



LIMPOPO
PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

**DEPARTMENT OF
AGRICULTURE AND RURAL DEVELOPMENT**

FRAUD POLICY

REF: 4/1/P

2017 Reviewed version

Date of approval: 27 March 2017

Recommended by:

2017-03-17

HOD

Date

(Maisela, RJ)

Approved by:

27/03/2017

MEC for Agriculture and Rural Development

Date

Mapula Mokaba-Phukwana (MPL)

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1. Acronyms and abbreviations

CFO	Chief Financial Officer
HOD	Head of Department
IB	Information Book
LDARD	Limpopo Department of Agriculture and Rural Development
MEC	Member of Executive Council
PFMA	Public Finance Management Act
SAPS	South African Police Service
FICA	Financial Intelligence Centre Act
ISA 240	International standards on Auditing 240

2 Executive Summary

The viewpoint of the LDARD is that of zero tolerance towards fraud.

This policy addresses all matters regarding the handling of fraudulent situations.

It include matters such as reporting procedures, steps taken in the process, protection of whistle blowers, confidentiality, and publication of sanctions and application of prevention controls.

All terminology used in this policy is described precisely under the relevant heading for definitions and ensures resultantly that there is exact clarity at all times.

3 Introduction

This policy is intended to set down the stance of the LDARD to fraud, as well as to reinforce existing systems, policies, procedures, rules and regulations of the LDARD aimed at deterring, preventing, detecting, reacting to and reducing the impact of fraud, where such dishonest activities subsist.

4 Purpose and objectives

The purpose of this policy is to ensure that the viewpoint of zero tolerance towards fraud is practised by the LDARD and to confirm the fact that the LDARD supports and fosters a culture of zero tolerance to fraud in all activities. It aims towards sensitising people regarding the effects of fraudulent activities and ensure that the necessary procedures are in place.

5 Authority of the Policy

This policy stands under the custodianship of the Hon MEC for Agriculture and Rural Development as the Executive Authority as well as the HOD as Accounting Officer.

6 Legal Framework

- Protected Disclosure Act, Act 26 of 2000
- Prevention and Combatting of Corrupt Activities Act, 2004
- Public Finance Management Act
- Treasury Regulations
- Financial Intelligence Centre Act, 38 of 2001

7 Scope of application

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

8 Definitions

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

Policy	Fraud policy
Plan	Fraud prevention plan

“**Fraud and corruption**” includes, but are not limited, to the following:

- 1) The following legal definitions:
 - i. *Fraud*, i.e the unlawful and intentional making of a misrepresentation resulting in actual or potential prejudice to another;
 - ii. *Theft*, 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;
 - iii. Offences in respect of *corrupt activities* as defined in the Prevention and Combatting of Corrupt Activities Act, 2004, i.e.:
 - (A) The general offence of *corruption* 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 to exercise his powers, duties or legal obligations in a manner which is/amounts to:
 - a) Illegal, dishonest, unauthorised, incomplete, or biased;
 - b) Misuse or selling of information or material acquired;
 - c) Abuse of position of authority;

- d) Breach of trust;
- e) Violation of a legal duty or set of rules;
- f) Designed to achieve an unjustified result;
- g) Any other unauthorised or improper inducement to do or not to do anything;

(B) Corrupt activities in relation to Public officials;

- a) Foreign public officials
- b) Agents
- c) Judicial officers
- d) Members of the prosecuting authority
- e) Unauthorized gratification received or offered by or to a party to an employment relationship
- f) Witness and evidential material during certain proceedings
- g) Contracts
- h) Procuring and withdrawal of tenders
- i) Auctions
- j) Sporting events
- k) Gambling games or games of chance

(C) Conflicts of interest and other unacceptable conduct, e.g.:

- a) Acquisition of private interests in contract, agreement in or investment in public body;
- b) Unacceptable conduct relating to witnesses; and
- c) Intentional interference with, hindering or obstruction of investigation of offence

(D) Other offences relating to corrupt activities, viz:

- a) Accessory to or after an offence;

- b) Attempt, conspiracy and inducing another person to commit offence.

(E) Failure to report corrupt transactions

2) Fraudulent and corrupt acts may include:

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

(i) Irregular collusion in the awarding of tenders or orders for goods and/or services;

(ii) Deliberate non-compliance with tender and procurement policy and procedures;

(iii) Inadequate verification of supplier credentials;

(iv) Deliberate non-compliance to recruitment policy and procedures;

(v) Abuse of time management systems;

(vi) Ghost employees;

(vii) Non-disclosure of personal interests;

(viii) Fraudulent allocation of Poverty Alleviation packages;

(ix) Disclosing confidential or proprietary information to outside parties.

(B) **Financial Issues:** i.e. where individuals or companies have fraudulently obtained money from LDARD, e.g.:

(i) Unauthorized sale of assets;

(ii) Revenue collectors not banking all revenue collected;

(iii) Fraudulent mileage claims;

(iv) Payments made to contractors without the required site inspections.

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

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

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

- (i) Soliciting gifts or favours from applicants, consultants or other suppliers, e.g. acceptance of “kick-backs”;
- (ii) Pursuing private business interests without permission;
- (iii) Nepotism;
- (iv) Fronting;
- (v) Bribery; and
- (vi) Favouritism.

9 Policy Pronouncements

9.1 The policy

The policy of the LDARD is Zero Tolerance to fraud. In addition all fraud will be investigated and followed up by application of all remedies available within the full extent of the law as well as the application of appropriate prevention and protection 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 LDARD.

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

9.2. Reporting procedures and resolution of reported incidents:

9.2.1. What should an employee do if they suspect fraud?

- A. Ideally, it is the responsibility of all employees to immediately report all allegations or incidents of fraud to their immediate line manager or, if the employee has reason to believe that his/her immediate manager is involved, to the next level of management
- B. All line managers are responsible for the detection, prevention and investigation of fraud and must report all incidents and allegations of fraud to the Head of the 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 Director: Legal Services.
- C. Should employees wish to report allegations of fraud anonymously, they can contact any member of management, the Director: Risk Management or alternatively report it directly to the National Anti- Fraud and Corruption Hotline number (0800 701 701). The hotline, receives the information, screens it and supplies it to the LDARD via the Provincial Office of the Premier.

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

The LDARD encourages members of the public who suspect fraud to contact the hotline at 0800701701.

9.2.3. How will the LDARD deal with allegations of fraud?

1. For **issues raised by employees or members of the public**, the action taken by the LDARD will depend on the nature of the concern. The matters raised, may:
 - i) Be investigated internally; or *sewlees*
 - ii) Referred to the South African Police (SAPS).
2. Any **fraud committed by an employee** of the LDARD 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;
 - d) Any other appropriate and legal remedy available.

3. In the event of the LDARD'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 the line Manager

The theft/ loss must be reported to the line manager.

b) Report to SAPS

The theft/loss must be reported within 24 hours to SAPS, in the judicial area where the theft/loss occurred

c) Statement/Affidavit to SAPS comprising

i) A report in the form of a Sworn Affidavit or Affirmed Statement, made by the official discovering the theft/loss;

ii) Full names and identity number of the deponent;

iii) Full residential and business address, including telephone numbers of the deponent;

iv) The day, date and time when the incident took place or was discovered;

v) Full particulars of the circumstances surrounding the theft/loss and the place where it occurred;

vi) 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 LDARD property when found) must be given to SAPS for identification and circulation purposes;

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

viii) Details (full names and addresses) of any witness, 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

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

d) Report to the LDARD's Security Manager

1) The incident must be reported to the LDARD'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.

- 2) In the event of any sensitive/classified documentation or information being stolen/lost this must immediately be reported to the LDARD's Head of Security, who in turn will report the matter to the ~~National Intelligence Agency~~ State Security Agency for further investigation.
- e) Report to the Director: Risk Management

The LDARD's Security Manager will forward all the relevant and necessary documentation to the Director: 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. The following response steps can serve as an **additional guideline** to line managers when faced with a report of fraud. These should be considered in consultation with the Director – 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, illuminate 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 LDARD.

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) Following the outcome of step 3, start the procedure of recovering of LDARD's assets;
 - b) Where appropriate contact the SAPS or other appropriate organisation; and
 - c) Audit current accounting procedures and correct any flaws.
5. Managers are also required to ensure that **losses or damages suffered by the LDARD** 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 to be found liable.
6. Where **an employee** is alleged to have **committed financial misconduct** the line manager, in consultation with the Director: Labour Relations must ensure that disciplinary proceedings are carried out, within a reasonable period, in terms of the disciplinary code and procedure of the LDARD.

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 if an employee is alleged to have committed financial misconduct;
- 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 the Auditor-General of any criminal charges laid in respect of the alleged financial misconduct;
- d) Advising the Executive Authority, of the LDARD, Public Service 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.

9.3 Confidentiality

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 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.

No person is authorised to supply any information with regard to allegations or incidents of fraud to the media without the permission of the HOD. Prior to the completion of the investigation, no information should be divulged.

9.4. Publication of sanctions

The HOD will decide, in consultation with appropriate line 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.

9.5 . Protection of whistle blowers

An employee who suspects or reports suspected dishonest activity or any such activity that he/she has witnessed may remain anonymous should he/she require that.

No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud.

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.

9.6 Application of prevention controls and detection mechanisms

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.

9.7 Creating awareness

It is the responsibility of all line managers to ensure that all employees are made aware of and are released to attend appropriate training and education with regards to this policy.

10 Default

There should be adhered to this policy at all times. Under no circumstances may this policy be violated.

11 Inception date

The date of inception is the date of approval of the policy.

12 Termination and review

The policy shall be reviewed every 2 years or as and when a need arise.

13 Enquiries

Enquiries regarding this policy can be directed toward:

The Director: Risk Management Unit, Limpopo Department of Agriculture and Rural Development, Private Bag X9487, Polokwane, 0700.

Tel: 015 294 3000

Recommended:



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Maisela, RJ

(Head of Department)



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Date

Approved:



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Honourable Member of Executive Council

Mapula Mokaba-Phukana (MPL)



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Date