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Department:
Environment & Nature Conservation
NORTHERN CAPE PROVINCE
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DEPARTMENT OF ENVIRONMENT AND NATURE CONSERVATION

FRAUD PREVENTION STRATEGY AND PLAN
13 FEBRUARY 2014
FINANCIAL MANAGEMENT
VERSION: 2

A PROSPEROUS AND EQUITABLE SOCIETY LIVING IN HARMONY WITH OUR NATURAL RESOURCES

DEPARTMENT OF ENVIRONMENT AND NATURE CONSERVATION

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1. CONCEPTUAL BACKGROUND

1.1 DEPARTMENTAL PLEDGE

The department of Environment and Nature Conservation (the department) wants to reaffirm its unreserved commitment to work towards the establishment of cooperative governance and custodian of public assets through an effective, efficient, accountable, transparent and responsible public service system. As a department we pledge to protect public funds and assets, protect the integrity, security and reputation of the department, its partners and service providers and maintain high levels of service to all the people in the province which are consistent with the principles and practices of good governance. We endeavour to do everything within our power to combat fraud and corruption and thereby safeguarding as well as ascertain the appropriate and responsible utilization of all resources.

1.2 DEFINITION OF FRAUD

According to the tenth edition of the Oxford Dictionary Fraud is the *"wrongful or criminal deception intended to result in financial or personal gain"*. The criminal law definition for fraud in South Africa is: "the unlawful and intentional making of a misrepresentation which causes actual and or potential prejudice to another". The use of the term is in its widest possible meaning and is intended to include all aspects of economic crime and acts of dishonesty.

Therefore, for the purposes of this document it will also include misrepresentation, maladministration, misappropriation and falsification. Therefore the litmus test would be to establish whether an employee obtained unjustified financial gain from his/her action or lack thereof, even though the department or other stakeholders did not suffer any financial/non-financial or potential loss. Those actions may include direct or indirect losses, such as the intentional misrepresentation of assets (as well as assets in custody); potential income or revenue and expenses.

Because of conventional modern day technology fraud will also contain fraudulent activities transgressed through the use of electronic media. For instance, the issue of non-financial loss (loss which is difficult to measure quantitatively), relates more specifically to but not limited to: loss in productivity and effectiveness. In addition, loss of public image, government organizations and other stakeholders is also classified as non financial.

Nonetheless, as already stated misrepresentation (to give a false or misleading account); maladministration (to manage or administer badly); misappropriation (to dishonestly or unfairly take for ones own use); falsification (alter information or evidence so as to mislead) and industrial espionage (disclosure of confidential information to third parties) will be described as fraudulent activities.

The definition above on fraudulent activities stipulates that fraud can be committed through either the commission or omission of an act. Commission is the action of actively perpetrating a criminal offence, whilst, omission asserts to a lack of action. In addition, an

omission also refers to non-disclosure. Nonetheless, for the purposes of this document non-disclosure is not fraud, however deliberate non-disclosure will constitute a misrepresentation which is a fraudulent activity. Hence as a result of our definition this omission will be construed as fraud, on the basis that a suspect is either an accomplice or an accessory to the crime.

The ***Fraud Prevention Strategy and Plan*** is the most fundamental mechanism to assist the department to deal with fraud and corruption within the department. The promulgation and implementation of the **Public Service Act, 1994 (PSA); its regulations; Public Finance Management Act, 1999(PFMA)** and its Regulation under grid this plan.

The **legislation** that dictates this process is:

- Section 38(1) of the **PFMA, 1 of 1999**: "Accounting officers must ensure that the department has and maintains effective, efficient and transparent systems of financial risk management and internal control."
- Section 3.2.2 of the **treasury Regulations** issued in terms of the PFMA, 1 of 1999: "The accounting officer must provide a certificate to the relevant Treasury indicating that the risk assessment has been completed and that the fraud prevention plan is fully operational"
- **Public Service Act 1994(PSA)**
- **Cabinet resolution No. 17/1999 (2) dated 17 February 1999**
- **Anti- Corruption Conference resolution of 1998 and 1999**
- **The Protected Disclosures Act, 26 of 2000**

2. POLICY STATEMENT AND APPLICATION SCOPE

This document is intended to inform the management and staff of their responsibilities in regard to the Fraud Prevention Plan, and actions to be undertaken pertaining to fraud and fraudulent misconduct. Its objective is to enhance higher levels of responsibility and accountability by departmental officials. It strives to provide a practical guideline for management and staff to identify potential fraudulent activities. This is an outline of proposed guidelines to be followed by management and staff on how to report fraud, potential fraud and the appearance of fraud. In addition it will provide a synopsis of summarized procedures to be followed relating to fraud prevention.

POLICY OBJECTIVES:

- It is the policy of the department that fraud, fraudulent activities and any other dishonest activities of a similar nature as described above will not be tolerated. In addition, these will be investigated and followed up by the application of all remedies available to the full extent of the law.
- The Fraud Prevention Plan will address the three key risk management principles of Prevention, Detection and Reaction.
- Appropriate prevention and detection controls will be applied. These will include the existing checks and balances mechanisms as prescribed in the department's risk management plan. Therefore all employees and stakeholders of the department are expected to adhere to the applicable principles of the PFMA, departmental procedure manuals, all other departmental and relevant government prescripts;
- All managers are responsible for the detection, prevention and investigation of fraud and any fraudulent activities.
- It is the responsibility of all employees of the department to report all incidents of fraud, or any other dishonest activities of a similar nature to the above definition of fraud and fraudulent activities.
- The department will take appropriate legal recourse to recover losses/damages incurred from fraud and fraudulent activities;
- In terms of restricted or confidential information (documentation and electronic information); as well as physical security, the department will conform to the Minimum Information Security Standard (MISS) policy as developed by the National Intelligence Services;
- The Fraud Prevention Plan will be reviewed on an annual basis.

Management and staff should be vigilant in conducting their duties. They should perform in such a manner that where there is the possibility or existence of fraudulent activities, they should probably detect and disclose it before the realization of any financial or non-financial loss. All employees should be wary of potential 'red flags'.

The below mentioned red flags indicating susceptibility to fraud should be timeously identified and mitigated. Examples of red flags include:

- Complex financial arrangements

- Transactions with no clear business purpose
- Absence or poor implemented corporate code of conduct/ ethics policy
- Unsatisfactory explanations for discrepancies or instructions
- Absence of an accounting manual setting out control activities
- Inadequate segregation of duties
- Lost or suppressed documentation, including correspondence

2.1 **REPORTING ON FRAUD AND FRAUDULENT ACTIVITIES**

The Provincial anti-fraud and corruption hot-line reporting facility: **Tel (053) 830 9222, Hotline Number: 0800600129**. This number was established to ensure that whistle blowers (**Protected Disclosures Act, 26 of 2000**) remain anonymous, and can be used for any other purpose relating to the reporting and disclosure of fraud or fraudulent activities. All details and information pertaining to the allegations must be treated with the strictest confidentiality.

Reporting procedures

Managers must report all incidents of fraud and other suspected irregularities as described under the definition of Fraud (in terms of this document) which are reported or noticed to the Head of the Department (HOD) and Chief Financial Officer. Managers should report the matter to internal inspection unit with a final recourse to the head of the department. The following procedures should be followed when a report is made:

- Telephonic report, Immediately after discovery of such an act; and
- This should be accompanied by a detailed written report to be submitted within 24 hours of the discovery of such an incident.
- The HOD, upon receipt of the written report, must report the incident immediately to the provincial treasury and Head of Internal Audit:
 - Telephonically within 24 hours, followed by a written report within 7 working days;
 - If the matter warrants criminal charges it must be reported within 24 hours to the police on receipt of the written report.
- If disciplinary code procedure is to be instituted against the alleged employee in terms of the disciplinary code of conduct and procedure of the department, the following details must be submitted to the MEC
 - Where an official is alleged to have committed an act of fraud or any other fraudulent activity, the manager must institute disciplinary proceedings within a reasonable period, in terms of the disciplinary code and procedure of the department;
 - As soon as disciplinary hearings concerning charges of financial misconduct are completed, the outcome must be reported within 48 hours to the MEC responsible for the department which should include:

- The name and rank of the employee against whom proceedings are instituted;
- The disciplinary charges, indicating the misconduct the employee is alleged to have committed;
- The findings of the disciplinary hearings;
- Any sanction imposed on the employee; and
- Any further action to be taken against the employee, including criminal or civil proceedings.

2.2 PUNITIVE MEASURES FOR FRAUD AND FRAUDULENT ACTIVITIES

The Disciplinary Code and Procedures for the Public service must be adhered to regarding suspensions, demotion and dismissal as well as appeal of the alleged official.

- If removal in the form of suspension takes place, Human Resource Management (HRM) must be involved in the whole process;
- The appropriate Director must arrange an experienced person to take the statements (preferably a Commissioner of Oaths)
- The suspension letter should include a paragraph instructing the suspended employee not to communicate with any department employees, except employees from the HRM section. The HRM must immediately set an enquiry date for the hearing, as soon as sufficient evidence is available;
- Consideration must be given as to whether suspension will affect investigations and whether sufficient evidence has been obtained without jeopardizing the case;
- Immediately on suspension, steps should be taken to secure documents and records that were under the control of the suspect, and/ or are suspected to be pertinent to the commission of the offence;
- Following suspension the cancellation of signing powers should take place both internally and externally in order to prevent the official from binding the department in any transactions;
- Alternative options must be considered, e.g. sending employees on leave while continuing with the investigation;
- Demotion and dismissal are to the discretion of the HOD and MEC based on the outcomes of the investigation.
- Evidence must be evaluated to determine whether civil or criminal litigation is viable and/ or desirable.

2.3 DEPARTMENTAL RECOURSE ON FRAUD AND FRAUDULENT ACTIVITIES

Managers are also required to ensure that losses or damages suffered by the department as a result of an act committed or omitted by an employee must be recovered from such an official if he/she is liable in law. Legal Services will be consulted, where appropriate, to advice on legal proceedings, including the recovery of assets. The HOD must determine the amount of the loss, and in writing request the employee to repay the amount within 30 days or in reasonable installments. If the employee fails to comply with the request, the matter must be handed to the State Attorney for recovery.

Remedies for compensation may also include:

- Obtaining compensation orders in criminal cases;
- Taking Civil proceedings in order to obtain a judgement;
- Making deductions from superannuation contributions;
- Making deductions from benefit payments;
- Making arrangements for voluntary payment;
- Considering any other means of recovery.

APPLICATION SCOPE

This document outlines the procedures to be followed in each of the activities related to fraud and fraudulent activities involving the following persons:

- All employees(officials) of the Department of Environment and Nature Conservation (DENC);
- Consultants, suppliers, contractors, and other service providers to the DENC; and
- Non- Governmental Organizations and other parties receiving benefits from the department.

A handwritten signature in black ink, appearing to be 'SAA', is located in the bottom right corner of the page.

3. POLICY FRAMEWORK

3.1 IDENTIFICATION AND CONSULTATION OF STAKEHOLDERS

The implementation of this policy rests with all officials of the DENC. The internal inspection unit will take the relevant steps which will ensure departmental compliance with the policy.

The stakeholders for this policy include:

- Managers
- Unions
- All official of DENC

All the above stakeholders can be contacted through formal or informal departmental meetings, through the departmental news letter or electronic media (e.g. e-mails).

3.2 TIMEFRAMES

The first draft was completed in January 2007, followed by extensive consultation with directorates within the department. The second draft was completed in October 2007 and the final draft completed in January 2008.

3.3 IMPLEMENTATION STRATEGY

A fraud awareness campaign must be conducted, addressing all stakeholders in the activities of the department. The responsibility of this campaign will rest with the Head Financial Inspectorate and the Communication Unit. The key aspects of this campaign will include:

- Publication of the Fraud Prevention Policy and the Anti-fraud Charter through a media awareness campaign, internal presentations to employees and presentations to service providers;
- Correspondence from the MEC and HOD to all stakeholders stressing management's commitment to the Fraud Prevention Policy and Anti-Fraud Charter;
- Placement of information posters throughout the offices of the department;
- Placement of posters advertising the fraud tip-off facility throughout the offices of the department and at strategic locations throughout the Northern Cape;
- To generate ongoing awareness, new posters should be issued periodically, dealing with fraud and related issues within the department;
- The initial campaign should last for at least six months and should be repeated in month-long campaigns every four months;
- Distribution of all the above material through electronic media such as e-mail;
- An internal newsletter, in paper or electronic format;
- Publication of the above initiatives on the department's website.

Implementation date

This policy will be effective as from March 01, 2014

3.4 FINANCIAL IMPLICATIONS

This unit will reside in the management accounting unit which has a budget of approximately R600 000.

3.5 COMMUNICATION

The responsibility to conduct investigations and to communicate the strategy resides with the managers within the department who have the advisory and supporting assistance from units/departments which include the following:

- State Attorney;
- External investigation agencies;
- External consultants(forensic audit);
- Office of the National Director of public Prosecutions;
- Office of the Public Protector; and Special Investigation Units established under any legal precedent of law.
- South African Police Services

All the above institutions can be contacted through their general rules of practice. However, best practice would suggest that for the sake of a speedy resolution to conflicts the management accounting unit will contact the relevant authorities.

3.6 COMPLIANCE, MONITORING EVALUATION

Adequate monitoring and evaluation systems, procedures and arrangements must be put in place to ensure the success of the Fraud Prevention Plan. When senior managers consider the strategy and direction that the department will be taking, they must insist that a suitably comprehensive fraud prevention strategy be put in place to address such risks.

Internal controls

The following internal controls could prevent and detect fraud and other fraudulent activities:

- Basic internal controls; and
- Training of employees in internal control and their day to day duties

Basic internal controls

The policies, procedures, rules, regulations and other prescripts of the department prescribe various controls, which, if effectively implemented, would limit fraud and other fraudulent activities. These controls may be categorized as follows:

1. Prevention controls:

- i. Authorization** - All transactions require authorization or approval by an appropriate responsible person.
 - Limits to these authorizations are specified in delegation to of authority of the DENC.
- ii. Physical control** – These controls are concerned mainly with the custody of assets and involve procedures and security measures designed to ensure that access to assets is limited to authorized personnel. This becomes prominent in the case of protection of valuable, portable, exchangeable and desirable assets.

2. Detection controls:

- i. Arithmetic and Accounting** - These are basic controls within the recording function which check that transactions to be recorded and processed have been authorized, that they are completely included, and that they are correctly and accurately recorded.
 - Such controls include checking the arithmetical accuracy of the records, the maintenance and checking of totals, reconciliation, control accounts and accounting documentation.
- ii. Physical control** - These controls relate to security of records
 - Their similarity to prevention controls lies in the fact that these controls are also designed to limit access.
- iii. Supervision** - This relates to the review of management accounts and budgetary controls.
- iv. Management Information-** management outside the day to day routine of the system normally exercises this control.

3. Segregation of duties:

- One of the primary means of control is the separation of those responsibilities or duties which would, if combined, enable one individual to record and process a complete transaction, thereby providing him/her with opportunity to manipulate the transaction irregularly and commit fraud. This check and balance system reduces the risk of intentional manipulation or errors.
- Functions that should be separated include those of authorization, execution, custody, recording, and in the case of computerized accounting systems, system development and daily operations.

Training:

Despite the existence of structures, systems, policies, procedures and other prescripts to address internal control, regularity audits, performance audit, internal audit as well as forensic audit have identified deficiencies and weakness regarding the lack of proper record-keeping, non-compliance, irregularities and other financial management related weakness with the lack of training, knowledge and expertise.



Therefore, it is very important to address fraud and other fraudulent activities by implementing preventative measures to capacitate employees by holding regular information sessions, workshops, employment and internal control related training.

3.7 POLICY REVIEW

This Fraud Prevention plan will be reviewed annually to incorporate future policy and legislative changes. A report based on the internal inspection of fraudulent established practices will be used to review and evaluate the effectiveness of the policy resulting in the amendment thereof, if necessary. These amendments will be two-fold, first this policy will be reviewed on the fourth quarter of each financial cycle for regulatory changes, and secondly it will afford a chance for a once-off urgent alteration in the second quarter of each financial cycle.

3.8 POLICY IMPACT

The success of the Fraud Prevention Plan will be determined by our ability to put in place the appropriate institutional arrangements for its implementation. The department desires that this policy be progressive and dynamic in order to deter fraudulent intentions by adopting a "prevention is better than cure" approach. This policy encompass all possible situations and scenarios which are contrary to the image of the department and its stakeholders, and therefore requires managers and staff to conduct their duties with sound judgement in order to avoid their actions or lack thereof to be classified as fraud or fraudulent activities. It tries to deter the non-disclosure of fraudulent activities by managers and staff. In addition, it discourages the non- investigation or non-disclosure by managers and staff members that should reasonably be expected to have noticed such activities or incidents in their normal course of duty.

The desired impact of this policy will be reviewed after an impact audit is conducted. This audit will be conducted two years after the adoption of this policy. The success, effectiveness and progressive nature of the policy will be studied by the research unit of the policy and planning unit.

3.9 INTERIM MEASURES

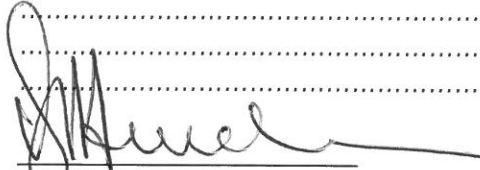
The migration from current practices of fraud prevention towards this policy will be adopted gradually, by implementing the following steps:

- Placement of information posters throughout the offices of the department
- Placement of posters advertising the fraud tip-off facility throughout the offices of the department and at strategic locations throughout the Northern Cape;
- To generate ongoing awareness, new posters should be issued periodically, dealing with fraud and related issues within the department;
- The initial campaign should last for at least six months and should be repeated in month-long campaigns every four;



4. **ADOPTION OF POLICY**

Approved / ~~Not Approved~~
Comments:

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D VAN HEERDEN
HEAD OF DEPARTMENT

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DATE



