



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

December 2021

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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 advice and proposals can be performed 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 advices 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 Services¹, 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 *real estate 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.

¹ 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 Existing Facility Service Policy

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 their (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.

On October 7, 2021, the Integrity Chamber submitted a proposal on the first (sub)category, namely on Government Housing Management.

In this proposal, the second (sub)category is presented, namely on **Government Vehicle Management** (Chapter 6 of the FSP: 'Beleid en Richtlijnen: Dienstauto's'). This proposal was developed with input and involvement from key stakeholders within Government, in particular, the Department of Facility Services.

1.6 Findings Government Vehicle Management Policy

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 government vehicles. The Ministerial regulation, 'Regeling voor het gebruik van dienstauto's door werknemers van de overheid van Sint Maarten', referred to in this proposal as "Regulation Company Vehicles Government Sint

Maarten" from the Minister of General Affairs (dated July 16, 2013) regulates several aspects, such as, the management of government vehicles, the definitions of permanent vehicles and pool vehicles, the use of private vehicles for government tasks, and general rules regarding the use of government vehicles.

Upon analysis of the FSP, it was determined that certain elements, such as, the importance of a vehicle management policy, the risk areas, determining the demand and availability of vehicles, transparency, accountability, and compliance with Government Vehicle Management were insufficiently elaborated or lacking. Furthermore, the FSP is not always specific or comprehensive enough to avoid misunderstanding and could therefore facilitate misuse. Key elements concerning the acquisition of government vehicles, the procurement procedures involved, the assignment of government vehicles, selection for purpose and disposal, to name a few, are also lacking.

In addition, a detailed Government Vehicle Register and a multi-disciplinary workgroup are proposed. The register provides an overview of all Government Vehicle Management aspects, such as their purpose and condition. To avoid or minimize (integrity) risks, a multi-disciplinary work group is proposed to play a role in certain procedural elements of the Government Vehicle Management Policy. More details are provided in the policy proposal.

The policy proposal is presented in the following chapter, considering the above shortcomings. The basis for the policy proposal is Chapter 6 of the FSP, which is translated from Dutch to English to reach a wider public, the Vehicle Use Policy and the "Regulation Company Vehicles Government Sint Maarten".

2. Proposal: Government Vehicle Management Policy

Section 1: Introduction

To be able to provide adequate government services, reliable and task-suitable vehicles are a necessity for the Government of Sint Maarten. This Government Vehicle Management Policy (hereafter: the policy) is intended to guide the management of Government's Vehicle Fleet, by providing procedures related to the use of government vehicles, maintenance, damage handling, fuel delivery/consumption and vehicle insurance.

The policy covers all vehicles used by Government, whether owned, rented or leased. Certain provisions of the "Regulation Company Vehicles Government Sint Maarten"² (see Annex B), applicable to all government employees, are incorporated in this policy as well. The Ministerial Regulation, being a legal regulation as mentioned in Article 81, of the Constitution of Sint Maarten, prevails in the case of inconsistencies between the Ministerial Regulation and this policy. Additionally, there is the "Vehicle Use Policy" which is meant for employees with an assigned government vehicle (see Annex C).

The policy is meant to cover the management and use of company vehicles belonging to the Government Vehicle Fleet. The Government Vehicle Fleet consists of three types of company vehicles namely permanent vehicles, pool vehicles, and emergency/specialised vehicles. The vehicles are defined as follows:

- A permanent vehicle is an owned or rented company vehicle that is assigned to an individual employee for permanent use.
- A pool vehicle is a company vehicle that is shared by employees of a department or executing agency. The vehicle is stationed at a designated (government) parking area.
- An emergency/specialised vehicle is a company vehicle used for emergency services or specialised tasks, such as Police vehicles, Ambulance, Fire trucks, Penitentiary transport vehicles, and Cargo/container scanning vehicles.

Emergency/specialised vehicles also require customised processes and procedures which are not regulated in this policy. However, general aspects of this policy, e.g., the assignment of vehicles and the vehicle use register, is applicable to these vehicles.

All stakeholders must ensure that the Government Vehicle Fleet is managed in a safe and efficient manner, as well as in accordance with current national legislation and regulations.

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

- **Centralising the (financial) management of the Government Vehicle Fleet:** to improve the centralised management of government vehicles, to provide better overviews and opportunities for a more efficient and effective (financial) management of the Government Vehicle Fleet. The Department of Facility Services plays a significant role in this management.

² "Regeling van de Minister van Algemene Zaken van de 16e juli 2013, houdende voorschriften voor het gebruik van dienstauto's door werknemers van de Overheid van Sint Maarten" (Geldend van 28-08-2013 t/m heden) (AB 2013, no. 27)

- **Improving cooperation between the different ministries and the Department of Facility Services:** to improve the relationship and cooperation between the assigned vehicle coordinators of the ministries and the Department of Facility Services, and to centralise the management tasks of the Department of Facility Services. This without diminishing the ministries' responsibilities and budget obligations.
- **Improving the Department of Facility Services' administration and internal controls:** to improve the control-system, minimizing (integrity) risks, protecting Government assets, and ensuring the accuracy of records. It also promotes operational efficiency and encourages adherence to legislation and regulations.

This policy also explains the importance of a Government Vehicle Management Policy, the integrity risks that can occur as it pertains to Government Vehicle Management, and the ways that these risks can be mitigated / managed.

Section 2: Importance and Risks

2.1 Importance of a Government Vehicle Management Policy

It is important that the Government Vehicle Fleet is managed in a way that enables public entities to provide their services according to organisational standards in an economically responsible and sustainable manner. This entails the acquisition, replacement and assignment of government vehicles as well as the maintenance thereof³. The Government Vehicle Management Policy is established to clarify the guidelines concerning vehicle management for civil servants and employees, which in turn ensures a uniform approach.

The Government Vehicle Management Policy has the following specific objectives:

- Ensuring consistency, efficiency, and transparency in the (financial) decision-making of Government, for its stakeholders.
- Ensuring proper documentation of the vehicle assets and their characteristics (such as: VIN-number, purpose of vehicle, type, age, user, maintenance, insurance, fuel usage and condition of vehicle, whether permanent vehicle, pool vehicle or emergency/specialised vehicle).
- Optimizing the use of the Government Vehicle Fleet, while ensuring vehicle and driver/passenger safety, an accurate assessment and overview of the state of the Government Vehicle Fleet as well as Government's operational budget.
- Ensuring uniformity in the implementation of Government Vehicle Management.

2.2 Integrity Risks

Government Vehicle Management is susceptible to certain integrity risks, for example, within processes and procedures pertaining to (public) procurement, or procedures on decision-making to buy, rent or lease vehicles. The assignment of permanent vehicles, pool vehicles or

³ Article 2, second paragraph of the Regulation Service Vehicles Government Sint Maarten.

emergency/specialised vehicles may also be susceptible to integrity risks. Government and all stakeholders must take the risk-factors related to this topic into consideration.

The list of integrity risks described below is not definitive, but represents the most common types of integrity risks associated with Government Vehicle Management:

Abuse of Authority: This may occur when approving bids from third parties regarding public procurement procedures for vehicle acquisition, maintenance, insurance, or inspection, while the necessary conditions have not been met.

Misappropriation of Resources: This may involve omitting the complete purchase amount, recording incomplete amounts, or utilising a government resource for private use in an effort to divert cash, checks, goods, or other resources with a monetary value. Examples are inflating the costs of vehicle-related purchases and pocketing the excess.

Nepotism / Favouritism: This may involve showing or giving preference to a legal or natural person based on previous or beneficial relationships, in exchange for other benefits, or to advance the position of the person involved.

2.3 Other risks

The following risks can also occur within the execution of Government Vehicle Management.

Unclear roles and responsibilities: All stakeholders must be aware of their expected roles and given responsibilities in regard to Government Vehicle Management. There is a clear distinction in responsibilities between having an oversight or assignment role, being a vehicle user, or a third-party delivering a particular service or good.

Operating autonomously: Government Vehicle Management is a highly integrated activity requiring organisations across the various ministries to interact and share knowledge and data in order to determine their vehicular needs, purposes, and the necessary financing. Operating in an autonomous manner negatively impacts the efficiency and effectivity of the organisation.

Lack of long-term (financial) planning: One of the key principles of Government Vehicle Management is the link between asset management and long-term financial planning. To develop such planning, the Government of Sint Maarten has to be aware of all assets, future plans, and costs concerning Government Vehicle Management. Taking such an approach will help the Government of Sint Maarten achieve service improvement 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.

A one-size-fits-all plan: While centralization and uniformity in general promotes the efficiency and effectivity of the policy, emergency/specialised vehicles require customised processes and procedures. Attention should be paid to establishing separate procedures or criteria regarding their procurement, maintenance, inspection, insurance, driver use, etc.

2.4 Managing (Integrity) Risks

To curb (integrity) risks, such as the ones mentioned above, the following elements are taken into consideration when executing the policy:

- The conditions and criteria related to vehicle assignment and vehicle use are clear to all employers and employees.
- A process to determine vehicle acquisition, fleet composition and necessity.
- A multi-disciplinary workgroup to oversee or advise on specific aspects within the policy (see elaboration of multi-disciplinary workgroup below).
- Government vehicles and all related information are centrally registered in the Government Fleet Register.
- Periodic inspections, services, and maintenance of all government vehicles are carried out.
- Due-diligence on third parties is performed by the Department of Facility Services in collaboration with other stakeholders (e.g., background checks, (tax) registration, possible conflicts of interest) is performed.
- Transparency of Vehicle Management processes is guaranteed as much as possible.

The above list is not definitive; however, these are some of the ways in which risks are being minimized with the adherence to this policy. This list can be adjusted over time depending on new developments.

Multi-disciplinary workgroup

The multi-disciplinary workgroup oversees or advises on specific aspects as indicated within the policy. The workgroup consists of members of different disciplines, professions or departments that collaborate for this purpose. The multi-disciplinary workgroup varies in composition of disciplines and professions based on the expertise needed and is of a temporary nature for this specific task. The multi-disciplinary workgroup consists of persons determined by the Department of Facility Services, with at least one (1) representative of the department, one (1) ministerial vehicle coordinator along with a (1) neutral party. The neutral party can be internal or external, depending on the expertise needed. Additional persons, e.g., representative of the Department of Legal Affairs and Legislation or other departments, can also be a part of the multi-disciplinary workgroup when necessary.

The ministerial vehicle coordinator (hereafter: the coordinator) is an employee appointed by the relevant Secretary-General, who manages the vehicular needs of the Ministry i.e., acquisition, replacement, assignment, maintenance, provides (financial) information to and collaborates with the Department of Facility Services. The coordinator can be assisted by other persons within the ministry concerned.

Section 3: Conditions for Vehicle Assignment and Use

Employees may be assigned the use of permanent vehicles, pool vehicles or emergency/specialised vehicle for the purpose of executing Government tasks. These drivers must meet the conditions of this policy as well as comply with current traffic- related legislation and regulations. Other relevant legislation and regulations must be taken into consideration as well, such as taxation laws. All employees must be made aware of and comply with the applicable policy and procedures.

3.1 General User Conditions

Employees must meet the following general user conditions to be allowed to drive a government vehicle. This list is not definitive.

- Employees have a valid driver license for the vehicle they are assigned to and are in possession of it when operating the vehicle.
- Employees have complied with the relevant training requirements for the vehicle they are assigned to (e.g., safety and security training), when applicable.
- Employees cannot be under the influence of substances that limit their ability to drive, for example medication, drugs, or alcohol.
- Employees are responsible drivers and follow all applicable traffic regulations. Reckless driving has consequences.
- Employees bear responsibility for the use of the vehicle they are assigned to.
- Employees who are assigned the use of a government vehicle are not allowed to let third parties make use of it.

Further conditions for general use can be found in the Vehicle Use Policy. Before making use of a government vehicle, employees must sign the Declaration of Agreement for the users of Government Vehicles. Failure to meet these conditions can result in not being allowed to use a company vehicle, the annulment of the given authorization, as well as financial or disciplinary sanctions.

3.2 Conditions Permanent vehicle

A permanent vehicle is a vehicle provided to the employee by the Government of Sint Maarten that is owned or rented by the Government. A permanent vehicle is assigned to Secretaries-General based on their function.

Other employees may be provided with a permanent vehicle based on their duties. The Secretary-General of a ministry submits a written advice to the Department of Facility Services regarding Department Heads and other employees who are eligible for a permanent vehicle. The Secretary-General motivates the need for the permanent vehicle based on the function of the employee concerned, utilising the standard "Request Service or Pool Vehicle" form. On written approval from the Minister of General Affairs, based on the employee meeting the necessary criteria, an employee is assigned use of a permanent vehicle. The employee is allowed to use the permanent vehicle for both work and private purposes. The regulations as it pertains to the taxation of employees assigned to the use of permanent vehicles, are applicable.

The following conditions apply to be considered eligible for permanent use of a government vehicle:

- The employee is frequently on "call shifts" (*'piket dienst'*) or needs to be available 24 hours a day for the performance of his/her function; **or**
- The employee is structurally dependent on transportation to perform his/her duties; **and**
- The use of a pool vehicle would be an obstacle to the performance of the employee's duties; **and**
- The employee meets the general user conditions.

If the employee no longer meets these conditions, he/she is no longer allowed to use the permanent vehicle.

3.3 Conditions Pool Vehicle

A pool vehicle is a vehicle stationed at the designated (government) parking area that is assigned for the common use of employees. All pool vehicles are made available in a pooling arrangement for operational use during working hours. Organisations are required to maintain a suitable system for requesting and recording pool vehicle usage. The standardised "Pool Vehicle Log" from the Department of Facility Services can be used for this. This Log allows for the pool vehicle availability, location, and driver to be readily determined. The coordinator is responsible for the upkeep of this Log and shares this with the Department of Facility Services on a monthly basis.

Employees within the organisation are allowed to make use of the assigned pool vehicles if:

- The employee is dependent on transport by vehicle for the performance of his/her duties during working hours; **and**
- The employee meets the general user conditions.

Requests for the use of a pool vehicle is approved by the coordinator.

The following rules apply to the use of the pool vehicle:

- Pool vehicles must be returned to the designated parking area after use. Employees are not allowed to take the pool vehicle home unless the pool vehicle is required for a specific assignment/task based on the approval of the coordinator.
- The Department of Facility Services is responsible for the repairs done to a pool vehicle. The driver or the coordinator is not allowed to carry out repairs to pool vehicles.
- Employees are only allowed to utilise pool vehicles on the Dutch side of Sint Maarten.

3.4 The Use of Private Vehicles

It is possible for employees to use their private vehicle for the performance of governmental tasks, with prior permission from the Department of Facility Services (on behalf of the minister) or the coordinator. This permission is only granted if there are insufficient permanent vehicles or pool vehicles available. The use of a private vehicle as a government vehicle should be avoided as much as possible.

If the structural use of their private vehicle is permitted, the employee is eligible for a monthly allowance, based on a fixed reimbursement schedule to be determined by the Minister of General Affairs. In this case the employee is not eligible for fuel reimbursement. If there is incidental use of the private vehicle, with a maximum of 200 kilometres per year, the employee is eligible for fuel reimbursement. The maintenance of a private vehicle is the responsibility of the owner. The user conditions in this policy also apply to the driver of a private vehicle utilised for governmental tasks. The permission granted to an employee to use a private vehicle can be revoked at any time.

3.5 Misuse, Suspension or Termination of Use

The driver of a permanent vehicle, pool vehicle or emergency/specialised vehicle must adhere to all relevant legislation and regulations. Drivers that do not meet the requirements or other conditions of the "Vehicle Use Policy", can be subject to financial or disciplinary sanctions, as well as rescinding the use of Government vehicles.

The right to make use of a permanent vehicle, pool vehicle or emergency/specialised vehicle may also be suspended or terminated if:

- The employee no longer meets the criteria for use of the permanent vehicle, pool vehicle or emergency/specialised vehicle.
- The employee is convicted of a serious driving offense.
- The employee has incurred excessive damage to the permanent vehicle, pool vehicle or emergency/specialised vehicle.
- The employee has breached any of the agreed upon conditions for vehicle use.

3.6 Fuel Conditions

Drivers of permanent vehicles pool vehicles, or emergency/specialised vehicle utilise fuel cards, or if necessary, fuel vouchers, provided by the Department of Facility Services to the coordinators. The following conditions are applicable:

- Permanent vehicles and pool vehicles are eligible for 35 litres fuel per week. If more fuel is needed, a motivated request signed by Secretary-General concerned must be made to the Department of Facility Services for approval.
- Emergency/specialised vehicles are eligible for a full tank without temporary restriction.
- Every permanent vehicle, pool vehicle or emergency/specialised vehicle has its own fuel card.
- The fuel invoices/receipts of the gas stations are submitted within three (3) working days to the coordinator who in turn submits the fuel invoices/receipts of the gas stations to the Department of Facility Services.
- The Department of Facility Services submits the fuel invoices/receipts to the Finance Department for payment to the gas stations. The Department Head of Facility Services keeps a copy for his records.

The Department of Facility Services and the coordinators check on misuse of the fuel cards by registered usage compared to fuel consumption.

3.7 Theft of Government vehicles

In the event of theft of a government vehicle, the employee must immediately report this to the police and the Department of Facility Services. In addition, the employee must complete a "Vehicle Theft Report" and submit the report together with the police report to the Department of Facility Services via the coordinator. The Department of Facility Services will follow-up with the relevant authorities and stakeholders.

3.8 Accidents, Damages, and Fines

In case of an accident, the driver calls police or roadside assistance, to create an accident report. The coordinator and the Department of Facility Services must be informed immediately.

In the event of damages to or destruction of the government vehicle, the driver must complete an "Accident Report" and submit it to the Department of Facility Services, via the coordinator, together with the police or roadside assistance report (if applicable).

The Department of Facility Services handles the matter with the insurance company. If damage to the permanent vehicle, pool vehicle or emergency/specialised vehicle is caused by fault of the driver/employee, as a result of which the insurance company does not compensate the damage, the driver/employee is then liable for this damage. The National Ordinance Substantive Civil Servants law (LMA) is also applicable to the drivers and can lead to disciplinary sanctions.

The costs of traffic and parking fines, including additional costs, are at the expense of the driver/employee.

Section 4: Government Fleet Register

The Department of Facility Services can only execute proper Government Vehicle Fleet Management if there is full insight into the existing Vehicle Fleet, the demand, and availability of government vehicles. To achieve this, a "Government Fleet Register" is established. This Government Fleet Register serves to manage government vehicles more effectively and efficiently, analyse vehicle demand, usage, and availability, and to establish a specific multi-annual Vehicle Fleet plan, including maintenance and vehicle replacement, to advise Government. The Government Fleet Register contains the following details: *vehicle type, VIN-number, purpose, purchase/rent date, user/department, maintenance, condition, insurance and possible claims, fuel consumption, vehicle registration (plate and inspection), government markings/logo and other accessories, Service Level Agreements, and acquisition cost.*

This Government Fleet Register provides transparency and accountability as it pertains to Government's vehicular assets, budget, and any decisions regarding purchasing, renting, leasing, or maintenance of government vehicles. In addition, a separate "Pool Vehicle Log" is maintained by the ministries for the specifics of pool vehicles (e.g., time frame, driver, purpose, picking-up and returning time, mileage) and fuel consumption. Key-figures of the separate Log is added to the main register such as monthly fuel consumption, and vehicle use. These figures are necessary to have insight into the demand and availability, costs, and wear and tear.

The Government Fleet Register is managed by the Department of Facility Services. The information for the register is provided by the relevant stakeholders or the coordinators. This ensures the constant availability of current and relevant information for the Department of Facility Services and Government in general.

Section 5: Government Vehicle Acquisition

In this section determining the need for additional government vehicles and acquisition are described.

5.1 Determining the Need for Government Vehicles

The need for the purchase or replacement of government vehicles (permanent vehicles, pool vehicles and emergency/specialised vehicle) may arise due to several reasons, such as, standard replacement after depreciation, the expansion of an existing public service/department, a change in the operating times/schedules/duties of an organisation or a decrease in the number of available vehicles (damage/theft/unfit for service).

If a Ministry needs (additional) government vehicles for the performance of its tasks, a request is submitted via the coordinators to the Department of Facility Services. The requesting Ministry provides a written motivation for the request with the preferred type of vehicle including specific requirements (e.g., SUV or Pick-Up, manual or automatic transmission) and the assignment of the vehicle to tasks/function. This request should be done prior to the year that the vehicles are needed, so that it can be budgeted (once approved). The Department of Facility Services designs a shortlist of vehicles, based on operational needs of the Ministry, the capabilities of the vehicle, fuel consumption, and whole lifespan costs.

In case of an urgent request, the Department of Facility Services determines the availability of existing unused or under-utilised government vehicles that may serve as a temporary solution. If there are no government vehicles available within the existing Government Vehicle Fleet, the Department of Facility Services may advise on the purchase, rent or lease of additional vehicles.

Government organisations with emergency/specialised vehicles provide the Department of Facility Services with the necessary information to include their vehicle needs within the (multi) annual plan. The purchase activities are further arranged by the relevant Ministry/department.

The Department of Facility Services is responsible for creating a Government Vehicle replacement or expansion plan. The Government Fleet Register, the requests for vehicles, and the shortlists are the basis for the Government Vehicle replacement or expansion plan. The multi-disciplinary workgroup reviews the plan and advises the relevant decision-makers accordingly.

5.2 Government Vehicle Acquisition

The approved Government Vehicle replacement or expansion plan is the basis for the Department of Facility Services to initiate the process of acquiring additional government vehicles. To mitigate possible integrity risks, when purchasing government vehicles, the Department of Facility Services utilises the existing procurement procedures, while ensuring that a due-diligence check is conducted on the car dealerships concerned, in collaboration with other stakeholders (e.g., background checks, tax registration, possible conflicts of interest). The potential car dealerships cannot be owned by a legal or natural person barred from contracting with the Government. The procurement procedure is detailed further in subsequent sections.

Based on the proposals of the third parties and the due-diligence check, the best matching and financially feasible options are selected. An acquisition advice is established and reviewed by the multi-disciplinary workgroup and then sent for approval to Government. After approval, the purchases are executed by the Department of Facility Services. After purchase, the government vehicle specifications are added to the Government Fleet Register.

5.3 Vehicle Rental or Lease

Vehicles can be rented or leased if no Government Fleet vehicles are available, the period is limited, and the need is urgent. The main difference between a rental and lease agreement is the period of time it covers. A rental agreement tends to cover a short term—usually 30 days—while a lease agreement is applied to longer periods—usually 12 months.

These rental and leased vehicles are not a part of the Government Vehicle replacement or expansion plan because of the short-term and unforeseen nature of the required vehicles. The vehicle type must be suitable for the operational need and must be cost efficient.

Ministries, via their coordinators, submit requests to the Department of Facility Services, which after review then submits the requests to the Minister of General Affairs. Once written approval is given by the Minister of General Affairs, the Department of Facility Services or the coordinator, takes the necessary measures to ensure that a vehicle is rented or leased for the requested period of time, and the authorized person signs the agreement. After rental or leasing, the vehicle specifications are added to the Government Fleet Register. The Department of Facility Services controls that the vehicles are not rented or leased longer than approved.

To mitigate possible integrity risks, when renting or leasing vehicles, the Department of Facility Services utilises the existing procurement procedures, while ensuring that a due-diligence check is conducted on the lessor, in collaboration with other stakeholders (e.g., background checks, tax registration, possible conflicts of interest). The rental vehicles need to be registered on the Dutch side of Sint Maarten. The lessor cannot be a (legal or natural) person barred from contracting with the Government. The procurement procedure is detailed further in subsequent sections.

5.4 Replacement Standards and Disposal

The Department of Facility Services determines the need for the replacement of government vehicles based on two (2) factors:

1. The government vehicle is depreciated (in principle after 5 years); or
2. The government vehicle has been deemed unusable due to accidents or other circumstances.

Government vehicles that have been replaced and no longer serve as a part of the Government Fleet, are disposed of. The disposal of government vehicles, in principle, is done via public auction. Auctions are advertised in local media outlets and are open to the public. A damaged vehicle may also be declared “total loss” by the insurance company and is considered as disposed of.

Government vehicles are presented for disposal in a condition that will assist in gaining the greatest return to Government. Before government vehicle disposal, the following material is removed:

- Vehicle identification and markings (incl. emergency lighting, sirens and government-specific equipment); and
- Registration plates.

Section 6: Internal and Third-Party Services

All third-party services, regardless of the service or the party responsible for its execution, are performed in a manner that maintains continuity of government operations, extends the useful lifespan of the government vehicles, and ensures traffic safety. The risks, effectivity, and cost efficiency of all government vehicle-related services, whether conducted internally by another Ministry or department or via third-party services is evaluated and added to the annual Government Fleet Management plan.

Third-party activities are obtained and provided in a transparent and accountable manner. The possibility of (integrity) risks related to third-party services such as maintenance, or insurance are reviewed before obtaining such services. The procedures regarding internal and third-party services are described in this section.

6.1 Maintenance

Permanent vehicles, pool vehicles and emergency/specialised vehicle must undergo regular maintenance to guarantee the safety of the government vehicle and to achieve its expected lifespan. The Department of Facility Services, together with the coordinators, establishes an annual maintenance program. An automated maintenance program is used by the Department of Facility Services. The maintenance program contains necessary elements such as routine servicing, periodic inspections, vehicle repairs, thorough cleanings, the responsible party (internal or external). The party executing the maintenance provides a report of the condition of the government vehicle.

6.1.1 Government Vehicles

The Government of Sint Maarten is ultimately responsible for the maintenance of government-owned vehicles. The government vehicles are maintained in accordance with the government vehicle Maintenance program. Pool vehicles are maintained according to the maintenance plan coordinated by the Department of Facility Services. Drivers of permanent vehicles are responsible for performing scheduled maintenance at the designated intervals, according to the Government Vehicle Maintenance program. The routine servicing of government vehicles may be done internally or via a third-party. In the event the repairs cannot be done internally and is conducted by third parties, the third-party service is contracted via the standard procurement procedure.

Drivers of permanent vehicles perform monthly driver safety checks, where all safety related equipment is inspected. The coordinators are responsible for the driver safety checklist for pool vehicles. These safety checklists are completed and sent to the Department of Facility Services as performed and updated in the Government Fleet Register.

Emergency/specialised vehicles require general and use-specific maintenance.

6.1.2 *Rented or Leased Vehicles*

The maintenance of vehicles being rented or leased are partly the responsibility of the Government of Sint Maarten. The maintenance plans (routine servicing and repairs) for rented or leased vehicles are executed as determined by Service Level Agreements or rental and lease agreements. The Department of Facility Services is responsible for overseeing and implementing the Government Vehicle Maintenance Program. The maintenance program when not the responsibility of the rental or lease company, may require the use of internal or third-party services. In this case, the third-party service will be contracted via the standard procurement procedure.

To determine vehicle maintenance needs and the assurance that the government vehicles are in good operating condition, the Government Fleet Register is utilised.

6.2 *Insurance Services*

Government vehicles and rented or leased vehicles, vehicle accessories, drivers, and passengers, should be adequately insured. The insurance coverage entails aspects such as, damage, loss (theft), driver, passenger, and third-party injuries. Insurance agreements are evaluated, updated, and renewed, as necessary. Insurance is done collectively as much as possible, insuring as many government vehicles as possible in one (1) policy to secure more favourable insurance terms. Proper insurance coverage is purchased based on specific Terms of Reference, drafted by Government.

The Department of Facility Services is responsible for the insurance coverage of permanent vehicles, pool vehicles and emergency/specialised vehicles. Government vehicles are covered under "All-Risk" insurance for at least three (3) years from the date of vehicle production.

After the three (3) years, if the government vehicles have not been disposed of, the government vehicles are covered under a "Third Party" coverage policy, until the government vehicles are no longer in use. All government vehicles have passenger coverage insurance.

Coverage for the permanent vehicles extends to both the Dutch and French side of Sint Maarten. In principle, this is also the case for rented and leased vehicles, which are insured by the company the vehicle is obtained from. The government insurance coverage for government-owned pool vehicles does not extend to the French side of Sint Maarten, as these government vehicles are not allowed to be driven on the French side of Sint Maarten.

The Department of Facility Services conducts a (public) procurement procedure for government vehicle insurance every three (3) years. This is done by the multi-disciplinary workgroup which selects an insurance company based on the procurement procedure and provides the Minister of General Affairs with advice. After approval of the tender by the Council of Ministers, the selected insurance company receives a three (3) year contract. Any subsequent vehicle purchased by Government, should be included in the already existing insurance policy. All government vehicles are to be covered by the insurer's roadside assistance program. Emergency contact details of roadside assistance providers are kept in each government vehicle. All drivers/employees are made aware of the procedure for obtaining roadside assistance.

Section 7: Procurement procedure

Procurement is used to promote fair competition, provide transparency, and provide service providers with equal opportunities. As it pertains to Vehicle Management, procurement is utilised for the Government Fleet purchase, rental, or lease of vehicles, maintenance, and insurance services.

To minimize the occurrence of misconducts the following general procurement procedures are followed:

- The Secretary-General of the requesting Ministry submits a written motivated request for vehicular services/goods via the Head of Resource and Support Services (DMO) by the Department of Facility Services.
- The Department of Facility Services employs expert advice if needed, for specific vehicular services/goods.
- The necessary number of quotations are provided (see below the specifications for the number of quotations per price range).
- Quotations include the full scope of the requested vehicular services/goods, the time frame for execution and completion and the pricing for the activity.
- The Financial Controller of the ministry concerned is notified of the quotations and reviews the available budget to proceed with the advice.
- Quotations are assessed on completeness by the Department of Facility Services.
- Proper due-diligence is performed by the Department of Facility Services in collaboration with other stakeholders (e.g., background checks, tax registration, possible conflicts of interest).
- The Department of Facility Services provides a written advice about the vehicular 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 vehicular services/goods provided by the third party.

The procurement procedure varies based on the sum of the estimated services, goods (or works⁴) to be completed. The guidelines are given below.

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

One (1) quotation is requested by the Department of Facility Services. The Head of Resource and Support Services authorizes the advice and the quotation, and ensures that available providers receive a fair exchange for the service/goods, as only one quotation is needed.

- **Services or Goods 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 authorizes the advice and the quotations.

⁴ Within European procurement regulations all architectural and civil engineering works are considered as "Works" <https://www.pianoo.nl/nl/metrokaart/wat-zijn-werken-leveringen-diensten>



- **Services or Goods 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 authorizes the advice and the quotations. Services and goods above **NAf 50.000,-** require a public procurement procedure, as mentioned in the National accountability ordinance, which is initiated and authorised by the Council of Minister.

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

Services or goods estimated above **NAf 150.000,-** require a public procurement procedure, as mentioned in the National accountability ordinance, which is initiated and authorised by the Council of Ministers.

The Department of Facility Services utilises the multi-disciplinary workgroup for amounts above **NAf 25.000,-** explicitly for the purpose of ensuring transparency and accountability within these procedures. The multi-disciplinary workgroup reviews the requested vehicular service/good, the quotations, the due-diligence checks on third parties and the advice the relevant decision-makers.

Section 8: Fleet Management and Compliance

8.1 Fleet Management

As stated previously, the Department of Facility Services is responsible for the management of the Government Vehicle Fleet. To do this, the Department of Facility Services establishes a Fleet Management plan. The Fleet Management plan defines the Vehicle Fleet requirements and includes a strategic Vehicle Fleet utilisation strategy aligned to the department's needs. The Fleet Management plan encompasses the following:

- Ministerial and organisational analysis of transport and government vehicle needs, in order to determine whether the Government Vehicle Fleet size and composition fulfil the actual needs.
- Fit-for-purpose vehicle selection process – with a focus on workplace safety.
- Government vehicle disposal requirement after five (5) years from the date of production of a new vehicle (depreciation).
- The development and implementation of maintenance plans and strategies that achieve optimum vehicle utilisation with a minimum amount of vehicles.
- A Government Vehicle replacement or expansion plan.
- The monitoring and assessing of Government Vehicle Fleet performance against the objectives.

Within Government Fleet Management, the following aspects are taken into consideration.

8.2 Record Keeping

The Department of Facility Services oversees the management and archiving of all agreements for vehicles and vehicular services, such as rental, lease, maintenance, inspection, and insurance. The Department of Facility Services also monitors important data in the agreements and informs the pertaining Ministry expediently when there is important data that must be shared. The Government of Sint Maarten enters into agreements after the Department of Facility Services determines whether

the agreed upon services meet current quality standards and periodically reviews the current agreements. Agreements entered in the past are (retroactively) submitted to the Department of Facility Services for safe keeping.

As previously stated, the Department of Facility Services maintains a Government Fleet Register. The Pool Vehicle Log is maintained by the coordinator of the pertaining ministry.

The various ministries and their sub-organisations to whom the government vehicles have been assigned to, also record vehicle usage.

8.3 Transparency and Accountability

Government Vehicle Management enables public entities to provide their services in an efficient and effectively responsible manner. This Government Vehicle Management has to be financially responsible, transparent, and in the interest of the Government and the people of Sint Maarten.

Information deemed necessary concerning Government Vehicle Management is made accessible to the necessary stakeholders and users via the Department of Facility Services. However, due to the processing of personal information of employees attached to the permanent vehicles, the department takes the necessary care to protect personal data.

As previously stated, driver safety checklists and inspection reports are requested from, and made available to the Department of Facility Services.

Annual Vehicle Management reports including finances are instituted by the Department of Facility Services and submitted to the Council of Ministers. The report includes user satisfaction, available and needed vehicles, condition, necessary repairs/maintenance. The Government Fleet Register, and requests, advices, and quotations, form the basis for this report.

8.4 Compliance

Compliance with the Government Vehicle Management Policy is determined and achieved in the following ways. To ensure compliance with the policy, regular inspections take place. An evaluation team is formed 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 Ministry of General Affairs, as well as the multi-disciplinary workgroup. During this evaluation, the adherence to and compliance with the legal and regulatory framework and specifically to the policy by the Department of Facility Services, is determined, as well as shortcomings in the policy or its execution. The result of the evaluation is submitted to the Council of Ministers.

Permanent vehicles are made available for the period in which they are being used by the employees assigned to it. Once the user no longer meets the necessary criteria, the use of the permanent vehicle is rescinded.

Users of permanent vehicles, pool vehicles and emergency/specialised vehicle must sign a statement, in which the user agrees with the provisions within the "Declaration of Agreement for Government

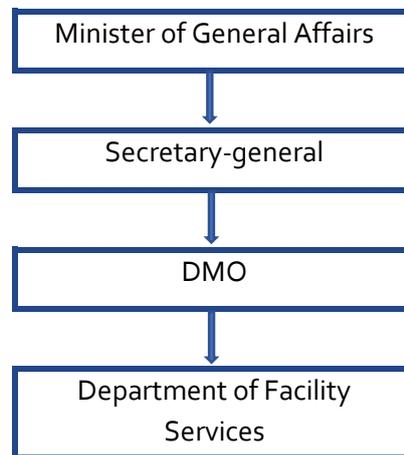


Vehicles Regulation". This declaration, if no relevant changes occur in the meantime, remains valid for the duration of the user's employment.

Annex A: Legal and Regulatory Framework

As for the subjects as described in the abovementioned chapter, the following roles and responsibilities are relevant:

THE DEPARTMENT OF FACILITY SERVICES



The Minister of General Affairs is responsible for the approval of the use of private vehicles by employees for governmental duties, and for determining a monthly reimbursement for the use of private vehicles by employees, pursuant to Article 4, first and third paragraph of the *“Regeling dienstauto’s Overheid Sint Maarten”*.

The Minister of General Affairs is responsible for the assignment of employees who qualify for the use of a permanent vehicle, based on a written recommendation of the Secretary-General of the ministry concerned, pursuant to Article 5, second paragraph of the *“Regeling dienstauto’s Overheid Sint Maarten”*.

The Secretary-General of the ministry concerned is responsible for assigning a coordinator, pursuant to Article 1, under f, of the *“Regeling dienstauto’s Overheid Sint Maarten”*. The Secretary-General of the ministry concerned can act as coordinator him-herself, pursuant to Article 2, fourth paragraph of the *“Regeling dienstauto’s Overheid Sint Maarten”*.

The Secretary-General of the ministry concerned motivates based on the mandatory criteria, why a certain employee can be assigned for the use of a permanent vehicle, pursuant to Article 5, fourth paragraph of the *“Regeling dienstauto’s Overheid Sint Maarten”*.

The Department of Facility Services is responsible for ensuring: the appropriateness of government assets, the effectiveness and efficiency of Government Vehicle Management Policy, 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 national 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.

The Department of Facility Services functions as Fleet manager in case no ministerial coordinator has been assigned. Furthermore the Department of Facility Services is responsible for renting vehicles,

taking out insurance of government vehicles, handling insurance claims, the management and issuance of fuel cards, registering all government vehicles, managing all costs related to government vehicles and providing all relevant information, entering into user agreements with the employees making use of a government vehicle, checking applications use private vehicles by employees for governmental duties, and advising the Minister of General Affairs about this, gathering police and road service reports in case of accidents and drafting damage reports in case of small damages, reporting theft and damages, and taking care of further handling.

VEHICLE ACQUISITION

The head of the Department of Facility Services is responsible for the acquisition of government vehicles, pursuant to Article 17, second paragraph, under c, sub iii, of the Organisational Decree General Affairs, and Article 2, first and second paragraph of the *'Regeling dienstauto's Overheid Sint Maarten'*,

The acquisition of vehicles (a legal act under private law: Civil Code of Sint Maarten) requires prior proper authorization, pursuant to Article 21, first paragraph of the *'Rijkswet financieel toezicht Curaçao en Sint Maarten'*,

The Mandate Register, as mentioned in Article 42, third paragraph of the National accountability ordinance, provides an overview of legal acts (and capped amounts), that are allowed to be performed on behalf of government. The most recent Mandate Register determines that the Council of Ministers is required to approve acquisitions or other legal acts above the amount of NAf 50,000.

PURCHASING GOVERNMENT VEHICLES

The purchasing process for government vehicles is executed by means of a (public) procurement procedure (*'goods'*).

RENTING OR LEASING VEHICLES

The choice to rent or lease vehicles instead of purchasing is based on a balanced need review and financial decision. In principle, the renting or leasing process is executed by means of a (public) procurement procedure (*'goods'*).

MAINTENANCE

With regard to maintenance of government vehicles, either the Department of Facility Services is responsible or the assigned coordinator per ministry, pursuant to Article 2, first, second and third paragraph of the *'Regeling dienstauto's Overheid Sint Maarten'*.

INSURANCE SERVICES

Insurances for government vehicles are considered "*services*", as meant in Article 47, of the National accountability ordinance. The Government Vehicle Fleet should be considered as a whole, which means that purchasing the pertaining insurance services shall be publicly tendered.

The driver of a vehicle is responsible if damage is caused to the government vehicle through the fault of the driver, as a result of which the insurer does not reimburse the damage, pursuant to Article 9, paragraph 5, of the *'Regeling dienstauto's Overheid Sint Maarten'*.

TECHNICAL VEHICLE INSPECTIONS

All government vehicles need to comply with the technical requirements as mentioned in the provisions of Chapter IV, of the Road Traffic ordinance ('*Wegenverkeersverordening*'), the '*Regeling dienstauto's Overheid Sint Maarten*', and the Vehicle Management Policy. These vehicle inspections can be performed internally by an executive service of a ministry based on a Service Level Agreement.

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.

In principle the procurement of goods or services by the Country is publicly tendered. 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 goods or services, pursuant to Article 47, first and third paragraph, under a, of the National accountability ordinance.

REPLACEMENT STANDARDS AND DISPOSAL

The Department of Facility Services is responsible for the management of government vehicles, which includes selling the written off or unrepairable government vehicles through a public auction, pursuant to Article 2, second paragraph of the '*Regeling dienstauto's Overheid Sint Maarten*'. Such a public auction shall be in accordance with the '*Landsbesluit houdende algemene maatregelen, houdende voorschriften met betrekking tot het in het openbaar verkopen van aan Sint Maarten toebehorende roerende goederen*.'

TRANSPARANCY AND ACCOUNTABILITY

With regard to the financial overview of the Government Fleet Register, the yearly National Budget ('*Landsbegroting*') shall present a listing of government vehicles (owned, rental and leased vehicles), pursuant to Article 12, first paragraph, under g, and under h, of the National accountability ordinance.

Due to the processing of personal data, the applicability of the National ordinance personal data protection requires the Department of Facility Services to protect any information related to employees making use of government vehicles.

The financial supervision of the proper implementation of a Government Vehicle Management Policy is regulated in Article 74, second paragraph, of the Constitution of Sint Maarten, Article III, first paragraph, under a, of the National ordinance appointing the Government Accountant Office Foundation as internal accountant, Article 1, and Article 30, first paragraph, of the National ordinance General Audit Chamber, Article 6, first and third paragraph, and Article 11, under q, of the Organisational Decree Finance.

The Ministry of Finance takes care of the payment of monthly compensation to employees who use their private car for governmental duties if approved by the Minister of General Affairs.

The Ministry of Finance takes care of ensuring that the purchased government vehicles are capitalized in the tangible fixed assets status within the national budget, and that the official cars are depreciated.

COMPLIANCE

Compliance with the (inter-)national laws and regulations is imperative to upholding the State of law. The principle of legality implies *inter alia* 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 Government Vehicle Management Policy, compliance with the relevant legal and regulatory framework is important for upholding public integrity, as mentioned in Article 1, first paragraph, under e, sub ii, of the National Ordinance Integrity Chamber.

A civil servant shall perform the duties arising from his office conscientiously and diligently and to behave as befits a good civil servant, and a civil servant shall comply with the regulations laid down by or on behalf of the competent authority for his activity or his conduct, as mentioned in Article 44, first and second paragraph of the National ordinance substantive civil servants law (LMA).

The civil servant making use of a government vehicle signs the "*Verklaring voor akkoord Regeling Dienstvoertuigen Overheid Sint Maarten*".

The specific Ministerial regulation pertaining to Government Vehicle Management Policy is the '*Regeling dienstauto's Overheid Sint Maarten*' (AB 2013, no. 27). The more general laws that touch on the Government Vehicle Management Policy, are the '*Rijkswet financieel toezicht Curaçao en Sint Maarten*', the yearly National Budget, the National ordinance structure and organisation of national government (LIOL), the National accountability ordinance, the Organisation Decree General Affairs, the Road Traffic Ordinance, and the '*Landsbesluit houdende algemene maatregelen, houdende voorschriften met betrekking tot het in het openbaar verkopen van aan Sint Maarten toebehorende roerende goederen*'.

