

**Fraud policy**  
**Department of Agriculture**  
**01 April 2009**



**LIMPOPO**

**PROVINCIAL GOVERNMENT**  
**REPUBLIC OF SOUTH AFRICA**

**DEPARTMENT OF AGRICULTURE**

**FRAUD POLICY**

**(Annexure A of the Fraud Prevention Plan)**

**REF: 4/1/P**

**EFFECTIVE DATE: 01 APRIL 2009**

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### 13. GLOSSARY OF TERMS

Throughout this document, unless otherwise stated, the words in the first column below have the meanings stated opposite them in the second column (and cognate expressions shall bear corresponding meanings):

“Act”	Protected Disclosures Act, Act 26 of 2000
“LDA”	Limpopo LDA of Agriculture
“Fraud and corruption”	Includes, but is not limited to, the following: <ul style="list-style-type: none"><li>(a) The following legal definitions:<ul style="list-style-type: none"><li>(i) <i>Fraud</i>, i.e. the unlawful and intentional making of a misrepresentation resulting in actual or potential prejudice to another;</li><li>(ii) <i>Theft</i>, i.e. the unlawful and intentional misappropriation of another's property or property which is in his/her lawful possession, with the intention to deprive the owner of its rights permanently;</li><li>(iii) Offences in respect of <i>corrupt activities</i> as defined in the Prevention and Combating of Corrupt Activities Act, 2004, i.e.:<ul style="list-style-type: none"><li>▪ The general offence of <i>corruption</i> which could be summarized as directly or indirectly accepting or agreeing to accept any gratification from another person; giving or agreeing to give any other person any gratification in order to influence that person directly or indirectly to exercise his powers, duties or legal obligations in a manner which is/amounts to:<ul style="list-style-type: none"><li>○ Illegal, dishonest, unauthorized, incomplete, or biased;</li><li>○ Misuse or selling of information or material acquired;</li><li>○ Abuse of position of authority;</li><li>○ Breach of trust;</li><li>○ Violation of a legal duty or set of rules;</li><li>○ Designed to achieve an unjustified result; and</li><li>○ Any other unauthorized or improper inducement to do or not to do anything;</li></ul></li><li>▪ Corrupt activities in relation to:<ul style="list-style-type: none"><li>○ Public officials;</li><li>○ Foreign public officials;</li></ul></li></ul></li></ul></li></ul>

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- Agents;
- Judicial officers;
- Members of the prosecuting authority;
- Unauthorized gratification received or offered by or to a party to an employment relationship;
- Witnesses and evidential material during certain proceedings;
- Contracts;
- Procuring and withdrawal of tenders;
- Auctions;
- Sporting events; and
- **Gambling games or games of chance;**
- Conflicts of interests and other unacceptable conduct, e.g.:
  - Acquisition of private interests in contract, agreement in or investment in public body;
  - Unacceptable conduct relating to witnesses; and
  - Intentional interference with, hindering or obstruction of investigation of offence;
- Other offences relating to corrupt activities, viz:
  - Accessory to or after an offence;
  - Attempt, conspiracy and inducing another person to commit offence; and
- Failure to report corrupt transactions;

(b) **Fraudulent and corrupt acts may include:**

*Systems issues:* where a process/system exists which is prone to abuse by employees, the public or other stakeholders, e.g.:

- Irregular collusion in the awarding of tenders or orders for goods and/or services;
- Deliberate non-compliance with tender and procurement policy and procedures;
- Inadequate verification of supplier credentials;
- Deliberate non-compliance to recruitment policy and procedures;
- Abuse of time management systems;
- Ghost employees;
- **Non-disclosure of personal interests;**

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- Fraudulent allocation of Poverty Alleviation Packages; and
- Disclosing confidential or proprietary information to outside parties.

*Financial issues:* i.e. where individuals or companies have fraudulently obtained money from LDA, e.g.:

- Unauthorized sale of assets;
- Revenue collectors not banking all revenue collected;
- Fraudulent mileage claims; and
- Payments made to contractors without the required site inspections.

*Equipment and resource issues:* i.e. where LDA's equipment is utilized for personal benefit or stolen, e.g.:

- Theft of assets, e.g. electrical cables, wiring on farms, IT equipment, etc;
- Personal use of resources, e.g. telephones, internet, e-mail; and
- Irregular destruction, removal, or abuse of records (including intellectual property).

*Other issues:* i.e. activities undertaken by employees of LDA, which may be against policies or fall below established ethical standards, e.g.:

- Soliciting gifts or favours from applicants, consultants or other suppliers, e.g. acceptance of "kick-backs";
- Pursuing private business interests without permission;
- Nepotism;
- Fronting;
- Bribery; and
- Favouritism.

"HoD"	Head of LDA: Limpopo LDA of Agriculture
"MEC"	Member of Executive Council
"Policy"	Fraud Policy
"Plan"	Fraud Prevention Plan
"PFMA"	Public Finance Management Act

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**1. BACKGROUND**

- 1.1 This policy is intended to set down the stance of the LDA to fraud, as well as to reinforce existing systems, policies, procedures, rules and regulations of the LDA aimed at deterring, preventing, detecting, reacting to and reducing the impact of fraud, where such dishonest activities subsist.
- 1.2 Furthermore, the purpose of this document is to confirm that the LDA supports and fosters a culture of zero tolerance to fraud in all its activities.

**2. SCOPE OF THE POLICY**

- 2.1 This policy applies to all allegations, attempts and incidents of fraud impacting or having the potential to impact the LDA.
- 2.2 All employees of the LDA must comply with the spirit and content of the Policy.

**3. THE POLICY**

- 3.1 The policy of the LDA is Zero Tolerance to fraud. In addition, all fraud will be investigated and followed up by the application of all remedies available within the full extent of the law as well as the application of appropriate prevention and detection controls. These prevention controls include the existing financial and other controls and checking mechanisms as prescribed in the systems, policies, procedures, rules and regulations of the LDA.
- 3.2 The efficient application of Treasury Regulations issued in terms of the Public Finance Management Act ("PFMA"), instructions contained in the policies and procedures of the LDA, circulars and manuals of the LDA, as well as other prescripts of the Public Service, in general, is one of the most important duties to be applied by every employee in the execution of their

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daily tasks and under no circumstances may there be a relaxation of the prescribed controls.

**4. REPORTING PROCEDURES AND RESOLUTION OF REPORTED INCIDENTS**

**What should an employee do if they suspect fraud?**

- 4.1 Ideally, it is the responsibility of all employees to immediately report all allegations or incidents of fraud to their immediate manager or, if the employee has reason to believe that his/her immediate manager is involved, to the next level of management.
- 4.2 All managers are responsible for the detection, prevention and investigation of fraud and must report all incidents and allegations of fraud to the Head of Risk Management Unit. The Head of the Unit will update the Committee and initiate an investigation into the matter, and consult with Senior Management with regard to steps to follow to resolve the matter. Where appropriate, the matter will be discussed with the Senior manager: Legal Services.
- 4.3 Should employees wish to report allegations of fraud anonymously, they can contact any member of management, the Head: Risk Management or alternatively report it directly to the National hotline number. The hotline, receives the information, screens it and supplies it to the LDA.

**What should a member of the public do if they suspect fraud?**

- 4.4 The LDA encourages members of the public who suspect fraud to contact the hotline.

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**How will the LDA deal with allegations of fraud?**

4.5 For issues raised by employees or members of the public, the action taken by the LDA will depend on the nature of the concern. The matters raised may:

Be investigated internally; or

- Referred to the South African Police Service ("SAPS").

4.6 Any fraud committed by an employee of the LDA will not be tolerated and will be pursued by thorough investigation and to the full extent of the law, including consideration of:

- a) Taking disciplinary action within a reasonable period of time after the incident;
- b) Instituting civil action to recover losses;
- c) Initiating criminal prosecution by reporting the matter to SAPS or any other relevant law enforcement agency; and
- d) Any other appropriate and legal remedy available.

4.7 In the event of LDA's property being lost or stolen the responsible line/divisional manager or his/her authorised representative should ensure that the following steps are taken to report the incident:

- a) Report to SAPS
  - The theft/loss must be reported within 24 hours to SAPS, in the judicial area where the theft/loss occurred.
- b) Statement/Affidavit to SAPS comprising
  - A report in the form of a Sworn Affidavit or Affirmed Statement, made by the official discovering the theft/loss;

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- Full names and identity number of the deponent;
- Full residential and business address, including telephone numbers of the deponent;
- The day, date and time when the incident took place or was discovered;
- Full particulars of the circumstances surrounding the theft/loss and the place where it occurred;
- A full detailed description of the property stolen/lost, i.e. the type, brand name, model, serial number and any distinguishing features of the property, (which may identify it as LDA property when found) must be given to SAPS for identification and circulation purposes;

A full description(s) of the suspect(s) must be given to SAPS;

Details (full names and addresses) of any witnesses, who could possibly supply any information of the incident/suspect, etc. who may have been present at the time of the incident must be given to SAPS; and

- An official SAPS "case register" number and an (IB) Information Book number used for normal reports, must be obtained from SAPS.

c) Report to the LDA's Security Manager

- The incident must be reported to the LDA's Security Manager as soon as possible after the theft/loss has been discovered. A copy of the sworn affidavit or affirmed statement made to SAPS, must accompany the completed report.
- In the event of any sensitive/classified documentation or information being stolen/lost this must immediately be reported

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to the LDA's Head of Security, who in turn will report the matter to the National Intelligence Agency for further investigation.

- e) Report to Head: Risk Management
- The LDA's Security Manager will forward all the relevant and necessary documentation to the Head: Risk Management to register the theft/loss and for further investigation and action. The theft/loss will then be reported to the relevant Authority as per Treasury Instructions.

4.8 The following response steps can serve as an additional guideline to managers when faced with a report of fraud. These should be considered in consultation with the Senior Manager- Risk Management, Senior Manager- Labour Relations and the Senior Manager- Legal Services.

**Step 1:**

- a) Evaluate the information or allegation;
- b) Identify the issues and their implications;
- c) Consider all possibilities and their implications.

**Step 2:**

- a) Secure the assets at risk by, for example, notifying banks and other parties holding assets or relevant documentary records.
- b) Where appropriate, eliminate the immediate threat by suspension or removal of the suspected person from a position of authority by following the applicable process;
- c) Ensure that all accounting records are secured and back-ups of computer data have been made; and
- d) Secure the contents of offices where the suspect was employed, such as files and computer data that is the property of the LDA.

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**Step 3:**

- a) Start tracing and securing the documentation that was under the control of the suspect; and
- b) Initiate the investigation process of the alleged fraud.

**Step 4:**

- a) Start the procedure of recovering of the LDA's assets;
- b) Where appropriate contact the SAPS or other appropriate organisation, for assistance; and
- c) Audit current accounting procedures and correct any flaws.

4.9 Managers are also required to ensure that losses or damages suffered by the LDA as a result of all reported acts committed or omitted by an employee or any other person are recovered from such an employee or other person if he or she is found to be liable.

4.10 Where an employee is alleged to have committed financial misconduct the manager, in consultation with the Senior manager: Labour Relations must ensure that disciplinary proceedings are carried out, within a reasonable period, in terms of the disciplinary code and procedure of LDA.

4.11 The divisional manager and the CFO, with the assistance of any other official, as prescribed in the official delegation of authority, must also ensure that the following steps are taken with regard to financial misconduct in line with the provisions of the Treasury Regulations to the PFMA:

- a) Ensuring that disciplinary proceedings are carried out in accordance with the relevant prescripts and agreements if an employee is alleged to have committed financial misconduct;

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- b) Ensuring that disciplinary proceedings are instituted within 30 days from the date of discovery of the alleged financial misconduct;
- c) Advising the executive authority, treasury and Auditor-General of any criminal charges laid in respect of the alleged financial misconduct;
- d) Advising the executive authority, the LDA of Public Service and Administration and the Public Service Commission on the outcome of disciplinary proceedings and/or the outcome of any criminal proceedings;
- e) Annually submitting to the Provincial Treasury, National Treasury and Auditor-General a schedule of:
  - (i) The outcome of any disciplinary hearings and/or criminal charges;
  - (ii) The names and ranks of officials involved; and
  - (iii) The sanctions and any further actions taken against these officials;
- f) Take the following into account when determining the appropriateness of disciplinary steps against an official in terms of section 38(1)(h) of the PFMA:
  - (i) The circumstances of the transgression;
  - (ii) The extent of the expenditure involved; and
  - (iii) The nature and seriousness of the transgression;
- g) Reporting losses to SAPS, the HOD and the CFO.

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**5. CONFIDENTIALITY**

- 5.1 All information relating to fraud that is received and investigated will be treated confidentially. The progression of investigations will be handled in a confidential manner and will not be disclosed or discussed with any person(s) other than those who have a legitimate right to such information. This is important in order to avoid harming the reputations of suspected persons who are subsequently found innocent of wrongful conduct.
- 5.2 No person is authorised to supply any information with regard to allegations or incidents of fraud to the media without the express permission of the HOD.

**6. PUBLICATION OF SANCTIONS**

- 5.3 The HOD will decide, in consultation with appropriate senior managers, whether any information relating to corrective actions taken or sanctions imposed, regarding incidents of fraud should be brought to the direct attention of any person or made public through any other means.

**7. PROTECTION OF WHISTLE BLOWERS**

- 7.1 An employee who suspects or reports suspected dishonest activity or any such activity that he/she has witnessed may remain anonymous should he/she so require.
- 7.2 No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud.
- 7.3 All managers should discourage employees or other parties from making allegations, which are false and made with malicious intentions. Where such allegations are discovered, the person who made the allegations must be subjected to firm disciplinary, or other appropriate action.

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**8. APPLICATION OF PREVENTION CONTROLS AND DETECTION MECHANISMS**

8.1 In respect of all reported incidents of fraud, managers are required to immediately review, and where possible, improve the effectiveness of the controls, which have been breached in order to prevent similar irregularities from taking place in future.

**9. CREATING AWARENESS**

8.2 It is the responsibility of all managers to ensure that all employees, are made aware of, and receive appropriate training and education with regard to this policy.

**10. ADMINISTRATION**

10.1 The custodian of this policy is the HOD who is supported in its implementation by the entire LDA's Senior Managers.

10.2 The Committee, supported by all other Senior Managers, is responsible for the administration, revision and interpretation of this policy. This policy will be reviewed annually and appropriate changes will be made should these be required.

**11. ADOPTION OF THE POLICY**

Recommended by:



\_\_\_\_\_  
Head of Department

Limpopo Department of Agriculture

Date: \_\_\_\_\_

13/7/09

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Approved by:

A handwritten signature in black ink, appearing to read 'Deba' or similar, written over a light grey rectangular background.

**Member of the Executive Council**  
**Limpopo Department of Agriculture**

Date: 02/04/2009