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NATIONAL DEPARTMENT OF HEALTH

FRAUD PREVENTION POLICY

Version 1

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1 PURPOSE

- 1.1. The purpose of this policy is to amend old policy adopted in 2002. The National Department of Health adopts a comprehensive approach on management of risks for fraud and corruption.

2 BACKGROUND

- 2.1. Fraud and corruption prevention is a process that is adopted by the National Department of Health, in putting mechanisms in place, to manage the National Department of Health's vulnerability to fraud and corruption. Such mechanisms are designed to prevent, deter and detect fraud and corruption.
- 2.2. Furthermore, the purpose of this document is to confirm that the National Department of Health is committed to a culture of **Zero Tolerance to Fraud and Corruption** in all its activities.
- 2.3. As part of the Risk Management, it is the responsibility of the Accounting Officer to establish structures to address the threat of fraud and corruption.
- 2.4. The provisions of Section 38(1)(a)(i) of the Public Finance Management Act (PFMA) stipulates that the Accounting Officer is responsible for ensuring that the National Department of Health has and maintains effective, efficient and transparent system of financial and risk management and internal control.
- 2.5. Furthermore, sections 23.2.1 and 27.2.1 of the Treasury Regulations require that risk assessments are conducted on regular basis and a risk management strategy, which includes a fraud prevention plan, be used to direct risk management effort. The strategy must be clearly communicated to all employees to ensure that risk management is incorporated into the language and culture of the National Department of Health.

3 SCOPE OF THE POLICY

- 3.1. This policy applies throughout the National Department of Health in as far as fraud and corruption risk management and prevention is concerned and should be read in conjunction with the National Department of Health's Code of Conduct/Ethics, the principles of which are fully supported herein by this policy.

4 RESPONSIBILITY

- 4.1 Everybody has a responsibility in respect of the fight against fraud, corruption and any other illegal act. Not only should no employee be involved in anything of this sort, but it is also expected from all employees to report suspected instances of fraud, corruption and any other illegal act. Reports are to be made to any of the following:

- i. The relevant branch/unit leader;

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- ii. The Accounting Officer;
- iii. Risk Committee;
- iv. Audit Committee;
- v. The 24 hour National Anti Corruption Hotline, **0800 701 701**; and
- vi. Internal Audit

4.2 Management is responsible for the implementation of internal controls to deter and detect fraud and corruption and should also refer all allegations and/or suspicions of fraud to the relevant official in terms of the whistle-blowing and fraud prevention policies.

4.3 Internal Audit is responsible for providing assurance on the effectiveness and efficiency of the fraud and corruption risk management process and evaluating internal controls to detect possible control weaknesses.

4.4 The Accounting Officer is responsible for making arrangements for the investigation of allegations of improprieties committed by, or against, the company/institution committed illegal act.

5 POLICY STATEMENT

5.1 Fraud and corruption represents a significant potential risk to the National Department of Health's assets, service delivery efficiency and reputation. The Accounting Officer wishes to make it clear that the National Department of Health has and will maintain a zero tolerance for the commission or concealment of fraudulent, corrupt or illegal acts. Allegations of such acts will be investigated and pursued to their logical conclusion, including legal action, criminal prosecution, and disciplinary action where warranted.

5.2 The Accounting Officer commits the National Department of Health to a process of fraud and corruption risk management and prevention that is aligned to the principles of the Public Finance Management Act (PFMA), Act 1 of 1998 as amended by Act 29 of 1999.

5.3 As instances of fraud and corruption remain a constant threat to public trust and confidence, it becomes essential to recognise fraud and corruption risk management and prevention as an integral part of strategic management and the National Department of Health is therefore adopting a comprehensive approach to the management and prevention of fraud and corruption risks. Management's agenda must focus on efforts to:

5.3.1 Understand the fraud and corruption risks that can undermine the National Department of Health's objectives;

5.3.2 Determine whether fraud and corruption prevention programmes and controls are actually effective in reducing instances of fraud and corruption;

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5.3.3 Gain insight into better ways of designing and evaluating controls to prevent, detect and respond appropriately to fraud and corruption;

5.3.4 Reduce exposure to liability, sanctions and litigation that may arise from violations of law or stakeholder expectations;

5.3.5 Derive practical value from the development of a sustainable process of managing fraud and corruption risks and improving performance; and achieve the highest levels of business integrity through sound corporate governance, internal control and transparency.

5.3.6 The features of this process are outlined in the National Department of Health's Fraud Risk Management Strategy. It is expected that all personnel will adhere to the fraud risk management strategy. It is the intention that individual personnel, as well as branches/units will work together in a consistent and integrated manner, with the overall objective of reducing fraud and corruption risk.

5.3.7 Effective fraud and corruption risk management and prevention is imperative to the National Department of Health to fulfil its mandate, the service delivery expectations of the public and the performance expectations within the National Department of Health. The realisation of our strategic plan depends on us being able to take calculated risks in a way that does not jeopardise the interests of stakeholders.

5.3.8 We subscribe to the fundamental principle that all resources will be applied economically to ensure:

- a) The highest standards of service delivery;
- b) A management system containing the appropriate elements aimed at minimising fraud and corruption risks and related costs in the interest of all stakeholders; and
- c) Maintaining an environment which promotes the right attitude and sensitivity towards internal and external stakeholder satisfaction.

5.4 FRAUD AND CORRUPTION UNDERMINES THE ABOVEMENTIONED PRINCIPLES.

An enterprise-wide approach to fraud and corruption risk management and prevention will be adopted by the National Department of Health, which means that every key fraud and corruption risk in each part of the National Department of Health will be included in a structured and systematic process of fraud and corruption risk management and prevention. It is expected that the fraud and corruption risk management and prevention processes will become embedded in the National Department of Health's systems and processes, ensuring that our responses to fraud and corruption risks remain current and dynamic. All fraud and corruption risk management and prevention efforts will be focused on supporting the National Department of Health's objectives. Equally, they must ensure compliance with relevant legislation, and fulfil the expectations of employees and other stakeholders in terms of corporate governance, including King III requirements. Every employee has a part to play in this important endeavour and we look forward to working with you in achieving these aims.

6 THE CONCEPT OF FRAUD AND CORRUPTION PREVENTION

6.1 INVESTIGATION PROCEDURES

6.1.1. The National Department of Health developed investigation procedures in a Fraud Investigation Policy to ensure uniformity in the reporting and investigation of incidents of fraud and corruption as follows:

- 6.1.1.1. Reporting of suspicious acts by all staff members in a consistent manner;
- 6.1.1.2. Preliminary investigation of incidents reported;
- 6.1.1.3. Investigation procedure as per investigation policy;
- 6.1.1.4. Involvement of other law enforcements agencies;
- 6.1.1.5. Procedure in taking resolutions; and
- 6.1.1.6. Recovery of loss.

The National Department of Health has developed a detailed investigation procedure that is separate from this policy.

6.2 ANTI-FRAUD AND CORRUPTION PROGRAMMES

6.2.1. The National Department of Health has developed the following programmes to address the threat of fraud and corruption:

- i. Recruitment policy;
- ii. Accounting and operational policies;
- iii. Fraud and corruption awareness (indicators of fraud and corruption);
- iv. Fraud and corruption risk assessment;
- v. Code of ethics and conduct;
- vi. Investigation policy/procedure; and
- vii. Fraud and corruption response plans.

6.3 ANTI-FRAUD AND CORRUPTION GUIDELINES

National Department of Health wishes to ensure that in the course of its work its employees and any third parties acting on its behalf observe the highest standards of integrity. These Anti-fraud and corruption guidelines establish procedures for handling fraud and corruption concerns.

6.3.1 PUBLIC SECTOR CODE OF CONDUCT

6.3.1.1. The National Department of Health has a reputation for honesty and integrity in its management practices and in its business transactions/service delivery that it wishes to

maintain. It is therefore vital for the National Department of Health to fight and prevent fraud and corruption in all its forms.

6.3.1.2. It is the policy of the National Department of Health to comply with anti-fraud and corruption laws wherever it does business/provide services.

6.3.1.3. The obligation to comply with local, national and international laws and regulations applicable to its business, including anti-fraud and corruption laws, is also contained in the National Department of Health's Code of Conduct.

6.3.1.4. It is the responsibility of each and every employee in the National Department of Health and any third-party acting on behalf of the National Department of Health to understand the Code of Conduct and these the anti-fraud and corruption guidelines and to seek help from the legal team if and when there is any question or doubt as to how these rules apply in a given situation.

6.3.2 PROCUREMENT

6.3.2.1. In pursuance of this policy, the National Department of Health defines, for the purposes of the above sections, the following terms as having the meaning described herein:

- a) **Corrupt practice:** means the offering, giving, receiving or soliciting of anything of value to influence the action of a government official in a selection process or in contract execution; and
- b) **Fraudulent practice:** means a misrepresentation of facts in order to influence a procurement/selection process or the execution of a contract to the detriment of the National Department of Health and includes collusive practices among bidders/ contractors (prior to or after submission of proposals) designed to establish prices at artificial, non-competitive levels and to deprive the National Department of Health of the benefits of free and open competition.

6.3.2.2. The Accounting Officer must:

- a) reject a proposal for award if he/she determines that the supplier/service provider recommended for award has engaged in corrupt/fraudulent activities in competing for the contract in question;
- b) reject a proposal for the award of a contract if the recommended bidder has committed corrupt/fraudulent acts in competing for the particular contract; or
- c) cancel a contract awarded to a supplier of goods/services:-
 - (i) if the supplier committed any corrupt/fraudulent act during the bidding process or the execution of that contract; or

- (ii) if any official or other role player committed any corrupt/fraudulent act during the bidding process or the execution of that contract that benefited that supplier.

6.3.2.3. The Accounting Officer must:

- a) disregard the bid of any bidder if that bidder, or any of its directors:–
 - (i) have abused the National Department of Health's supply chain management system;
 - (ii) have committed fraud, corruption or any other improper conduct in relation to such system; or
 - (iii) have failed to perform on any previous contract;
- b) inform the National Treasury of any action taken in terms of paragraph (a); and
- c) may insist that a provision is included in contractual agreements requiring contractors to permit the Accounting Officer and/or a National Treasury to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the Accounting Officer/National Treasury.

6.3.2.4. Fraud and corruption is more widespread in some Countries than in others. Engaging with some of these high fraud and corruption risk Countries requires the National Department of Health to apply greater precaution. It is important that the National Department of Health be able to demonstrate that procurement decisions in these countries are taken based on merit and not by exerting improper influence on any official.

6.3.2.5. Procurement regulations are included in TR 16A of the Treasury Regulations and include specific rules about the timing of and processes for securing bid information and documents and the National Department of Health should ensure that it acts in conformance with those rules and regulations.

6.3.2.6. During a tender process, strict regulations usually exist concerning conflicts of interest and interactions and communications with officials involved in the tender process. The National Department of Health should, during that process, not engage in any entertainment, gift-giving/receiving or similar exercises with any official or other person involved in the tender process.

6.3.2.7. The National Department of Health should locate, review and comply with/adhere to relevant procurement guidelines and regulations and, if necessary, consult with legal specialists within the National Department of Health to avoid any violation of such regulations.

6.3.3 WHAT IS CORRUPTION

- 6.3.3.1. In practice, the words bribery and corruption are generally used interchangeably.
- 6.3.3.2. Corruption is defined as the misuse of power by someone to whom it has been entrusted, for his/her own private gain. The most common form of corruption is bribery, which is the giving or receiving of money, a gift or other advantage as an inducement to do something that is dishonest, illegal or a breach of trust in the course of doing business.
- 6.3.3.3. The anti-fraud and corruption laws prohibit an offer, payment, promise to pay or authorisation of payment of any money, gift or anything of value to any official for purposes of:
- a) influencing any act or decision of the official;
 - b) inducing him/her to do any act in violation of his/her lawful duties, i.e. securing an improper advantage; or
 - c) inducing him/her to use his/her influence with a governmental agency or SOE, in order to assist in obtaining/retaining business or to direct business to anyone.
- 6.3.3.4. In addition corruption is considered a criminal offence even in the event that the payment of a bribe would not be made in order to assist in obtaining or retaining business. In other words, the act of corrupting someone in order to induce him/her to act/refrain from acting in the exercise of his/her functions is considered a criminal offence.
- 6.3.3.5. This means that the law makes no exemption for the so-called facilitation payments. Facilitation payments are a form of bribery where (i) the sum involved is minor and paid to a low level official and (ii) the payment is made to secure an action/service to which an individual/company is routinely and legally entitled (e.g. routine processing of Government papers such as a travel visa).
- 6.3.3.6. It is the policy of the National Department of Health to refrain from making any corrupt payments, including facilitation payments. Employees asked to make facilitation payments should report such incidents in the manner indicated in 4 above or whistle blowing policy.

6.3.4 WHO IS A GOVERNMENT OFFICIAL

- 6.3.4.1. A Government official is:
- a) an officer/employee of the Government (holding an administrative, judicial or legislative mandate) or of a National Department of Health, agency/entity or instrumentality thereof or any person acting in an official capacity for or on behalf of such government (e.g. an entity hired to review policies for a

Government National Department of Health or to collect revenue on behalf of the Government);

- b) an officer or employee of a Public International Organisation or any person acting in an official capacity for or on behalf of such Funding Agencies; and
- c) an employee of a company or other business entity in which a Governmental body has an ownership interest and/or over which such Governmental body may, directly or indirectly, exercise a dominant influence (such employee can qualify as a Government official even if he/she is engaged in commercial rather than Governmental activities).

6.3.4.2. Additional caution should be applied in respect of persons who are known or suspected to be family members of Government officials or in respect of companies who are controlled by family members of Government officials so as to avoid that these persons serve as a conduit for a fraudulent, corrupt or illegal payment to a Government official.

6.3.5 BUSINESS PARTNERS, AGENTS, CONTRACTORS AND OTHER THIRD PARTIES

6.3.5.1. Government's legislation on supply chain management requires its officials, partners, agents, contractors, consultants and other third parties to observe the highest standard of ethics during the selection and execution of contracts as detailed in TR1608 of the Treasury Regulations.

6.3.5.2. It is prohibited:

- (i) to make any fraudulent or corrupt payments through intermediaries; and
- (ii) to make a payment to a third party, while knowing that all or a portion of the payment will go directly/indirectly to yourself or your family members/friends, your organisation or an organisation in which you or your family/friends have a direct/indirect interest. The term *knowing* includes conscious disregard and deliberate ignorance.

6.3.5.3. All business decisions involving the National Department of Health should be based on merit. No National Department of Health employee/third-party acting on behalf of the National Department of Health should exert improper influence on any official.

6.3.5.4. The National Department of Health's policy is that *joint projects or public private partnerships* in which it participates adopt and enforce anti-fraud and corruption policies.

6.3.5.5. The National Department of Health must undertake a necessary evaluation/due diligence on its partnerships (whether with agents, consultants, suppliers, other

intermediaries, consortium, contractors or major sub-contractors, distributors, etc.) with a view to assessing fraud and corruption risk before engaging in business with them. For example, before engaging an agent or consultant, the National Department of Health should be comfortable that he/she will not be used as a conduit for the payment of a bribe or other fraudulent or corrupt activities.

6.3.5.6. The National Department of Health must establish whether any of its business partners have a reputation for fraud and/or corruption (even though they may not have been convicted for that yet) or if any of its business partners are being investigated or prosecuted or have been convicted or debarred (in the case of lawyers), for fraud or corruption. If so, the National Department of Health should ascertain as far as possible the facts of the case and make a determination on that basis, keeping in mind the risk of reputational damage to the National Department of Health.

6.3.5.7. This can also be performed by checking whether the business partner, consultant, agent, etc is not listed as a restricted entity in terms of TR16A9.1(c) of the Treasury Regulations on supply chain management.

6.3.5.8. Proper records must be kept for a period of not less than that tabled in TR17.2.3 of the Treasury Regulations.

6.3.5.9. The relevant National Treasury principles/regulations should be applied in respect of the use and remuneration of all third-parties.

6.3.5.10. Each third-party agreement must include clauses that address fraud and corruption concerns.

6.3.5.11. These Anti-fraud and corruption guidelines apply to all third parties when they do business with the National Department of Health and also, if they do business with a third-party on our behalf.

6.3.6 ANTI-FRAUD AND CORRUPTION CLAUSES

6.3.6.1. Anti-fraud and corruption clauses should be included in all relevant procurement documents as required by any provisions applicable in the public sector, including but not limited to the PFMA, Treasury Regulations, etc.

6.3.7 MERGERS AND ACQUISITIONS (MAs), STATE OWNED ENTITIES (SOEs) AND PUBLIC PRIVATE PARTNERSHIPS (PPPs)

6.3.7.1. SOEs, PPSs or any entities merged or to be merged, acquired or to be acquired by the National Department of Health or which merge with or acquire other entities run the risk of inheriting successor liability for any violations of anti-fraud and corruption laws committed by that entity.

6.3.7.2. This may entail significant reputational damage for the National Department of Health and business disruption as well as sanctions if at a later stage such violations come to light.

6.3.7.3. Therefore, it is essential to perform thorough anti-fraud and corruption due diligence and to include in the merging/acquisition/partnership agreements an appropriate anti-fraud and corruption provisions as well as to consider other available options to avoid successor liability prior to the closing of the merging/acquisition/ partnership arrangement.

6.3.7.4. While acquisitions solely of assets theoretically do not trigger successor liability, it is nonetheless important to perform thorough anti-fraud and corruption due diligence and tailor the acquisition contract in such a way that it excludes liability for anti-fraud and corruption laws violations from the scope of the asset acquisition.

6.3.7.5. Anyone who knows or should have known of any anti-fraud and corruption issues that arise in due diligence should report it in terms of provision 4 of this policy.

6.3.8 EMPLOYEES

6.3.8.1. The integrity of the National Department of Health's employees must be preserved by applying the following principles:

- (i) Only appoint an employee to a key position if the integrity of that employee has not been challenged.
- (ii) Where a new employee is to be appointed, pre-employment vetting procedures (background checks) should be performed or adhered to; and
- (iii) Additional attention should be paid by role players and anti-fraud and corruption training provided (if any) to employees who are operating in high fraud or corruption risk areas (branches/units) as they may be exposed to fraud or corrupt pressures in particular if they interact with fellow Government employees (can lead to collusion), are responsible for or have access to changing payment information, etc.

6.3.9 GIFTS, TRAVEL AND ENTERTAINMENT

A. Gifts

6.3.9.1. The National Department of Health is under the legal obligation to comply with the anti-fraud and corruption laws of this Country such as, for example, the PFMA, Treasury Regulations, etc and those of other Countries in which it trades. Therefore, gifts should not be given without the prior review of the relevant anti-fraud and corruption laws and regulations as well as this and other policies of the National Department of Health relating to anti-fraud and corruption.

- 6.3.9.2. No gifts and gratuities should be offered to any officials except for promotional items of little value provided that this is not prohibited by relevant laws and regulations and that it is not made with a corrupt purpose.
- 6.3.9.3. The National Department of Health's Code of Conduct also prohibits offering gifts or granting favours outside the ordinary course of business to current or prospective stakeholders, clients, partners, SOEs, etc, their employees or agents, or any person with whom the National Department of Health or its SOEs has a contractual relationship or intends to negotiate an agreement.
- 6.3.9.4. The National Department of Health's employees must also refuse gifts and gratuities from persons who deal/seek to deal with the National Department of Health such as suppliers/potential suppliers, with the exception of promotional items of little value.
- 6.3.9.5. Acceptance of gifts should also be in conformance with section 21 of the Treasury Regulations and other applicable and relevant laws and regulations of this country.

B. Travel and entertainment

- 6.3.9.6. All business travel and entertainment provided to or received by the National Department of Health's employees must be moderately scaled in terms of applicable ranges and clearly intended to facilitate business engagements. As a general guideline, business entertainment in the form of meals and beverages should be acceptable to the extent that it is in line with relevant laws and regulations and internal policies and procedures.
- 6.3.9.7. The National Department of Health may reimburse officials for reasonable travel and lodging-related costs; provided that the payment or reimbursement of travel, entertainment and lodging expenses is permitted under the National Department of Health's applicable policies and procedures as well as the relevant laws and regulations of this country.
- 6.3.9.8. In each case, the purpose of a trip should be defined and approved in advance by the relevant level of authority and reimbursement should be subject to bona fide supporting documentation and correspondence.

6.3.10 CHARITABLE/SOCIAL RESPONSIBILITY CONTRIBUTIONS

- 6.3.10.1. There is a risk that bribes take the form of charitable/social contributions or sponsorships. The National Department of Health and its officials must therefore make sure that payments/contributions to charity or charitable organisations are not dependent on nor made to win a business deal.
- 6.3.10.2. Contributions/payments must also be made to charitable organisations and not to individual(s) within the organisations. The contributions must be subject to

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adequate monitoring and compliance with key performance indicators of the National Department of Health and in conformance with applicable laws and regulations.

6.3.10.3. The National Department of Health or its officials must only make charitable/social responsibility contributions to charities that are registered under the applicable sections of the Country's legislation.

6.3.10.4. The National Department of Health or its officials must also be careful who the charitable organisation's officials and/or beneficiaries are and perform background checks on the organisation itself and on its officials and beneficiaries.

6.3.10.5. The National Department of Health must subject cases in which a stakeholder, related party or any other official of the National Department of Health recommends/refers a charitable organisation to the National Department of Health to heightened scrutiny.

6.3.10.6. In such cases, the charity may be a conduit for improper payments to the stakeholder, related party or any other official of the National Department of Health.

6.3.10.7. Charitable/social responsibility contributions must be in line with the National Department of Health's strategy and/or policies and procedure manuals and in conformance with the relevant and applicable laws and regulations with regard to charitable/social responsibility contributions.

6.4 ACCOUNTING REQUIREMENTS

6.4.1. The National Department of Health is under the legislative obligation, as tabled in the PFMA and Treasury Regulations, to make available and keep proper records and accounts of the National Department of Health's transactions and dealings, which in reasonable detail, are accurate and fair and in conformance with the legislation.

6.4.2. The use of false documents and invoices is prohibited, as is the making of inadequate, ambiguous or deceptive bookkeeping entries and any other accounting procedure, technique or device that would hide or otherwise disguise illegal payments.

6.5 INTERNAL CONTROLS

6.5.1. The National Department of Health is also required, as per section 38(1)(a) of the PFMA and other regulations, to have and maintain a system of effective, efficient and transparent internal control sufficient to provide reasonable assurances that:

- (i) transactions are executed in accordance with management's general/specific authorisation/approval;
- (ii) transactions are recorded as necessary to maintain accountability;

- (iii) access to assets is permitted only in accordance with management's general/specific authorisation; and
- (iv) recorded accountability for assets is compared with the existing resources/assets at reasonable intervals and appropriate action is taken with respect to any differences.

6.5.2. All branches/units within the National Department of Health should have in place internal controls and procedures that fit these criteria and enhance compliance with these anti-fraud and corruption guidelines.

6.5.3. One element of an effective internal controls system is for branches/units including support functions personnel to review transactions and expense/payment requests for warning signs that signal an inadequate commercial basis or excessive risks. Below is a list of common warning signs:

- (i) The National Department of Health's responsible person/official has current business, family or some other close personal relationship with the third-party with whom the business transaction is being concluded or envisaged, has recently been a Government official or is qualified only on the basis of its influence over the third-party;
- (ii) The National Department of Health's official recommends or insists on the use of a particular third-party;
- (iii) Third-party refuses to agree to anti-fraud and corruption contractual terms, uses a shell company or other unorthodox corporate structure, insists on unusual or suspicious contracting procedures, refuses to divulge the identity of its owners or requests that its agreement be backdated or altered in some way to falsify information;
- (iv) Third-party has a poor business reputation or has faced allegations of bribes, kickbacks, fraud or other wrongdoing or has poor or non-existent third-party references;
- (v) Third-party does not have office, staff or qualifications adequate to perform the required services;
- (vi) Expense/payment request is unusual, is not supported by adequate documentation, is unusually large or disproportionate to services to be rendered or rendered, does not match the terms of a service agreement or involves the use of cash/cheque payments;
- (vii) Expense/payment request involves an off-the-books account, is in a jurisdiction outside the Country in which services are provided or to be provided or is in a form not in accordance with the National Department of Health's policies and procedures or is not in conformance with the laws and regulations of this Country; and

(viii) Expense/payment request is described as required to get the business or make the necessary arrangements.

6.5.4. The list above is not exhaustive and warning signs will vary by the nature of the transaction and/or expense/payment request, by the geographical area in which they were/will be initiated and from which branch/unit they are initiated. Officials should constantly assess whether additional common warning signs are present in their specific situation.

6.6 AUDITS

6.6.1. The National Department of Health is committed to conducting the necessary checks and audits to ensure compliance with the anti-fraud and corruption laws and regulations as well as this policy.

7 ROLE PLAYERS

The National Department of Health has taken a stance that management and prevention of fraud and corruption threat like any other risk is the responsibility of everyone in the National Department of Health. The Accounting Officer has delegated the ownership and communication of fraud and corruption risk management and prevention to the National Department of Health's leadership as indicated below.

7.1 OVERSIGHT

7.1.1 Executive Authority

7.1.1.1. The Executive Authority takes an interest in fraud and corruption risk management and prevention to the extent necessary to obtain comfort that properly established and functioning systems of fraud and corruption risk management and prevention are in place to protect the National Department of Health against significant fraud and corruption risks.

7.1.2 Audit Committee

7.1.2.1. The Audit Committee is an independent committee responsible for oversight of the National Department of Health's control, governance and risk management.

7.1.2.2. The responsibilities of the Audit Committee with regard to fraud and corruption risk management and prevention must be formally defined in its charter.

7.1.2.3. The Audit Committee must provide an independent and objective view of the National Department of Health's fraud and corruption risk management effectiveness.

7.1.3 Risk Committee

- 7.1.3.1. The Risk Committee must be appointed by the Accounting Officer to assist in discharging the responsibilities for fraud and corruption risk management and prevention.
- 7.1.3.2. The Committee's role is to review the fraud and corruption risk management and prevention progress of the National Department of Health, the effectiveness of fraud and corruption risk management and prevention activities, the key fraud and corruption risks facing the National Department of Health, and the responses to address these key fraud and corruption risks.

7.2 IMPLEMENTERS

7.2.1 Accounting Officer

- 7.2.1.1. The Accounting Officer is accountable for the National Department of Health's overall governance of fraud and corruption risk.
- 7.2.1.2. By setting the tone at the top, the Accounting Officer promotes accountability, integrity and other factors that will create a positive control environment.

7.2.2 Management

- 7.2.2.1. Management is responsible for executing their responsibilities outlined in the fraud management strategy/implementation plan and for integrating fraud and corruption risk management and prevention into their operational routines.

7.2.3 Other Officials

- 7.2.3.1. Other officials are responsible for integrating fraud and corruption risk management and prevention into their day-to-day activities. They must ensure that their delegated fraud and corruption risk management and prevention responsibilities are executed and continuously report on progress.

7.3 SUPPORT

7.3.1 Chief Risk Officer (CRO)

- 7.3.1.1. The CRO is the custodian of the fraud prevention strategy and coordinator of fraud and corruption risk management and prevention activities throughout the National Department of Health.
- 7.3.1.2. The primary responsibility of the CRO is to bring to bear his/her specialist expertise to assist the National Department of Health to embed fraud and corruption risk management and prevention and leverage its benefits to enhance performance.

7.3.2 Risk Champion

7.3.2.1. The Risk Champion's responsibility involves intervening in instances where the fraud and corruption risk management and prevention efforts are being hampered, for example, by the lack of co-operation by management and other officials and the lack of National Department of Health's skills and expertise.

7.4 ASSURANCE PROVIDERS

7.4.1 Internal Audit

7.4.1.1. The role of the Internal Auditing in fraud and corruption risk management and prevention is to provide an independent, objective assurance on the effectiveness of the National Department of Health's fraud and corruption risk management and prevention processes.

7.4.1.2. Internal Auditing must evaluate the effectiveness of the entire fraud and corruption risk management and prevention system and provide recommendations for improvement where necessary.

7.4.2 External Audit

7.4.2.1. The External Auditor (Auditor-General) provides an independent opinion on the effectiveness of fraud and corruption risk management and prevention.

8 POLICY REVIEW

8.1. This policy shall be reviewed annually.



APPENDIX A – MODEL ANTI-FRAUD AND CORRUPTION CLAUSE

[Third party's name] agrees to comply fully with all applicable anti-fraud and corruption laws and regulations applicable in the jurisdiction where the relevant contract/service will be performed as well as to comply with the National Department of Health's fraud prevention policy.

[Third party's name] agrees that all payments made to [Third party's name] will be made only after receipt by National Department of Health of a detailed and accurate invoice supported by detailed records. National Department of Health will make all payments under this agreement in RSA currency, only [by cheque or bank transfer (EFT)] to the account of [Third party's name].

[Third party's name] agrees to keep accurate books, accounts, records and invoices and agrees that National Department of Health is entitled, with the help of outside auditors if it deems necessary, to audit all books, accounts, records and invoices and accompanying documentation of [Third party's name] for compliance with any applicable anti-fraud and corruption laws and that [Third party's name] will cooperate fully in any such audit.

[Third party's name] agrees not to subcontract all or part of the agreement, to any other individual or entity without National Department of Health's prior written consent.

[Third party's name]'s failure to comply with all applicable anti-fraud and corruption laws and regulations or National Department of Health's fraud prevention policy will be deemed to be a material breach of the agreement entitling National Department of Health to terminate the agreement. In that event, [Third party's name] will surrender any claim for payment under the agreement including payment for services previously performed. National Department may also terminate the agreement or suspend or withhold payment if it has a good faith belief that [Third party's name] has violated, intends to violate, or has caused a violation of any anti-fraud and -corruption laws and regulations. National Department of Health will not be liable for any claims, losses or damages arising from or related to failure by [Third party's name] to comply with any such laws and regulations or this anti-fraud and -corruption clause or related to the termination of the agreement under this clause and [Third party's name] will indemnify and hold National Department of Health harmless against any such claims, losses or damages.

APPENDIX B-WHISTLE BLOWING STATEMENT

1. Introduction

When employees and suppliers realise something is not right within an Organization, they may not want to express their concerns. This is because employees feel that doing so would be disloyal to their colleagues or their Organization and suppliers feel that doing so would be disloyal to their clients. Furthermore they may also hold back in fear, for example, fear of harassment or even victimization. In these circumstances it may be easier to often ignore the situation than report especially when it may just be a suspicion of Ethical misconduct. National Department of Health of Health (NDOH) is committed to its Code of Ethical Conduct and has the expectation that where its employees and stakeholders believe that either NDOH or its stakeholders aren't abiding by the Code of Ethical Conduct, they should come forward and voice a breach of the code or their concerns.

This policy Statement specifically provides clarity to all NDOH Employees and Suppliers that they can without fear of victimization, subsequent discrimination or disadvantage raise breaches of the NDOH Code of Ethical Conduct. The policy further encourages that rather than ignoring a situation or concern, that Employees and Suppliers alike use the National Anti-Corruption Hotline (Freecall: 0800 701 701) to either confidentially or anonymously report the breach or concern. The party making the call can be assured that wherever practical, and subject to any legal constraints, investigations will proceed on a confidential basis.

2. The purpose of the Whistle blowing Statement

- Encourage parties to feel confident in raising breaches and concerns;
- provide facilities to voice breaches and concerns and to receive appropriate feedback on any action taken;
- ensure that whistleblowers will be protected from possible reprisals or victimization if the disclosure was made in good faith.

There are existing company policies and procedures in place and so this policy is not a substitute policy for issues that are governed under those particular policies and procedures. This is important in relation to employee matters where they are subject to current Human Resource and Grievance policies and procedures.

3. Framework

3.1 Whistle blowing safeguards

NDOH is committed to its Code of Ethical Conduct and its employees' and suppliers' rights. It recognises that the decision to report a breach can be a difficult one to make. If what a whistle-blower is saying is true, they will have nothing to fear because they would be acting as a responsible stakeholder. NDOH will protect the whistle-blower by not tolerating any harassment or victimization (including informal pressures) as the whistle blower has raised the breach or even the suspected breach, in good faith. Any investigations into allegations raised will however not influence or be influenced by any current process that may already affect an employee in terms of the companies' policies and procedures.

3.2 Whistle Blowing Confidentially

All concerns and breaches raised will be treated with the strictest confidence and every effort will be made, subject to any legal constraints, not to reveal the identity of the whistle-blower without their permission. Circumstances may however dictate that in time it may be necessary for their identity to become known i.e. as they may have to be called as a witness.

3.3 Whistle Blowing Anonymously

This policy encourages that all disclosures are confidential, that is the whistle-blower's identity is known to the relevant parties, and however it does recognise that in certain circumstances it may be the preference of the whistle-blower to report anonymously.

Concerns raised anonymously are not easily investigated due to inability of the investigator to request additional information, and accordingly will need to be considered at the discretion of the Ethics Officers.

In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issues raised
- the detail and amount of information provided: and
- the ability of confirming the allegation from other sources.

It is the responsibility of the whistle-blower to ensure their own anonymity.

3.4 Whistle blowing maliciously

An allegation made in good faith, but not able to be confirmed by an investigation or proved untrue, no action will be taken against the whistle-blower. If however an allegation is maliciously or

mischievously made for personal gain or otherwise, appropriate disciplinary or legal action may be taken against the whistle-blower.

3.5 Whistle Blowing Process

Firstly employees should be encouraged to raise breaches and concerns with their immediate manager or their superior. This however depends on the seriousness and sensitivity of the issues involved and who is suspected of the breach. If you believe that avenue is inappropriate then you should contact the National Anti-Corruption Hotline using:

- Freecall : 0800 701 701

3.6 National Department of Health's Commitment to Whistle Blowers

NDOH Ethics Officers and Office will respond to all concerns raised in good faith. Where appropriate, matters raised may be investigated by management, internal audit, or through disciplinary process and in certain circumstances be referred to other investigating authorities.

In order to protect all individuals concerned initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Some concerns may be resolved without the need for investigation. If however urgent action is required this may also be taken before any investigation is conducted.

Within ten working days of a concern being raised, the Ethics Officer involved will either institute the necessary plans for an investigation or, where more information is required after an assessment of the availability of that information, either defer or close the case. Only with the permission of the whistle-blower will contact between the whistle-blower and the ethics or investigating officers take place. This contact will depend entirely on the nature of the matters raised and particularly the adequacy of the information provided.

Where possible and necessary, the officers involved may be required to meet in order to seek further information. Such meeting will be made with both the protection and confidentiality of the whistle-blower being paramount. Subject to any legal constraints, the whistle-blower will be kept informed of the progress and outcome of an investigation.

NDOH will take steps to minimise any difficulties that a whistle-blower may experience as a result of raising a concern. For example, if required to give evidence in criminal or disciplinary proceedings, NDOH will provide the necessary time, resource and ensure adequate advice is provided with regard to the proceedings.

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3.7 The Responsible Officer

The Directorate: Forensic Investigations have the overall responsibility for maintenance and operation of this policy and maintain a record of concerns raised (in a form which does not endanger the whistle-blowers confidentiality) and reports as necessary to the Director-General and the Risk Committee.

RECOMMEND/NOT RECOMMEND FOR APPROVAL

Chairperson of the Risk Committee

Signature: *[Handwritten Signature]*

Date: 28/5/2012

APPROVED/NOT APPROVED

ACCOUNTING OFFICER

Signature: *[Handwritten Signature]*

DATE: 02/07/2012

