Compliance

### 5.1 Contract Management and Safe-Keeping

The Department of Facility Services oversees the management and archiving of all leases for buildings that house Government services, monitors important data in the lease agreements and informs the pertaining ministry expediently when there is important data that must be shared. On behalf of the other ministries, the Government of Sint Maarten enters into the lease agreements with landlords after the Department of Facility Services determines whether the buildings to be leased meets current quality standards. Leases entered in the past are (retroactively) submitted to the Department of Facility Services for safe keeping.

The Department of Facility Services periodically reviews the current lease agreements. The lease agreements are assessed according to the aspects detailed in the paragraph "Leasing Buildings". Based on this assessment, the Department of Facility Services determines the suitability of the current agreement and take the actions necessary to ensure viability with Government's goals and objectives. Any changes are updated in the registry.

## 5.2 Transparency and Accountability

Housing Management enables public entities to provide their services in an acceptable standard within an economically responsible manner. This management has to be transparent, and in the interest of the Government and the people of Sint Maarten.

Information concerning Government Housing Management is accessible to the necessary stakeholders and users at any time, via the Department of Facility Services, if the information has not been deemed confidential in the interest of national security.

As previously stated, periodic reports are requested from, and made available to, the Department of Facility Services.

Half year housing management reports including finances, are instituted by the Department of Facility Services and submitted to the Council of Ministers. The report includes users' satisfaction, the amount of space available and needed, quality of the building, state of repair/maintenance, finances, and proposal to increase efficiency. The Government Housing Register, requests, advices and quotations, form the basis for this report.

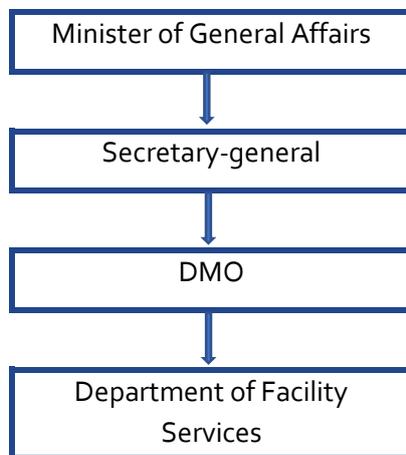
## 5.3 Compliance

As with any legislation or regulation, compliance is necessary to uphold the state of law. The term compliance can be defined as the act of adhering to or conforming with a policy, rule, demand, or request. Compliance with the Housing Management Policy is determined and achieved in the following ways:

To ensure compliance with the Housing Management Policy, periodic evaluations of the execution and adherence to the policy take place. An Evaluation Team is formed for this purpose that includes at least one representative from the following stakeholders: the Department of Facility Services, the Ministry of VROMI, the Ministry of Finance and the Financial Controller of the Ministry of General Affairs. During this evaluation, the adherence and compliance to the legal and regulatory framework and specifically to the Housing Policy by Facility Services, is determined as well as shortcomings in the policy or its execution. The result of the evaluation is submitted to the Minister of General Affairs and improvements are made where necessary.

## Annex: Legal and Regulatory Framework

### THE DEPARTMENT OF FACILITY SERVICES



The Department of Facility Services has the responsibility to ensure: the appropriateness of government assets, the effectiveness and efficiency of Housing Management, the service of appropriate space allocation to all government and its entities, and asset performance management, pursuant to Article 5, Article 7, fourth paragraph, Article 8, first paragraph, Article 9, under a, sub iv, Article 11, under e, Article 13, under c, of the National Ordinance Structure and Organisation of Government (LIOL), and Article 2, under n, Article 17, first paragraph, under b, Article 17, second paragraph, under c, and third paragraph, under c, of the Organisation Decree General Affairs.

#### BUILDING ACQUISITION

Housing management requires prior proper authorisation to perform legal acts under private law (Civil Code of Sint Maarten), pursuant to Article 21, first paragraph, of the '*Rijkswet financieel toezicht Curaçao en Sint Maarten*', Article 26, first paragraph, and Article 27, first paragraph of the Ordinance on the Issue of property.

The Mandate Register, which states the authorized persons that can perform legal acts under private law, is mentioned in Article 42, third paragraph, of the National accountability ordinance. Based on the most recent Mandate Register, the Council of Ministers need to approve acquisitions or other legal acts above the amount of NAf 50,000.

#### MAINTENANCE

Government owned buildings have to be maintained in accordance with the Building Ordinance (AB 2013, GT no. 136) and the Building Decree (AB 2013, GT no. 146).

With regard to Government leased buildings the lessor and the tenants have individual obligations. The Lessor has certain maintenance obligations pursuant to Article 7:206, first, second and third paragraph, of the Civil Code of Sint Maarten. Maintenance obligations of the Tenant are described in Article 7:217, of the Civil Code of Sint Maarten. These Lessor and Tenant maintenance obligations are considered as mandatory law (of which no deviation by lease agreement is allowed).

## PROCUREMENT PROCEDURES

Government or Parliament shall draft the "*National ordinance entailing general measures, with regard to the way in which a (public) procurement procedure will be set up and executed, as well as the way in which implementation is carried out of the exceptions to the rule.*", pursuant to Article 47, fourth paragraph, of the National accountability ordinance.

The execution of "*works*" and the procurement of "*goods or services*" above by the Country shall be publicly tendered, pursuant to Article 47, first and third paragraph, under a, of the National accountability ordinance. However:

- A public tender is not required if the projected expenditure does not exceed the amount of NAF 50,000.00 in the case of the purchase of services or goods.
- In case of building offices or demolishing offices, which is considered as "*works*", a procurement procedure is required above the amount of NAF 150.000,00.

A civil servant is prohibited from accepting, guaranteeing, or participating in works, supplies or services which are directly or indirectly wholly or partly at the expense of the government, pursuant to Article 54, first paragraph, of the National ordinance substantive civil service law (LMA). This provision excludes civil servants from participating in tender procedures.

## TRANSPARENCY AND ACCOUNTABILITY

Article 12, first paragraph, under g, and under h, of the National Accountability Ordinance, relates to the financial overview of the Housing Management Policy. The yearly National Budget (*'Landsbegroting'*) should present a listing of properties (rental and owned property).

## COMPLIANCE

Compliance with the (inter-)national laws and regulations is imperative to upholding the State of law. The principle of legality implies that everything the government does should be based on the law.

Pursuant to Article 101, first paragraph, of the Constitution of Sint Maarten, rules are laid down by national ordinance in order to guarantee the legality and integrity of the management and administrative actions, as well as the soundness of the financial management.

With regard to the Housing Management policy, compliance of the relevant legal and regulatory framework is important for upholding public integrity.