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TRANSNET



GROUP INTERNAL CONTROL



ANTI FRAUD POLICY

Policy Number:	11/2011
Version Number:	
Effective Date:	For both bargaining unit and package employees as from
Review Date:	n/a
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Signature:	12/04/12

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1. OBJECTIVES

- 1.1 The objective of the Anti Fraud Policy is to effectively manage Transnet's exposure to fraud, corruption and / or other economic crimes. The Anti Fraud Policy is one of the key elements of Transnet's Fraud Risk Management Plan and is required to be reviewed and / or updated on an annual basis.
- 1.2 Transnet commits to a zero tolerance stance towards fraud, corruption and / or other economic crimes, by responding to reported allegations, in the most effective manner possible, in order to prevent or limit the occurrence of any potential or actual losses or damage. Transnet will take prompt and appropriate action when fraud, corruption and / or other economic crimes are detected or suspected.
- 1.3 The purpose of this policy is to:
- 1.3.1 create awareness as to what constitutes fraud, corruption and / or other economic crimes;
 - 1.3.2 detect, minimise and prevent fraud, corruption and / or other economic crimes at Transnet;
 - 1.3.3 create an environment and culture for Transnet employees to understand that dishonest acts will be detected and addressed, promptly and adequately; and
 - 1.3.4 create awareness around the procedure to be followed when managing allegations of fraud, corruption and / or other economic crimes.
- 1.4 This policy must be read in conjunction with all Transnet's policies and procedures, with specific reference to the:
- 1.4.1 Code of Ethics;
 - 1.4.2 Declaration of Interest and Related Party Disclosures Policy;
 - 1.4.3 Disciplinary Code & Procedure;
 - 1.4.4 Grievance Policy;

- 1.4.5 Group Compliance Policy;
- 1.4.6 Group Legal Policy;
- 1.4.7 Group Operational Risk Management Policy;
- 1.4.8 Group Public Finance Management Act Policy;
- 1.4.9 Gifts Policy; and
- 1.4.10 Whistle Blowing Policy.

2. SCOPE

- 2.1 This policy applies to all employees of Transnet, as well as temporary, casual or contract workers and other relevant stakeholders within Transnet.

3. DEFINITIONS

- 3.1 "*Assets*" include, but are not limited to: fixed property (buildings), movable assets (locomotives, cash, stock, vehicles and computers), other intangible assets (intellectual property rights, share certificates and cheques), system software and information in soft copy.
- 3.2 "*Corruption*" is committed by any person who directly or indirectly –
 - (a) accepts, agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or
 - (b) gives, agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner –
 - (i) that amounts to the -
 - illegal, dishonest, unauthorised, incomplete, or biased misuse or selling of information or material acquired in the course of

the, exercise, carrying out or performance of any powers, duties or functions arising outside of a constitutional, statutory, contractual or any other legal obligation;

(ii) that amounts to-

- the abuse of a position of authority;
- a breach of trust; or
- the violation of a legal duty or a set of rules;
- achieving an unjustified result; or
- any other unauthorised or improper inducement to do or not to do anything.

- 3.3 "*Confidential Information*" Non-public information that includes, but is not limited to: Transnet reports, technical data, processes, procedures, methodologies, formulas, designs, data, strategies, etc.
- 3.4 "*Economic Crime*" refers to illegal acts committed on behalf of or against a business in order to gain economic benefit.
- 3.5 "*Employees*" are persons employed on both permanent and fixed-term contracts or employed on temporary or casual terms by Transnet (including bargaining and non-bargaining units).
- 3.6 "*Favouritism*" refers to special treatment that is provided to an individual or group.
- 3.7 "*Fraud*" refers to an unlawful and intentional misrepresentation, which causes actual prejudice or which is potentially prejudicial to another person.
- 3.8 "*Fronting*" refers to suppliers that misrepresent their abilities to render the required goods or services or instances that the suppliers misrepresent their ownership.

- 3.9 "*Grievance*" is the dissatisfaction or feeling of an unfair practice or working conditions experienced by an employee or group of employees.
- 3.10 "*Hacking*" is the malicious act of breaking into computer systems.
- 3.11 "*Kickback*" refers to a payment made by vendors and / or third parties to an employee in order for them to receive favourable treatment.
- 3.12 "*Management*" includes: Transnet Supervisors, Line Managers, Junior/Senior Managers, General Managers, and ExCo members, both in the Corporate Office and the Divisions.
- 3.13 "*Nepotism*" is the favouring of close friends or family which is not based on ability and / or technical competence.
- 3.14 "*PRECCA*" means the Prevention and Combating of Corrupt Activities Act.
- 3.15 "*Operating Divisions*" means the following Transnet businesses: Transnet National Ports Authority, Transnet Pipelines, Transnet Port Terminals, Transnet Freight Rail, Transnet Rail Engineering, Transnet Property, Transnet Corporate and Transnet Capital Projects.
- 3.16 "*Theft*" refers to the unlawful and intentional appropriation of property which belongs to a person / entity with the intention of permanently depriving the person / entity of the property without their consent.
- 3.17 "*Transnet*" means Transnet Limited, including its Operating Divisions ("OD").

4. PRINCIPLES

- 4.1 All employees of Transnet are expected to refrain from acts of fraud, corruption and / or other economic crimes and are encouraged to report any suspicions thereof.
- 4.2 Transnet has a "zero tolerance" approach towards fraud, corruption and / or other economic crimes and places a strong emphasis on the prevention of these offences, so as to persuade employees not to commit or partake in such practices, by:

- 4.2.1 reducing opportunities to commit fraud, corruption and / or other economic crimes;
- 4.2.2 highlighting control weaknesses and / or areas of concern; and
- 4.2.3 establishing deterrence measures for fraud, corruption and /or other economic crimes.
- 4.3 It is the responsibility of Transnet Management to ensure that all employees are made aware of and receive appropriate training and education with regard to this Policy.
- 4.4 Employees must report all suspected or actual incidents of fraud, corruption and / or other economic crimes immediately, in line with the requirements of the Transnet Whistle Blowing Policy.
- 4.6 Fraud, corruption and / or other economic crimes includes, but is not limited to:
 - 4.6.1 Accepting / requesting kickbacks from suppliers;
 - 4.6.2 Influencing others to commit a crime by providing them with something in return;
 - 4.6.3 Falsification of documentation e.g. qualifications, reports, etc;
 - 4.6.4 Improper use of Transnet's computer systems, hacking and software piracy;
 - 4.6.5 Viewing and sending pornographic or offensive material to Transnet employees and external parties;
 - 4.6.6 Maladministration or financial misconduct in handling or reporting of money, financial transactions, other assets or the management and awarding of contracts to suppliers or service providers;
 - 4.6.7 Nepotism and favouritism;
 - 4.6.8 Procurement fraud (falsifying, fronting, forging quotations, or irregularly eliminating suppliers from the formal process);

- 4.6.9 Theft of inventory, revenue and / or Transnet assets;
- 4.6.10 Not obeying or following the requirements as stipulated within Transnet policies, procedures and any governing legislation applicable to Transnet;
- 4.6.11 Falsification, inflation or misrepresentation of travel and subsistence claims (false charges for accommodation and meals; inflated charges on meals, false mileage claims);
- 4.6.12 Abuse of sick leave or other permissible leave;
- 4.6.13 Overtime abuse and / or falsification of timesheets; and
- 4.6.14 Running personal business during office hours.
- 4.7 In all cases that come to the attention of Transnet, be it criminal or any other irregularity, Transnet will, where appropriate, ensure that the matter is investigated internally by the appropriate persons, and that appropriate disciplinary action is taken in accordance with the disciplinary code and procedure.
- 4.8 The initiation of disciplinary action against an employee does not preclude Transnet from exercising its rights in law of pursuing any criminal or civil actions, where appropriate.

5. ACCOUNTABILITY

Accountable:	Group Chief Financial Officer
Responsible:	Group Internal Control
Consultation:	Employees
Support:	Group ER & HR
Monitors and maintains:	Group Internal Control

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ANNEXURE A: FOUR ELEMENTS OF FRAUD

	Element	Explanation
1	<i>Unlawfulness</i>	Requires that the action must be wrong based on the legal conviction of the community.
2	<i>Intention</i>	The will to commit an act or cause a result, in the knowledge that such act or result is unlawful. The person making the misrepresentation must have intended to deceive another.
3	<i>Misrepresentation</i>	A false or untrue statement made by one person to another. It may take the form of words alone; words and conduct; or conduct alone. A misrepresentation may also comprise of a failure to disclose certain information in circumstances where there is a duty to have disclosed such information.
4	<i>Prejudice or potential prejudice</i>	In this sense a mere falsehood is not fraud, the crime was committed only if the falsehood brings about some harm to another. This harm is called "prejudice". In this context the victim would have suffered the prejudice by reason of relying upon the misrepresentation. Potential prejudice is also sufficient if it is reasonably possible that the victim, relying on the misrepresentation, would be likely to suffer harm.

ANNEXURE B: WHAT IS CORRUPTION?

The corruptor (active) is the person that initiates the act of *corruption*. This could be an internal staff member that approaches a vendor and offers to act/not to act in a certain manner if he receives a gratification. It could also be a vendor that offers a gratification to a staff member in order for that staff member to act/not to act in a certain way.

The corruptee (passive) is the person that responds to an act of *corruption*. As indicated in the example above this could be either the internal staff member or the vendor.

The act of *corruption* is completed even if the gratification is only offered and the corruptee offers to accept. This means that the gratification does not have to change hands for the act of *corruption* to be completed.

Accessories after the fact persons who enter into any dealing in relation to the gratification or using or holding, receiving or concealing the gratification received by the corruptee, are also guilty of an offence.

There are four principal types of *corruption*:

- Bribery;
- Illegal gratuities;
- Conflicts of interest; and
- Economic *extortion*.

The Prevention and Combating of Corrupt Activities Act 12 of 2004 ("PRECCA"), also identifies specific offences in respect of *corruption*. These include:

Sections 3 to 9 of PRECCA contain specific offences that constitute corrupt activities. Of particular significance to *Transnet*, due to the nature of the business, are sections 12, 13 and 14 of the Act which stipulate the following:

Specific crime of corruption	Offer/accept gratification to act/not to act
Contracts (Sec 12)	<p><u>In order to improperly influence:</u></p> <ul style="list-style-type: none"> • The promotion, execution or the procurement of any contract with a public body. • The fixing of the price, consideration or other moneys stipulated or otherwise provided for in any such contract. <p><u>Obtain or retain a contract with a public body:</u></p> <ul style="list-style-type: none"> • For the purposes of promoting the election of a candidate or a category or party of candidates to the legislative authority. • With the intention to influence or affect the result of an election conducted for the purpose of electing persons to serve as members of the legislative authority.
Tenders (Sec 13)	<p><u>Personally or by influencing another person:</u></p> <ul style="list-style-type: none"> • Award a tender in relation to a contract for performing any work, providing any service, supplying any article, material or substances or performing any other act. • Upon an invitation to tender for such contract, make a tender for that contract which has as its aim to cause the tenderee to accept a particular tender. • Withdraw a tender made by him or her for such contract. • Inducement by another person to withdraw a tender.
Auctions (Sec 14)	<p><u>Any person who:</u></p> <ul style="list-style-type: none"> • In order to conduct the bidding process at an auction in a manner so as to favour or prejudice a specific person. • In order to influence a person to refrain from bidding at an auction. • Participates, personally or by influencing any other person so to participate, in the bidding process at an auction in such a manner so as to get a specific offer for the article or to sell the article at a specific amount or sell the article to a specific bidder.