




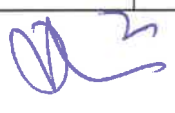
Annexure D

ANTI-FRAUD AND CORRUPTION POLICY

FOR

2022/23 – 2024/25 FINANCIAL YEARS

A. POLICY APPROVAL

Document title	Fraud Prevention Policy				
Document author	Chief Executive Officer				
Synopsis	This document contains the MDDA Fraud Prevention Policy				
Document owner	Chief Risk Officer				
Document description	To facilitate the development of controls that will assist the prevention and detection of fraud and corruption and provides guidelines.				
Final Version	V1				
Number of pages	12				
Recommended by the Chief Executive Officer	Full acceptance		Partial acceptance		Conditional acceptance
Signature:					
Date:	30 April 2023				
Recommended by the Audit and Risk Committee	Full acceptance		Partial acceptance		Conditional acceptance
Signature:					
Date:					
Acceptance status by the MDDA Chairperson of the Board	Full approval		Partial approval		Conditional approval
Signature:					
Date:					

B. LOCATION OF THE MASTER FINAL VERSION OF THE POLICY

(AFTER CHAIRPERSON OF THE MDDA BOARD) To facilitate future access and use the master final version of this policy, the original signed Policy will be archived on file in Registry; an Adobe Acrobat (pdf) copy will be placed on the intranet. This policy will be reviewed and approved by the Board annually.

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1. POLICY STATEMENT

- 1.1 Fraud represents a significant potential risk to the entity's assets, resources, service delivery efficiency and reputation. The entity will not tolerate fraudulent, or dishonest or corrupt activities, whether internal or external to the organisation and will vigorously pursue and prosecute any parties by all legal means available which engage in such practices or attempt to do so.

2. PURPOSE

- 2.1 The purpose of this policy is to articulate the Agency's philosophy on fraud and corruption. The MDDA adopts a comprehensive approach to the management of fraud risk.
- 2.2 Furthermore, this policy seeks to facilitate the development of controls which will assist with the prevention and detection of fraud and corruption, as well as to provide guidelines on how to respond should instances of fraud and corruption be identified.

3. BACKGROUND

- 3.1 During 1997, the government initiated a national anti-corruption campaign. The campaign progressed to a National Anti-corruption Summit held in April 1999 at which all sectors of society (public and private) committed themselves to establishing sectoral anti-corruption strategies. At the same time, they also committed to the co-responsibility for fighting corruption through the coordination of these sectoral strategies. A range of other resolutions emanated from this Summit and all the sectors committed to implementation thereof.
- 3.2 The Prevention and Combating of Corrupt Activities Act of 2004 came into operation on 27 April 2004. The objective of the Act, among others, is to provide for the offence of corruption and offences relating to corrupt activities.



4. LEGISLATIVE FRAMEWORK

- 4.1 The provisions of Section 38(1)(a)(i) of the Public Finance Management Act, 1999 (Act No. 1 of 1999) (the "PFMA") as amended, 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 system of financial and risk management and internal control.
- 4.2 The sections 3.2.1 and 27.2.1 of the Treasury Regulations require that risk assessment is conducted on 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 entity.
- 4.3 Furthermore, this policy was also established to give effect to the various pieces of legislation such as Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), Protected Disclosure Act, 2000 (Act 26 of 2000), and Code of Conduct for the Public Service.

5. SCOPE OF THE POLICY

- 5.1 This policy applies throughout the organisation in as far as fraud prevention is concerned. It should be read in conjunction with the fraud prevention strategy and the whistle blowing policy which detail how to implement the policy, report fraud, and further protect the whistle blowers.

6. THE CONCEPT OF FRAUD PREVENTION

- 6.1 Fraud prevention is a process that is adopted by the entity in putting mechanisms in place to manage the organisation's vulnerability to fraud. Such mechanisms are designed to prevent, deter, and detect fraud. As part of the Enterprise Risk Management (ERM), it is the responsibility of the Accounting Authority to establish structures to address the threat of fraud.

7. DEFINITION OF FRAUD AND CORRUPTION

7.1.1 In South Africa the Common Law offence of fraud is defined as “the unlawful and intentional making of a misrepresentation which causes actual and or potential prejudice to another”. The term “fraud” is also used in a wider sense by the general public. In the Anti-Fraud and Corruption Strategy, the term is used in its widest possible meaning and is intended to include all aspects of economic crime and acts of dishonesty. In other words, fraud can be described as “any conduct or behaviour of which a dishonest representation and/or appropriation forms an element”.

The general offence of corruption is contained in Section 3 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004). This section provides that:

“Any person who, directly or indirectly—

- (a) accepts or 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 or 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 —
 - (aa) illegal, dishonest, unauthorised, incomplete, or biased; or
 - (bb) 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 out of a constitutional, statutory, contractual or any other legal obligation.

(ii) that amounts to —

(aa) the abuse of a position of authority.

(bb) a breach of trust; or

(cc) *the violation of a legal duty or a set of rules.*

(iii) designed to achieve an unjustified result; or

(iv) that amounts to any other unauthorised or improper inducement to do or not to do anything is guilty of the offence of corruption."

8. FORMS OF CORRUPTION

Corruption takes various forms in the public service and elsewhere in society. The following are examples of different types of corruption.

8.1 Bribery

8.1.1 Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of public servants.

8.2 Embezzlement

8.2.1 This involves theft of resources by persons who control such resources.

8.3 Fraud

8.3.1 Any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.

8.4 Extortion

8.4.1 Pressurise a person or entity to provide a benefit to a public servant, another person, or an entity, in exchange for acting (or failing to act) in a particular manner.

8.5 Abuse of Power

8.5.1 The use by a public servant of his or her vested authority to improperly benefit another public servant, person, or entity (or using vested authority to improperly discriminate against another public servant, person or entity).

8.6 Conflict of Interest

8.6.1 The failure by a public servant to act or to consciously fail to act on a matter where the public servant has an interest or another person or entity that has some form of relationship with the public servant has an interest inter alia:

- All officials who do remunerative work outside of the Public Service should receive approval from the Accounting Authority.
- All Bid Committee members in the Agency should sign declaration of interest forms to avoid any potential conflict.
- All declarations by Bid Committee members should be regularly scrutinised against all bid applications.

8.7 Abuse of Privileged Information

8.7.1 This involves the use, by a public servant of privileged information and knowledge that a public servant possesses as a result of his/ her office to provide unfair advantage to another person or entity to obtain a benefit.

8.8 Favouritism

8.8.1 The practice of giving unfair preferential treatment to one person or group at the expense of another. Unfair preference, preferential treatment, special treatment, preference, favour, one sidedness, prejudice, bias, inequality, unfairness, inequity, discrimination, positive discrimination, reverse discrimination the state or condition of being the competitor thought most likely to win.

8.9 Nepotism

8.9.1 A public servant ensuring that family members and friends are appointed to public service positions or that family members receive contracts from the state is regarded as nepotism. These manifestations are by no means exhaustive as corruption appears in many forms and it is virtually impossible to list all of these.

9. KEY PILLARS OF FRAUD AND CORRUPTION

The Fraud Prevention Strategy should focus on the following key pillars:

9.1 Prevention

9.1.1 This is the cornerstone of the entity's approach to fraud prevention and will be conducted by creating awareness and, training all staff and parties that may be susceptible or fall victim to fraud.

9.2 Detection

9.2.1 Detection consists of the various ways in which the entity will detect fraud and corruption. This will be through tip-offs, management referrals, whistle-blowing and internal controls and internal reporting. Detection will identify areas of exposure to fraud and gaps in internal controls and enable management to improve these.

9.3 Investigation

9.3.1 The entity's Anti-Fraud Prevention Strategy contains the following investigation procedures to ensure uniformity in the reporting and investigation of incidents of fraud and corruption:

- Reporting of suspicious acts.
- Preliminary investigation of incidents reported.
- Investigation procedure.
- Involvement of other law enforcements agencies.

9.3.2 Investigation procedures including who may undertake an investigation, are detailed in the annexure – Procedure on Fraud Reporting.

9.4 Resolution

9.4.1 Once the investigation is completed, an internal announcement will be made. Depending on the results of the investigation, this will either clear any rumours circulating about the suspect or demonstrate to staff that management takes and acts seriously on suspicions and tip-offs.

9.4.2 A final report on the investigation will be prepared by the Internal Audit unit or service provider or the investigating team to the Accounting Authority. This report should indicate what evidence has been gathered, outline conclusions based on such evidence and control weaknesses identified and be distributed accordingly. All evidence is to be retained by the investigating team for use in possible criminal prosecution and recovery of loss by the organisation.

9.4.3 After the conclusion of the process, the identified internal control weaknesses will inform identification of emerging risks.

9.5 ANTI-FRAUD PROGRAMMES

9.5.1 The MDDA has developed the following programmes to address the threat of fraud and corruption:

- Recruitment policy.
- Funding policy
- Finance and procurement policies.
- Fraud awareness training (indicators of fraud).
- Fraud risk assessment and response plans.
- Ethics Policy
- Theft and Losses
- Whistle blowing policy.

10. ROLE PLAYERS

10.1 The entity has taken a stance that management of fraud and corruption threats like any other risks is the responsibility of everyone in the organisation. The Chief Executive Officer has delegated the ownership and communication of fraud risk management to business unit managers/line managers/division managers/employees in specific areas of the organisation (refer to the organisation's Anti-Fraud and Corruption Strategy and Plan).

10.2 The Chief Executive Officer bears the ultimate responsibility for fraud and corruption risk management within the organisation. This includes overseeing the coordination of risk

assessments, investigation of suspected fraud and corruption, and facilitation for the reporting of such instances.

11. RISK MANAGEMENT OVERSIGHT

11.1.1 Executive Authority

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

11.1.2 Internal Audit

The Internal Audit unit reports to the Audit and Risk Committee. The Internal Audit must evaluate the effectiveness of the entire system of fraud risk management and provide recommendations for improvement where necessary.

12. POLICY IMPLEMENTERS

12.1 Accounting Authority

12.1.1 The Chief Executive Officer is accountable for the organisation's overall governance of fraud risk. By setting the tone at the top, the Accounting Authority promotes accountability, integrity and other factors that will create a positive control environment. The Chief Executive Officer is the custodian of the fraud prevention and whistle-blowing policies and plans.

12.2 Management

12.2.1 Management is responsible for executing their responsibilities outlined in the fraud risk management strategy and for integrating fraud risk management into the operational routines.

Management will identify areas susceptible to fraud and corruption within their areas of responsibility and immediately report any occurrence to the Chairperson of the Audit and Risk Committee, MDDA Hotline (mdda@whistleblowing.co.za) or the Public Service's National Anti-Corruption Hotline (NACH) on 0800 701 701 or Chairperson of the Board if the CEO is allegedly involved.

12.3 Other Officials

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

12.3.2 Employees shall report all incidents related to fraud and corruption coming to their attention to the Chief Auditor Executive, who is responsible for ensuring there are internal controls to prevent all fraud and corruption practices. Should they not get the support through the above channels, the incidents or cases should be reported to the Chairperson of the Audit and Risk Committee, MDDA Hotline (mdda@whistleblowing.co.za) or the National Anti-Corruption Hotline (NACH): 0800 701 701.

12.3.3 Members of the public and other partners such as suppliers/service-providers should report directly to the National Anti-Corruption Hotline 0800 701 701 or MDDA Hotline (mdda@whistleblowing.co.za).

12.4 RISK MANAGEMENT SUPPORT

12.4.1 Chief Risk Officer

12.4.1.1 The Chief Risk Officer is appointed by the Audit and Risk Committee to support the Accounting Authority discharge responsibilities for risk management and the prevention of fraud and corruption within the organisation. The primary responsibility of the Chief Risk Officer is to bring to bear his/her specialist expertise to assist the entity to embed risk management and leverage its benefits to enhance performance.

12.4.1.2 The Chief Risk Officer is the coordinator of fraud risk management activities throughout the organisation.

13. RISK MANAGEMENT ASSURANCE PROVIDERS

13.1 Audit and Risk Committee (ARC)

13.1. The role of ARC in fraud risk management is to provide an independent objective assurance on the effectiveness of the organisation's system of fraud risk management.

13.2 The Committee's role is to review the fraud risk management processes of the entity, the effectiveness of fraud risk management activities, the key fraud risks facing the organisation, and the responses to address these key fraud risks.

13.2 External Audit

13.2.1 The external auditor (Auditor General South Africa) provides an independent opinion on the effectiveness of fraud risk management systems. The AGSA annually produces audit reports on all public entities, municipalities and public institutions. Over and above these entity-specific reports, the audit outcomes are analysed in general reports that cover PFMA cycle.

13.2.2 Forensic Investigations

The responsibility to conduct investigations relating to the actions listed in this strategy resides with the Board, the Chief Executive Officer and the Senior Managers appointed by the Board within the organisation who have the advisory and supporting assistance from external state agencies which may include any of the

following:

- Internal and external audit services;

- State Attorney facilitated through GCIS;
- External investigating agencies, e.g. the SAPS, National Treasury, where matters fall within their mandate;
- External consultants, e.g. Forensic Accounting consultants;
- Office of the National Director of Public Prosecutions;
- Special Investigating Units established under any law;
- The Public Protector; and
- Any other authority as may be determined by Board.

The role of the investigations is to:

- Conduct and prepare reports on investigations with recommendations to management;
- Report on finalised cases to enable the organisation to effectively manage incidents and take appropriate steps to prevent recurrences
- Report on finalised cases of investigations identified at the organisation.
- Present the outcomes of the investigations to the relevant institutions with recommendations, e.g. civil recoveries, disciplinary action or referring the case to the law enforcement institutions for criminal investigation

14. CONFIDENTIALITY

14.1 The investigating official or team must treat all information gathered for the purpose of carrying out investigations into all fraud and corruption practices as confidential. The information shall not be disclosed to any other party except when required by a law-enforcement agency. This is critical as all suspected wrongdoers are regarded as innocent until proven guilty and to prevent any undue damage to their reputation.

14.2 The PAJA Act, 2000 (Act 2 of 2000) places the responsibility to the Chief Executive Officer to release authorised information. No information shall be released to the media or any other party without express permission from the Chief Executive Officer.

15. ADMINISTRATION

15.1 The responsibility for custody of this document rests with the Accounting Authority. Requests for changes to this policy should be directed to the Accounting Officer in writing. The Accounting Authority will consider such requests in consultation with the Audit and Risk Committee, considering the results of the review of the effectiveness of the Anti-Fraud and Corruption Strategy, and Prevention Plan, amongst others.

16. COMPLIANCE

- 16.1 All MDDA officials are expected to comply with this policy and any other supportive anti-fraud and anti-corruption directives.
- 16.2 All employees are reminded to familiarise themselves and comply with the explanatory manual on the Code of Conduct for the Public Service as a guideline.