



LIMPOPO
PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

**DEPARTMENT OF
PUBLIC WORKS, ROADS & INFRASTRUCTURE**

Name of the Policy	Anti-Fraud and Corruption Policy
The Version / revision number	03
Domain	Risk and Corporate Governance

TABLE OF CONTENTS

ITEM	DESCRIPTION	PAGE No
1.	ACRONYMS AND ABBREVIATIONS	2
2.	EXECUTIVE SUMMARY	3
3.	INTRODUCTION	4
4.	PURPOSE AND OBJECTIVES OF THE POLICY	4
5.	AUTHORITY OF POLICY	5
6.	LEGAL FRAMEWORK	5
7.	SCOPE OF APPLICATION	6
8.	DEFINITIONS	6
9.	POLICY PRONOUNCEMENTS	7
10.	DEFAULT	12
11.	INCEPTION DATE	12
12.	TERMINATION AND REVIEW CONDITIONS	12
13.	ENQUIRES	12

1. ACRONYMS AND ABBREVIATIONS

EA	: Executive Authority
HOD	: Head of Department
AO	: Accounting Officer
AC	: Audit Committee
DPWRI	: Department of Public Works, Roads and Infrastructure
CFO	: Chief Financial Officer
CRO	: Chief Risk Officer
EA	: Executive Authority
MEC	: Member of the Executive Council
PFMA	: Public Finance Management Act
SAPS	: South African Police Services

2. EXECUTIVE SUMMARY

The provisions of Section 38(1)(a)(i) of the Public Finance Management Act (PFMA) stipulates that the Accounting Officer/Authority is responsible for ensuring that the department, Trading Entity or constitutional institution has and maintains effective, efficient and transparent systems of financial and risk management and internal control.

Furthermore, Sections 3.2.1 and 27.2.1 of the Treasury Regulations require that a risk assessment is conducted on a regular basis and a Risk Management Strategy, which includes a Fraud Prevention Plan, be used to direct Internal Audit effort. The Strategy must be clearly communicated to all employees to ensure that risk management is incorporated into the language and culture of the Department or Entity.

Fraud and corruption in the Public Service will always be problematic, counter-productive, and devastating, especially in young democracies and developing countries. To prevent and detect fraud and corruption in the Public Service, lifestyle audits are a critical and legitimate management tool and forms part of a department's system of risk management. Fraud and corruption are usually committed by means of "off book" transactions, typically the acceptance of a bribe, or by manipulating records, especially those involving tenders. **(Source: Guide to implement lifestyle audit in the Public Service).**

The National Anti-Corruption Strategy (NACS) provides a framework and action plan for the country as a whole and seeks to create a society in which:

- Government's administration and procurement processes are reinforced to allow for greater monitoring, accountability and transparency.
- The public is educated about what constitutes corruption and empowered to respond when or where it is noted.
- The public and whistleblowers are encouraged to report corruption, are supported and adequately protected when doing so.

- Public officials are held accountable for service delivery or the lack thereof.
- The business sector and civil society organisations operate in a value driven manner and are held accountable for corrupt practices.
- There is culture of zero tolerance towards corruption in any sector and full accountability for those involved in corruption.

3. INTRODUCTION

In my capacity as Accounting Officer of the Provincial Department of Public of Public Works, Roads and Infrastructure and acting in terms of section 38 of the Public Finance Management Act (act 1 of 1999 as amended by Act 29 of 1999), hereby declare that henceforth it is departmental policy that:

All employees have an obligation to report any act of fraud, corruption, theft, or any other act of dishonesty that they suspect or know to be going to happen or to have happened;

No employee that reports any act or suspected act of theft, fraud, corruption and other acts of dishonesty shall be victimised or be subjected to some occupational detriment as a result of that report and the Department will protect any employee that is so victimised and take strong legal and disciplinary action against any employee who is found to victimise others;

All supervisory staff will positively act to prevent and combat fraud, corruption, theft and other acts of dishonesty within their spheres of responsibility;

All officials of the Department will cooperate with any Law Enforcement Agency or Department to prevent or combat fraud and corruption;

The Department of Public Works, Roads and Instructure is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity, loyalty and transparency, which are the key components of good governance.

The Department recognizes that Fraud and Corruption have the potential to cause significant financial and non financial harm and damage to the reputation and image of the Department, and that, therefore, the prevention and control of fraud and corruption should feature predominantly within the systems and procedures of the responsible management of the department.

The Department is committed to be an organization/institution that does not tolerate any form of fraud and corruption, and is vigilant in the prevention, deterrence, detection and investigation of all suspected forms of fraud and corruption.

4. PURPOSE AND OBJECTIVES

- 4.1. This policy is designed to protect public funds, assets, integrity, security and reputation of the Department;
- 4.2. Convey the stance of the Department of Public Works, Roads and Infrastructure;
- 4.3. Establish procedures and assign responsibility for the investigation of fraud, corruption, theft and irregularities;
- 4.4. Provide guidance to employees who find themselves having to deal with suspected cases of fraud corruption and theft;
- 4.5. Embed anti-fraud and corruption culture within the department; and
- 4.6. Provide guidance to employees and other stakeholders on the procedures to be followed when fraud is suspected or detected;
- 4.7. The objective of this policy is to articulate the department's philosophy on the Fraud prevention and anti-corruption policy/plan;
- 4.8. The policy aims to set the tone which Top Management commits themselves to rejecting fraud and corruption by communicating the fraud prevention and anti-corruption measures.

5. AUTHORITY OF THE POLICY

The policy stands under the custodianship of the Honourable MEC for the Department of Public Works, Roads and Infrastructure as the Executive Authority as well as the HOD as the Accounting Officer.

6. LEGAL FRAMEWORK

- 6.1. Criminal Procedure Act, No 51 of 1977;
- 6.2. The Public Finance Management Act, No 1 of 1999;
- 6.3. Public Service Act, No 103 of 1994
- 6.4. Prevention and Combating of Corrupt Activities Act, No 12 of 2004;
- 6.5. Treasury Regulations issued in terms of the PFMA, No 1 of 1999;
- 6.6. The Protected Disclosures Act, No 26 of 2000.
- 6.7. The Financial Intelligence Centre Act,
- 6.8. Prevention of Organised Crime Act,

The following legislative framework governs the management of fraud and corruption in the Public Service:

Legislation	Provision
Constitution of the Republic of South Africa	Section 195 (1) (a) " A high standard of professional ethics must be promoted and maintained".
Public Finance Management Act (PFMA) Act No.1 of 1999.	Section 38: the accounting officer for a department must ensure that that department has and maintains effective, efficient and transparent system of financial and risk management and internal control.
Public Service Regulations, 2016 (PSR, 2016)	The mandate for departments to conduct lifestyle audits is established in PSR, 2016, regulation 22. This regulation provides for a head of department – a) Analyse ethics and corruption risks as part of the department's system of risk management; b) Develop and implement an ethics management

	<p>strategy that prevents and deters unethical conduct and acts of corruption;</p> <p>c) Establish an information system that – i) records all allegations of corruption and unethical conduct; ii) monitors the management of the allegations of corruption and unethical conduct; iii) identifies any systemic weaknesses and recurring risks, and iv) maintains records of the outcomes of the of the allegations of corruption and unethical conduct.</p>
Prevention and Combating of Corrupt Activities Act, Act 12 of 2004 (PRECCA)	Provides for the strengthening of measures to prevent and combat corruption and corrupt activities; to provide for the offence of corruption and offences relating to corrupt activities; to provide investigative measures in respect of corruption and related corrupt activities, to place a duty on certain persons holding a position of authority to report certain corrupt transactions etc.
Protected Disclosures Act, 26 of 2000	The Act makes provision for procedures in terms of which employees in both private and the public sector may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers; to provide for protection of employees who make a disclosure which is protected in terms of this Act.
National Development Plan 2030	The objective of Chapter 14 of the NDP is “a corruption free society, a high adherence to ethics throughout society and a government that is accountable to its people”. In keeping with this aspiration the National Anti-Corruption Strategy

	supports the development of a corruption free country.
--	--

7. SCOPE OF APPLICATION

- 7.1. This policy applies to all allegations, attempts and incidents of fraud and corruption impacting or having the potential to impact the Department of Public Works, Roads and Infrastructure;
- 7.2. Employees of the Limpopo Department of Public Works, Roads and Infrastructure (LDPWRI) whether seconded from other departments, institutions, permanent or contractual employees.
- 7.3. It also applies to the following persons or entities:
- a) Consultants, contractors, suppliers of goods and services and/or other parties with a business relationship with the Department of Public Works, Roads and Infrastructure.
 - b) Organisations/or any other parties with a business relationship with the department;

8. DEFINITIONS (FORMS OF CORRUPTION)

- a) **Fraud:** is deception that involves a material misrepresentation of fact that is false and made intentionally or recklessly to a victim, which the victim believes and that then induces the victim to act to his or her own detriment.
- b) **Corruption:** Any conduct or behavior in relation to persons entrusted with responsibilities in public office which violates their duties as public officials and which is aimed themselves or for others.
- c) **Collusion:** is a non-competitive, secret, unethical and/or illegal agreement between parties, who are generally rivals but choose to cooperate and conspire to deceive others by gaining an unfair market advantage.

- d) **Theft**: The unlawful possession of an item with the intent of keeping it, without the owner's permission.
- e) **Integrity** means steadfast adherence to a strict moral or ethical code, policy or legal instrument and preceding codes.
- f) **Irregularity**: Any unlawful act or omission committed by any person responsible for the management of an entity.
- g) **Gratification**: Any benefit which amounts to money, donation, gift, loan, fee, reward.
- h) **Bribery**: the offer, promise, giving, demanding or acceptance of an advantage as an inducement for an action which is illegal, unethical or a breach of trust.
- i) **Ethical leadership** is leadership that is directed by respect for ethical beliefs and values and for the dignity and rights of others. It is thus related to concepts such as trust, honesty, consideration, probity and fairness.
- j) **Ethics** is broadly defined as standards of right and wrong that prescribe the rights, obligations and benefits to society. Ethics is about how people ought to live, treat others run or manage our lives and organisations.
- k) **Embezzlement**: The act of dishonestly withholding assets for the purpose of conversion (theft) of such assets by one or more individuals to who such assets have been entrusted, to be held and/or used for other purposes.
- l) **Extortion**: A criminal offence of obtaining money, property, or services from a person, entity or institution, through coercion.
- m) **Conflict of interest**: A situation occurring when an individual or organization is involved in multiple interests, one of which could possibly corrupt the motivation. It also refers to a situation in which a person or his family member has a private or personal interest sufficient to appear to influence his or her official conduct.
- n) **Contractors** refers to services, supplies or works related service providers engaged or contracted by the Department.
- o) **Unacceptable conduct**: Unacceptable conduct relating to witness; and intentional interference with, hindering or obstruction of investigation of an offence;

- p) **Abuse of power**: The act of using one's position of power in an abusive way by taking advantage of employees, gaining access to information that shouldn't be accessible or manipulating employees with the ability to punish them if they don't comply.
- q) **Favoritism**: Unfair provision of services/resources to friends or family members.
- r) **Nepotism**: the abuse of power to control appointments to office or the right to privileges and is used in this context as synonymous with cronyism, favouritism and preferential treatment.
- s) **Abused of privileged information**: Abuse of information involves a breach of confidence or extending the confidence or extending the confidence of information beyond those authorized.
- t) **Risk Management**: is the process of planning, organizing, directing, and controlling resources and operations to achieve given objectives, despite the uncertainty of events.
- u) **Whistleblowing** refers to someone who exposes illegal, unethical or dangerous activities they become aware of either to their employer, a regulatory body, a government official, the police or the media.
- v) **Appropriate disclosure**: any information of public interest if the person believes on reasonable grounds that the information is true or is not in a position to form a belief on reasonable grounds about the truth of the information but believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated. The disclosure is made to appropriate Authority.
- w) **An employee**: any person who is employed by the department, and also includes any contractors, volunteers, consultants and Learnership, undertaking work for or on behalf of the department.
- x) **False disclosure**: any information involving actual or suspected fraud or corruption that is made by a person who knows that the information is false, or is reckless as to whether it is false.

- y) **Maladministration:** maladministration generally includes impropriety or negligence, which may extend to conduct of a serious nature that is:
- Contrary to the law.
 - Unreasonable, unjust, oppressive or improper discriminatory.
 - Based upon improper motives
 - A result of acting outside the parameters of recommended practice

8. POLICY PRONOUNCEMENT

- 8.1. The Department is committed in ensuring that matters relating to fraud, corruption and other irregularities are reported and dealt with in accordance with the full extent of the law. The Department acknowledges that in order to ensure that instances of fraud and corruption are dealt with, appropriate and effective systems of reporting such instances with the appropriate channels should be in place.
- 8.2. The Department has adopted a Zero Tolerance stance to fraud and corruption. The Department will also put in place and implement appropriate prevention and detection controls. These prevention controls include the existing financial and other controls and checking mechanisms as prescribed in the system, policies and procedures of the Department.
- 8.3. All allegations of the commission or concealment of fraudulent or corrupt acts will be investigated and pursued to their logical conclusion including disciplinary, legal action, civil and criminal prosecution where warranted. Employees who commit fraudulent or corrupt acts will be summoned to disciplinary action, up to and including termination with cause. The Department is committed to pursue full recovery of all losses resulting from such acts.
- 8.4. All allegations of fraud and corruption, maladministration, financial misconduct will be investigated by Internal Audit Unit and Enterprise Risk Management Unit without regard to the suspected person's length of service, position or title or relationship to the Department.

8.5. In addition, all fraud and corruption investigated will be followed by the application of all punitive measures and/or remedies available to the Department within the full extent of the law.

9. ROLES AND RESPONSIBILITIES

9.1. Senior Management

The Senior Management of the Department, have the overall responsibility for preventing, detecting and reporting fraud and corruption. In addition to complying with the obligations, management must:

- a) Set the tone at the top by emphasizing that fraud and corruption run counter to the department values, standards and principles and can undermine achievement of its objectives and stakeholder trust;
- b) Promotes fraud and corruption risk awareness as its commitment to the prevention of fraud and corruption.
- c) Provides adequate security for the prevention of fraud and corruption through the provision of secure facilities for storage of assets and procedures to deter fraudulent or corrupt activities from occurring.
- d) Appropriate and proper investigations are conducted into allegations that involve fraud and corruption.
- e) Provides mechanisms for receiving allegations of fraud and corruption;
- f) Forwards information relating to fraud and corruption to SAPS where necessary and facilitates cooperation with special investigating units;
- g) Ensures that all employees are aware of their responsibilities in relation to fraud and corruption through the provision of appropriate and regular education, guidance and training;
- h) Promotes a culture and environment in which fraud and corruption is actively discouraged and is readily reported should it occur;
- i) Undertakes a fraud and corruption risk assessment on a regular basis.

9.2. Employees or Staff responsibilities

Departmental staff members are bound by South African Law (both statute and common law), the terms and conditions of their employment and also the public service code of conduct, departmental policies and lawful instructions, and circulars issued by management to report allegations fraud and corruption;

Every member of staff has a duty to ensure that public funds are safeguarded and therefore, everyone is responsible for:

- Acting with propriety in the use of official resources and the handling and use of public in all instances. This includes cash and/or payment systems, receipts and dealing with suppliers.
- Aspiring to the following care principles, selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
- Being vigilant to the possibility that unusual events or transactions could be indications of fraud and alerting their line manager where they believe the opportunity for fraud to exist.

Staff members must assist any investigations by making available all relevant information, by co-operating in interviews and where appropriate providing a witness statement;

The dishonest reporting of an incident to the department with the knowledge that such transmittal of information is false or with willful disregard of the truth shall constitute misconduct, for which disciplinary measures may be imposed.

9.3. Members of the Public

The department encourages members of the public who suspect or become aware of fraud and corruption to contact the National Anti-Corruption Hotline, the Head of Department, the MEC or SAPS.

9.4. Service providers, contractors, and consultants

Suppliers, contractors, subcontractors and consultants have a duty to act honestly and with integrity in the provision of goods and services or in all their dealings with the department and encouraged to report fraud and corruption by contacting the National Anti-Corruption Hotline, the Head of Department, the MEC or SAPS and fully cooperate in any investigation undertaken by the department.;

Service providers, contractors, subcontractors, and consultants have a duty to ensure that the department resources are safeguarded and used for their intended purposes, as authorized by the department;

Any breach of policy or failure to do so may result in one or more of the following –

- Termination or cancellation of the contract or service level agreement any tenders or contractors awarded to them.
- Black listing of the company in the national register for blacklisted companies;
- Being reported to the law enforcement agency (e.g. SAPS).

10. FRAUD AND CORRUPTION PREVENTION STRATEGIES

The responsibility for the prevention, detection and deterrence of fraud and corruption cuts across functional and managerial lines and extends to all DPWRI external parties. Successful preventive measures can safeguard resources, support the integrity of DPWRI and protect its reputation.

10.1. Code of Conduct for Public Service

The Code of Conduct for Public Service requires public servants to report to the appropriate authorities, fraud, corruption, nepotism, maladministration and any other

acts which constitute an offence, or which is prejudicial to the public interest. The historical context in South Africa has unfortunately allowed some to stigmatize whistle – blowing as an activity to be despised rather than encouraged.

10.2. Pre-employment screening

Pre-employment screening will be carried out for all appointments, and evidence of such screening will be maintained by the HR unit. Consideration should be given to the following pre-employment screening:

- a) Verification of identity;
- b) Criminal record status;
- c) Reference checks with most recent employers;
- d) Verifications of formal qualification claimed.

10.3. Employee education and awareness

Senior Management are responsible for raising awareness of the Fraud and Corruption policy, and of what constitutes fraud and corruption and of the detrimental effects and underscoring the duty of all DPWRI employees to report any reasonably suspected case of fraud and corruption, or any attempts thereof.

The department's fraud and corruption policy, public service code of conduct, whistle blowing policy and fraud prevention strategy in the workplace all assist in the creation of an environment which may be considered to be hostile to a would-be transgressor.

The main purpose of fraud and corruption awareness workshops / training is to assist in the prevention, detection and reporting of fraud and corruption by raising the level of awareness as to how fraud and corruption is manifested in the workplace.

11. REPORTING AND INVESTIGATION PROCEDURES

11.1. Reporting Procedures

One of the key obstacles to fighting fraud and corruption is the fear by employees of being intimidated to identify or “blow the whistle” on fraudulent, corrupt or unethical practices witnessed in the work place. Those who do “blow the whistle” end up being victimized and intimidated.

For this reason, the department will adopt a Whistle Blowing Policy setting out the detailed procedure which must be followed in order to report any incidents of fraud and corruption and /or corruption. The policy has been designed to comply with the provisions of the Protected Disclosure Act, Act No 26 of 2000.

Any suspicion of fraud and corruption will be treated seriously and will be reviewed, analyzed, and if warranted investigated. If an employee becomes aware of a suspected fraud, corruption and any irregularity or unethical behavior, such issues should be reported in terms of a Whistleblowing Policy.

No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud and corruption which occurred within the department

11.2. Investigation Procedures

In the event that fraud and corruption is detected or suspected, investigations will be initiated and, and warranted, disciplinary proceedings, prosecution or action aimed at the recovery of losses will be initiated. Depending on the nature of the concern. The matters raised will be screened and evaluated and may subsequently:

- a. be investigated internally;
- b. be referred to another law enforcement agency.

Any fraud and corruption committed by an employee or any other person will be pursued by thorough investigation and the full extent of the law, including

- a. Taking disciplinary action within reasonable
- b. Instituting civil action to recover the 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.

12. DEFAULT

Any person who contravenes or fail to comply with this policy there shall be progressive intervention.

13. INCEPTION DATE

The inception date of this policy will be after the approval by the Executive Authority.

14. TERMINATION AND REVIEW CONDITION OF THE POLICY

The Policy shall be reviewed when there are new developments and or after every three (3) years.

15. ENQUIRIES

All enquiries related to this policy should be forwarded to the custodian: Enterprise Risk Management or Chief Risk Officer.

Approved by



Mme NC RAKGOALE
MEMBER OF THE EXECUTIVE COUNCIL

31/03/2023
DATE