

LIMPOPO

PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

ANTI-CORRUPTION POLICY
DEPARTMENT OF SPORT, ARTS & CULTURE

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1. BACKGROUND

- 1.1 Corruption in the Public Service undermines the fight against poverty by putting money that is meant for infrastructure and development into the pockets of corrupt officials. It further increases the cost of public services and slows down service delivery to the public, going against the Constitution and Batho Pele principles on service delivery. A Department with reputation for corruption may scare off investors and thereby lose valuable money which could be used to enhance economic development for the people of Limpopo.
- 1.2 The Public Finance Management Act, 1999 (Act No. 1 of 1999) was introduced to provide effective, efficient and transparent management of public funds. One of the key objectives of the Act is to eliminate waste and corruption in the use of public assets.
- 1.3 Section 38 of the Public Finance Management Act, 1999 outlines general responsibilities of the Accounting Officer. The Accounting Officer must:
 - (a) ensure that the Department has and maintain effective, efficient and transparent systems of financial and risk management as well as internal control;
 - (b) be responsible for the effective, efficient, economic and transparent use of departmental resources;
 - (c) take effective and appropriate steps to prevent unauthorised irregular, fruitless and wasteful expenditure as well as all other losses resulting from criminal conduct;
 - (d) be responsible for the management, including the safeguarding and maintenance of the departmental assets; and
 - (e) take effective and appropriate disciplinary action against any official in the service of the Department who:-
 - (i) contravenes or fails to comply with provisions of this Act;
 - (ii) commits an act which undermines the financial management and internal control system of the Department; and
 - (iii) makes or permits an unauthorised, irregular, fruitless or wasteful expenditure.

2. DEFINITIONS

In this policy, unless the context indicates otherwise:-

"Accounting Authority" means the person referred to in section 49 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"Accounting Officer" means the person referred to in section 36 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"Corruption" refers to the offences contained in section 3 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No.12 of 2004), and includes, but is not limited to the following acts by an employee:

- (a) Fraud;
- (b) Abuse of power;
- (c) Financial misconduct;
- (d) Insider trading or abuse of privileged information;
- (e) Conflict of interest;
- (f) Embezzlement of funds;
- (g) Deliberately omitting or refusing to report or act upon reports of any such irregular or dishonest conduct;
- (h) Bribery;
- (i) Extortion;
- (j) Favouritism;
- (k) Nepotism;
- (l) Incidents of unauthorised, irregular or fruitless and wasteful expenditure as defined in the Public Finance Management Act, 1999(Act No. 1 of 1999); and
- (m) Any similar or related irregularity.

"Designated officer" means an officer in the Risk Management Unit designated by the Accounting Officer of the Department of Sport, Arts and Culture;

"Disclosure" means any disclosure of information regarding any conduct of an employer or an employee of that employer, made by any employee who has a reason to believe that information concerned shows or tends to show one or more of the following:

- (i) that a criminal offence has been committed is being committed or is likely to be committed;
- (ii) that a person has failed is failing or is likely to fail to comply with any legal obligation to which that person is subject;
- (iii) that a miscarriage of justice has occurred, is occurring or is likely to occur;
- (iv) that the health or safety of an individual has been, is being or is likely to be endangered;
- (v) that the environment has been, is being or is likely to be damaged;
- (vi) unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No.4 of 2000); or
- (vii) that any matter referred to in paragraphs (i) to (vi) has been, is being or is likely to be deliberately concealed.

"Employee" means:-

- (a) any person, excluding an independent contractor, who works for another person or for the state and who receives, or is entitled to receive, any remuneration; or
- (b) any other person who in any manner assists in carrying on or conducting the business of an employer.

"Employer" means any person —

- (a) Who employs or provides work for any other person and who remunerates or expressly or tacitly undertakes to remunerate that other person; or
- (b) Who permits any other person in any manner to assist in the carrying on or conducting of his, her or its business;

Including a person acting on behalf of or on the authority of such employer;

"Executing Authority"; in relation to a provincial department, means the member of the Executive Council of a province who is accountable to the provincial legislature for that department;

"improper conduct" refers to:-

- (a) a criminal offence committed, or is in the process of being committed or is likely to be committed;
- (b) failure by a person, to comply with any legal obligation to which that person is subject;
- (c) a miscarriage of justice which has occurred, is occurring or is likely to occur; or
- (d) unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No.4 of 2000).

3. LEGAL FRAMEWORK

The legal and policy framework for formulating and implementing this policy is as follows:-

- (a) Protected Disclosures Act, 2000 (Act No.26 of 2000);
- (b) Practical Guidelines for Employees issued in terms of section 10 of the Protected Disclosures Act, 2000 (Act No.26 of 2000);
- (c) Whistle-blowing Guide for Public Sector Managers provided by the Department of Public Service Administration;
- (d) Public Service Act, 1994 (Proclamation No. 103 of 1994) as amended and Regulations made in terms thereof;
- (e) Rules for dealing with grievances in the Public Service as published in Government Gazette No.25209 of 25 July 2003;
- (f) Disciplinary Code and Procedures for the Public Service as contained in the Public Service Bargaining Council Resolution 2 of 1999;
- (g) Public Finance Management Act, 1999 (Act No.1 of 1999) and Treasury Regulations issued in terms thereof;
- (h) Prevention and Combating of Corrupt Activities Act, 2004 (Act No.12 of 2004);
- (i) Limpopo Province Protected Disclosure Policy Framework; and
- (k) The National Anti-Corruption Strategy adopted by Cabinet in 2002.

4. POLICY OBJECTIVES

The purpose of this policy is to-

- (a) prevent and eliminate corruption in the Department; and
- (b) encourage staff members in the Department to report corrupt activities.

5. SCOPE OF THE POLICY

This policy is applicable to:-

- (a) all officials/employees or entities involved in the administration of the Department, including but not limited to-
 - (i) employees/officials of the Department; and
 - (ii) all statutory bodies and entities funded by Department;
- (b) all service providers to the Department.

6. STRATEGIC CONSIDERATIONS

In order for the Department to effectively prevent and combat all corrupt activities, emphasis must be placed on the implementation of the following strategic objectives from the Public Service Anti Corruption Strategy:-

6.1 Increased institutional capacity

The Department must ensure that it establishes capacity to undertake the following functions:

- (a) conduct risk assessment;
- (b) implement fraud plans as required in terms of the Public Finance Management Act, 1999(Act No. 1 of 1999) which must include, as a minimum, an anti-corruption policy and implementation plan;
- (c) investigate allegations of corruption and detected risks at a preliminary level;
- (d) enable the process of conducting further investigation, detection and prosecution, in terms of prevailing legislation and procedures;
- (e) receive and manage allegations of corruption through whistle blowing or other mechanisms; and

- (f) promote professional ethics amongst employees.

6.2 Improved access to report wrongdoing and protection of whistleblowers.

Limpopo Department of Sport, Arts and Culture must promote the reporting of corruption and the subsequent protection of the whistleblowers. Access and protection must be improved by-

- (a) establishing guidelines for the implementation of the Protected Disclosures Act, 2000 including guidelines that make a distinction between whistle blowing and witness protection;
- (b) Institutions to implement departmental whistle blowing implementation policies, including policies for supporting persons maliciously and falsely implicated;
- (c) obtaining support from the Civil Society Sector to assist, support and protect whistleblowers; and
- (a) promoting a culture of whistle blowing amongst employees.

6.3 Blacklisting/Exclusion of corrupt individuals and businesses

Employees and businesses that have been party to acts of corruption often change employer within the Public Sector or, in the case of businesses, change name or the location in which they operated. To remedy this situation and to raise integrity and ethics of the Provincial government, the Department and the businesses it does business with, the Department must -

- (a) exclude from contracts, all owners and directors of businesses found criminally guilty of corruption or offences relating to dishonesty and also have them listed on the National and Provincial Treasury database of tender defaulters; and
- (b) conduct vetting/probity check of all prospective employees and contractors.

6.4 Improved Management Policies and Practices

Management must be held accountable for failing to prevent corruption and this must also be stipulated in their performance agreements. Good management is the first line of attack on corruption. This consideration entails six elements that relate to procurement, employment, managing discipline, risk management, financial management and management of financial systems.

(a) Procurement

The procurement system in the Department must:-

- (I) carry sufficient controls to eliminate risks;
- (II) require declaration of financial interests of employees involved in procurement as well as employees responsible for negotiating with service providers/contractors;
- (III) ensure minimum standards of conduct through contractual binding of contractors;
- (IV) require positive security clearances of all procurement personnel;
- (V) establish clear guidelines for dealing with prohibited individuals and businesses;
- (VI) enforce screening of individuals and businesses to which contracts are awarded;
- (VII) enforce declaration of conflict of interest and adjudication on declared conflict by a competent authority;
- (VIII) align all departmental procurement systems with the Government's guidelines on Value for Money, Open and Effective Competition, Ethics and Fair Dealing, Accountability and Reporting and Equity; and
- (IX) enforce minimum training requirements needed by all procurement officials, the rotation of personnel and spread of accountability.

(b) Employment

In order to strengthen the management capacity and level of integrity in the Department-

- (i) pre-employment screening and verification of qualifications and previous employment must be required of all senior managers, procurement officials and employees in sensitive or high-risk positions;
- (ii) before the appointment of a senior manager, procurement official or an employee in a sensitive and high-risk position is confirmed, the employing authority must ensure that such an employee obtains a positive security clearance ; and

- (iii) continuous self-development of employees must be encouraged through appropriate support.

(c) Managing Discipline

The disciplinary system in the Department must-

- (i) detect early signs of a lack of discipline and manage it;
- (ii) improve the accountability and capacity of managers to manage discipline by encouraging managers to act against transgressions, develop a pool of employees competent to conduct all aspects of disciplinary proceedings, and establish a culture of accountability with managers and employees alike by including the ability to maintain discipline as performance measurement criteria;
- (iii) establish a cadre of well-trained senior employees to manage complex and high profile disciplinary cases; and
- (iv) improve the manner in which private citizens are summoned and their actual participation in disciplinary proceedings.

(d) Risk Management

Risk management, as an ongoing management practice must be encouraged and be part of every senior manager's performance agreement. Risk must be defined to be encompassing all resources and delivery risks. Regular risk assessment must also be conducted in line with the treasury regulations.

(e) Management Information System

The Department must establish an information system that-

- (i) has a record of all corruption allegations;
- (ii) is able to track the progress with the management of each allegation;
- (iii) reveals systematic weaknesses and recurring risks, and informs management and employees of the systematic weaknesses/risks; and
- (iv) provides feedback to employees on the management of corruption allegations.

The information on the corruption database will be sensitive and therefore access to the database must be restricted. Complainants must be given timely feedback

so that they know that the matter is being dealt with. The general statistical feedback must be given to departmental staff and its stakeholders to show the successes of the anti-corruption policy, as well as to alert them to high-risk areas.

(f) Financial management

Meticulous application of the requirements of the Public Finance Management Act, 1999 (Act No. 1 of 1999), must be enforced.

6.5 Managing professional ethics

Coherent processes and mechanisms to manage professional ethics are key to the fight against corruption. Noting the complexities of this matter, the following must be established:

- (i) promotion of the concept and practice of ethics management;
- (ii) establishment of a generic professional ethics statement for the Department;
- (iii) the inclusion of conflict of interest and a system of declaration of assets/financial interests in the codes of conduct;
- (iv) promotion of professional ethics through explanatory manuals, continuous training and education and establishing partnership with professional associations;and
- (v) development of the Senior Management to espouse professional ethics and to provide leadership to other employees.

6.6 Awareness, training and education

Although many good initiatives exist to fight corruption, public awareness is poor. Employees are insufficiently educated on their rights and responsibilities as well as about the mechanisms that exist to fight corruption. A comprehensive awareness campaign supported with education and training, needs to be established and implemented. This awareness campaign must focus on the following key areas:-

- (a) the promotion of the guidelines on professional ethics, and training (both at induction level and continuous training) on practical application of professional ethics;
- (b) awareness of the current legislative framework as it relates to corruption, with practical guidelines on the rights of employees who blow the whistle on

corruption, the nature of the witness protection system and the roles and responsibilities of existing anti-corruption institutions;

- (c) encouragement of employees to blow the whistle on corruption within their work environments;
- (d) responsibility of employees to evaluate and report risks to the risk management unit in the department; and
- (e) integration of anti-corruption issues into the wider campaign to promote the Batho Pele principles, with particular links to the "I am proud to be a Public Servant" element of that campaign.

7. REPORTING CORRUPTION

The most effective way of detecting corruption is when people (either staff or people from outside the department) report corrupt activities in their daily business.

The Department has a Protected Disclosures Policy which details the procedures of reporting corruption and the protection of whistleblowers.

8. CORRECTIVE ACTION AND DISCIPLINE

8.1 Disciplinary action

The Department must establish capacity to institute and complete disciplinary action for cases of corruption. This refers to the procedures for dealing with staff who have committed work related misconduct. While all cases of corruption must be referred to the SAPS for criminal prosecution, disciplinary action must be taken against offenders as well. These two processes (criminal prosecution and disciplinary action) can run parallel at the same time, and a finding in the one does not have an impact on the finding in the other.

8.2 Recovery of losses

Investigation of corruption is an expensive exercise, and therefore the Department must recover all losses incurred after successfully investigating a case.

8.3 Forwarding information to the relevant agencies

While the Department must conduct preliminary investigations in all reported cases, all corruption cases must be reported to relevant law enforcement agencies, as follows:

10. CONFIDENTIALITY

- 10.1 The investigations must be handled in a confidential manner and must not be disclosed or discussed with any persons other than those who have a legitimate right to such information. This is important in order to avoid damaging the reputation of suspected persons who are subsequently found innocent of wrongful conduct.
- 10.2 Liaison with the Media with regard to the supply of information pertaining to the allegations of fraud, corruption, theft and maladministration must not be done without the express authorization of the Head of Department.

11. MONITORING, EVALUATION AND REPORTING

- 11.1 The Chief Financial Officer is the custodian of this policy and is supported in its implementation by the Risk Management sub-branch and all heads of units in the department.

12. POLICY IMPLEMENTATION

The policy comes into effect on the first day of the month following the month which the executing authority approved it.

13. AMENDMENT OF POLICY

The policy will be reviewed as and when a need arises.

Recommended/Not Recommended

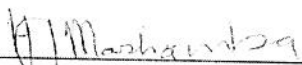


HEAD OF DEPARTMENT

03/07/2008

DATE

Approved /Not Approved:



MEMBER OF EXECUTIVE COUNCIL

23/07/2008

DATE

RISK MANAGEMENT

SECURITY POLICY IMPLEMENTATION PLAN

ACTIVITIES					Roles and Responsibilities
Quarter 1	Quarter 2	Quarter 3	Quarter 4	Means of verification	
Date: 01 - 04 June 2009. Vhembe District 1. Security Evaluation at Dzata, Schoemansdaal Museum, Schoemansdaal Office and Makwarela Library.	06-08 July 2009 Security Evaluation and Information Awareness at Waterberg District and Library	Awareness on Document Security in October and November 2009	Review Information security audit in January and February	<ul style="list-style-type: none"> Evaluation Report Audit Report Minutes and Attendance registers TRA report Awareness attendance Registers 	Security and Risk Management
Date: 08- 10 June 2009. Mopani District 1. Security Evaluation at Tzaneen Library, Giyani Library and Muti wa vha Tsonga museum	Threat Risk Assessment between July and September				
Date: 15-26 June 2009. Security Evaluation, Physical security awareness and Information	29 September 2009 Meeting with Security Service Providers	10 December 2009 Meeting with Security Service Providers.			

Security Audit. Head Office and Capricorn Library.30 June 2009. Meeting with Security Service Providers					
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Compiled By

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