



MINISTRY OF FINANCE AND ECONOMIC MANAGEMENT

Government of the Cook Islands

ANTIFRAUD AND ANTICORRUPTION POLICY

2018

INTRODUCTION

The Cook Islands have ratified the United Nations Convention Against Corruption (“UNCAC”) which acknowledges that “corruption hurts the poor disproportionately undermines a Governments ability to provide basic services, feeding inequality and injustice and discouraging foreign aid and investment. Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development” (UNCAC, 2004, p.iii). The Cook Islands Government is committed to the provisions of the ADB/OECD Asia Pacific Anti-corruption Action Plan Initiative in 2003 (“APACAP”). Local anti-corruption legislation, which includes but is not limited to the bribery provisions of the Crimes Act, the Proceeds of Crime Act, Mutual Assistance in Criminal Matters Act, the Ministry of Finance and Economic Management (MFEM) Act and the Public Expenditure Review Committee and Audit (PERCA) Act. The Government confirms the importance of collective leadership, teamwork and partnerships within and outside government to effectively combat corruption and fraud, and the need to involve the community and private sector. However the Government acknowledges the limited resources and therefore the effectiveness of a cooperative approach in the fight against corruption as opposed to individual efforts. The Government reinforces their commitment to promote and strengthen anti-corruption measures and practices (Cabinet Minute CM (11) 0369).

In this context, the Ministry of Finance and Economic Management (MFEM), has developed this Anti-Fraud and Anti-Corruption Policy.

MFEM POLICY ON FRAUD AND CORRUPTION

The MFEM considers any kind of fraud and corruption as very detrimental to the realisation of its vision and therefore MFEM will not tolerate fraud and corruption in its activities and operations.

The MFEM will focus on the following key policy objectives:

- Establishing a systematic commitment to the implementation of the Antifraud and Anticorruption Policy for all staff members, consultants and service providers who collaborate with the MFEM; this includes consequences for involvement, directly or indirectly, in an act of fraud, corruption or wrongdoing.
- Establishing proactive prevention by means of a due diligence obligation for MFEM staff.
- Considering integrity and impartiality in all stages of tenders examination and assessment, selection of suppliers and procurement procedure or during services implementation or payment. Each member involved, from within or external to the MFEM, has to commit to the fight against fraud, corruption and wrongdoing.
- Providing an independent and confidential whistleblowing procedure to report any reprehensible practice, conduct necessary investigations, and regulate reported acts.

WHAT IS FRAUD/CORRUPTION?

The definition of **fraud** varies among countries and organisations, however in simple terms, fraud is any act or omission that intentionally misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation. For the purposes of this Policy, fraud includes:

Corrupt practice, which is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;

Fraudulent practice, which is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

Coercive practice, which is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

Collusive practice, which is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;

Abuse, which is theft, waste or improper use of assets related to government activity, either committed intentionally or through reckless disregard;

Conflict of interest, any situation in which a party has interests that could improperly influence that party's performance of official duties and responsibilities, contractual obligations, or compliance with applicable laws and regulations;

Obstructive practices, which includes (a) deliberately destroying, falsifying, altering, or concealing of evidence material to an investigation; (b) making false statements in order to materially impede an investigation; (c) threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or (d) materially impeding contractual rights of audit or access to information

Retaliation against whistle-blowers or witnesses, which is any detrimental act, direct or indirect, recommended, threatened or taken against a whistle-blower or witness, in a manner material to a complaint because of the report or cooperation with an investigation by the whistle blower or witness.

SCOPE

This Policy applies to all operations of MFEM, including those projects/activities receiving funding from MFEM.

As such, this Policy should be adhered to by:

- All MFEM staff;
- Relevant persons or agencies involved in activities supported by MFEM in accordance with its vision, legislative and policy frameworks; and
- Consultants, suppliers and service providers of MFEM.

To comply with the Policy, the MFEM is generally responsible for:

- The assessment of any material integrity, compliance or reputational concern;
- The identification of possible remedies and risk mitigating measures, if any available; and
- The timely reporting of such concerns to the Audit Office (Office of the Public Expenditure Review Committee and Audit), or any other relevant authority.

MFEM ACTIONS FOR POLICY IMPLEMENTATION

1. Establishing a systematic commitment to the implementation of the Antifraud and Anticorruption Policy for all staff members, consultants and service providers who collaborate with the MFEM; this includes consequences for involvement, directly or indirectly, in an act of fraud, corruption or wrongdoing.

1.1 The early detection of possible compliance and integrity concerns at the appraisal stage allows the MFEM to avoid entering into relationships or activities which could expose the MFEM to serious financial and reputational risks and contributes to the overall integrity and transparency of the environment in which the MFEM operates.

1.2 MFEM expects all agencies who receive funding support from the MFEM to provide full and active support for any investigation performed by the Audit Office under the direction of the Public Expenditure Review Committee (PERC), in connection to any fraud and corruption conduct.

1.3 The MFEM will exercise monitoring oversight of transactions, after signing of the relevant agreements, to ensure that respective business activity is implemented as planned, and that any risks that occur, are managed appropriately.

1.4 The MFEM will also continuously consider and implement cost effective ways to strengthen project monitoring and supervision. Such monitoring is aimed at detecting integrity and compliance concerns which may arise after the approval, including, but not limited to cases of restructuring and change of personnel within agencies.

1.5 MFEM reserves the right to take appropriate action in respect of any violation of this Policy, including, without limitation the right to exercise remedies that are legally applicable. This may include the withdrawal of financial support provided by the MFEM and legal action.

1.6 MFEM reserves the right to inform the appropriate regulatory and/or judicial authorities of any suspected or alleged fraud or corruption conduct.

1.7 In addition to routine monitoring of operations, the MFEM could request an independent external auditor (either the CIAO or a private contractor), to carry out a Proactive Integrity Review (PIR). The objectives of a PIR are to:

- Help prevent and detect all fraud and corruption conduct at an early stage;
- Determine if contracts were implemented according to their terms;
- Ensure that funds were used for the intended purposes; and
- Recommend improvements to policies, procedures and controls, so as to mitigate opportunities for fraud and corruption in the current and future activities.

1.8 The contractual basis for MFEM financial support shall, to the extent feasible, include appropriate clauses, which allow MFEM to take action to deal with breaches of the relevant undertakings under financing agreements, including grant funding agreements.

1.9 The MFEM will also take legal steps to recover misapplied funds, whenever suitable legal remedies are available and consequent action is appropriate.

1.10 Any agency and/or individual that is found to have engaged in fraud and corruption may be excluded from any grant financial support from MFEM. This includes an agency and/or individual benefitting as a financial intermediary or final beneficiary.

2. Establishing proactive prevention by means of a due diligence obligation for MFEM staff.

2.1 Measures to combat fraud and corruption will be ineffective if the staff are unfamiliar with the provisions of MFEM's Antifraud and Anticorruption Policy or fail to exercise due diligence in the performance of their duties. Therefore MFEM staff are required to familiarise themselves with the contents of this Policy, and be prepared to respond appropriately as required.

2.2 In assessing/evaluating project proposals seeking funding support from MFEM, due diligence should be undertaken to ensure that the project proposal is sound and meets the relevant funding criteria. The MFEM Due Diligence Checklist should be completed, to establish that the implementing agency has in place the relevant prerequisites to prevent fraud, corruption and other wrongdoing.

2.3 For larger and more complex projects, applying for more than NZD \$1 million funding; financial management assessment should be conducted to ensure that the implementing agency has the capacity to use the funds economically and efficiently for the purposes intended and to avoid fraud and corruption. The MFEM Financial Management Assessment Questionnaire should be completed by the implementing entity and validated by the MFEM Development Program Manager.

2.4 Any allegations of corrupt or illicit behaviour by MFEM staff will be assessed to determine the creditability of the accusations and where credible, investigated thoroughly. The MFEM may draw upon additional expertise outside of MFEM if needed.

3. Considering integrity and impartiality in all stages of tenders examination and assessment, selection of suppliers and procurement procedure or during services implementation or payment. Each member involved, from within or external to the MFEM, has to commit to the fight against fraud, corruption and wrongdoing.

3.1 MFEM will ensure that procurement guidelines are enforced rigorously to avoid delays, extensions, and excessive change orders.

3.2 In the context of procurement rules applied by the MFEM, tenderers involved in fraud and corruption conduct, may be excluded from being considered from procurement processes.

4. Providing an independent and confidential whistleblowing procedure to report any reprehensible practice, conduct necessary investigations, and regulate reported acts.

4.1 The MFEM Whistleblowing Procedures provides staff with a robust framework within which to report fraud and corruption conduct.

4.2 Notwithstanding the obligation of the MFEM staff to report on fraud and corruption conduct, or any material integrity and compliance concerns are promptly reported, as per the MFEM Whistleblowing Procedure.

REVIEW AND REVISION

As the MFEM gains experience in the application of this Antifraud and Anticorruption Policy, and lessons learned are appreciated, the MFEM may adjust this Antifraud and Anticorruption Policy. In light of this, MFEM will review its Antifraud and Anticorruption Policy after three years of being operational.

Policy Approved	21 March 2018
Policy Amended	