



Annexure 2a (ii): Fraud Prevention Policy and Response Plan

Fraud Hotline (Tip-off Anonymous)

Tel: 0800 701 701

Fraud Prevention Policy and Response Plan

INDEX

SECTION	Page
1 PREAMBLE	3
2 PURPOSE	3
3 LEGAL FRAMEWORK	1
4 DEFINITIONS OF KEY CONCEPTS	2
5 DIMENSIONS OF FRAUD AND CORRUPTION	3
6 POLICY STATEMENT - DETERRENCE	6
7 POLICY STATEMENT – DETECTION	8
8 REPORTING	14
9 SUMMARY	14

Fraud Prevention Policy and Response Plan

1. PREAMBLE

Responsibility for the prevention and detection of misconduct involving loss of assets rests with DITSONG Museums of South Africa (DMSA) Management. In particular, fraud, theft and corruption can generally be deterred and/or detected through the design, implementation and operation of adequate internal controls.

Internal controls may, however, fail to operate as designed and may be ineffective against fraud, theft and corruption, when committed with the collusion of employees and/or external parties or in other circumstances where Management has no direct control or where people are misplaced in positions of trust.

2. PURPOSE

The purpose of this document is to:

- to deter any staff or external parties from committing any acts of fraud, theft and corruption by instituting severely punitive consequence management if any of these are committed, swiftly and with maximum cost to the perpetrator
- determine responsibilities and lay down effective procedures for the deterrence and early detection of theft, fraud and corruption;
- clarify the responsibilities of DMSA management in safeguarding its assets and to set forth policy; and
- outline procedures regarding deterrence, detection, investigation and reporting of fraud, theft and corruption.

3. LEGAL FRAWEWORK

The following legislation, amongst others, deal with fraud and corruption in South Africa:

- Prevention and Combating of Corrupt Activities Act, Act 12 of 2004;
- Public Finance Management Act, Act 1 of 1999;
- Treasury Regulations;
- Anti-Fraud and Corruption Policy of the Government of South Africa;
- Protected Disclosure Act, Act 26 of 2000; and
- Public Service Act, 1994 and Public Service Regulations, 1999 and reference to the Code of Conduct for the Public Service.

DMSA has a range of interrelated policies and procedures that provide a corporate framework to counter fraudulent activities. These have been formulated in line with appropriate requirements and Acts, and include:

- Employee Code of Conduct and Ethics

Fraud Prevention Policy and Response Plan

- Strategic and Annual Performance Plans
- Supply Chain Management Policy
- Transport Policy
- Internal Audit Charter
- Internal Audit Plan
- Audit, Risk and Information Communication Technology Committee Charter
- Access Control Profiles to the Store Rooms of DITSONG National Museum of Cultural History
- The Cultural Institutions Act
- The Human Resources Policies
- Accounting Procedures

4. DEFINITION OF KEY CONCEPTS

4.1 Fraud

A more comprehensive definition that is often used is:

“Fraud is a wilful perversion of the truth made with intent to deceive and resulting in actual or potential prejudice to another”.

Fraud involves the misrepresentation of information both by overt acts, such as forgery, as well as by the concealment of and/or deliberate failure to record transactions. Usually fraud involves the concealment and/or falsification of financial information. The following elements are required to establish fraud:

- Misrepresentation
- Prejudice
- Unlawful act
- Intent

4.2 Corruption

Corruption can be defined as:

“the offering, giving, soliciting or acceptance of an inducement or reward which may improperly influence the action of any person.”

4.3 Deterrence

Deterrence may be defined as:

Fraud Prevention Policy and Response Plan

“the prevention and discouragement of crime or the hindrance of individuals in the perpetration thereof.”

4.4 Detection

Detection may be defined as:

“the revelation or bringing to light of crime and the speedy discovery of loss sustained, and the identification of individuals involved.”

5. DIMENSIONS OF FRAUD AND CORRUPTION

Corruption could take various forms within DMSA and elsewhere in society. The following are examples of different types of fraud and corruption:

5.1 Bribery

Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of public servants. This benefit may accrue to the public servant, another person or an entity. A variation of this manifestation occurs where a political party or government is offered, promised or given a benefit that improperly affects the actions or decisions of the political party or government.

Example: An employee accepts a cash payment in order to be awarded with a contract to deliver goods and services to DMSA.

5.2 Embezzlement/theft

This involves theft of resources by persons entrusted with the authority and control of such resources.

Theft consists of “the unlawful appropriation of anything capable of being stolen, with intent to deprive the owner thereof of his/her ownership. This includes intellectual assets and any other interest of the organisation whether tangible or intangible.”

Within the context of DMSA, theft usually entails the unauthorised and unlawful removal of assets belonging to the organisation or to other personnel or visitors to the museum by staff members

Example: Employees that steal cell phones and notebooks and in turn sell this to the public.

5.3 Fraud

This involves actions or behaviour by an employee or other person or entity that fools others into providing a benefit that would not normally accrue to the employee, or other persons or entity.

Example: An employee that registers a fictitious employee in order to collect the salary of that fictitious employee.

Replacing an original object with a fake or replica object

Fraud Prevention Policy and Response Plan

5.4 Extortion

This involves coercing 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.

Example: An employee threatens to remove a service provider from the database of approved service providers on the basis of fabricated invoices unless the service provider provides him/her with regular favours.

This involves an employee using his or her vested authority to improperly benefit another employee, public servant, person or entity (or using vested authority to improperly discriminate against another employee, public servant, person or entity).

A staff member does not register a donation made to the museum but instead passes it on to an external party in return for monetary reward or a favour.

Example: During a bidding process but before actual selection of a successful contractor, the head of a division expresses his or her wish to see the contract offered by a specific contractor with the intent of influencing the awarding of a contract to a specific contractor.

5.5 Conflict of interest

This involves an employee acting or failing to act on a matter where the employee has an interest or another person or entity that stands in a relationship with the employee has an interest.

Example: An employee considers quotations for a contract and awards the contract to a company of which his or her partner is a Director.

A curator buys or acquires an object that falls within the orbit of the museum's collections for his own collection

5.6 Abuse of privileged information

This involves the use of privileged information and knowledge that an employee possesses as a result of his or her office to provide unfair advantage to another person or entity to obtain a benefit, or to accrue a benefit him or herself.

Example: An employee has, as a result of his or her office, pre-knowledge of economic indicators such as the GDP and CPIX to be announced in the immediate future, and then informs friends and family to buy or sell certain shares or property that are affected by a sharp decrease or increase in the above indicators.

A curator knows where an object is stored and security measures in place or that is not working and supplies this information to any other employee or external party

5.7 Favouritism

This involves the provision of services or resources according to personal affiliation (for example ethnic or religious) of an employee.

Fraud Prevention Policy and Response Plan

Example: A regional office manager or provincial survey manager in a particular province ensures that only persons from the same social group are successful in quoting for the supply of food during training of fieldworkers/enumerators.

An external party requires an object to be restored and the museum does not have the facilities to restore the object but continually refers all outside callers to a preferred party. This preferred party assists the staff member with something in return.

5.8 Nepotism

This involves an employee ensuring that family members are appointed to positions or that family members receive contracts from DMSA.

Example: A manager appoints his or her sister's child to a position when a more suitable candidate has applied for the position.

The above illustration of the manifestations of fraud and corruption are by no means complete or exhaustive. Fraud and corruption appears in various permutations and degrees of intensity.

The following are indicators (red flags) that could be an indication of the potential existence of fraud and corruption within the organisation:

5.9 Indicators that employees may be susceptible to committing fraud

- Unusually high personal debts
- Living beyond one's means
- Excessive gambling habits
- Alcohol / drug problems
- Undue family or peer pressure to succeed
- Feeling of being underpaid
- Feeling of insufficient recognition for job performance
- Close association with suppliers
- Wheeler/dealer attitude
- Desire to "beat the system"
- Criminal record
- Not taking vacations
- Not allowing someone access to area of responsibility
- Undisclosed conflict of interest
- Rationalisation for conflicting behavioural patterns.

5.10 Indicators that DITSONG Museums of South Africa may be a target for fraudsters

- Lack of competent personnel
- Not enforcing clear lines of authority and responsibility
- Not enforcing proper procedures for authorisation of transactions

Fraud Prevention Policy and Response Plan

- Lack of adequate documents and records (documentary evidence)
- No separation of responsibilities between the various duties within a business cycle
- Inadequate disclosure of personal investment and other income
- Operating on a crisis basis
- Staff dissatisfaction
- Too much trust placed on key employees
- Failure to discipline violators of departmental policies
- Inadequate background and reference checking before hiring new employees
- Indicators of opportunities to commit fraud
- High turnover of key employees through resignation or dismissal
- Dishonest and dominant management
- Inadequate fraud prevention training programmes
- Complex business structures
- No effective internal audit function
- Continuous problems with regulatory agencies
- Large year-end and unusual accounting transactions.

6. POLICY STATEMENT – DETERRENCE

Deterrence consists of those actions taken to discourage the perpetration of fraud theft and corruption and to limit the losses accruing to DITSONG Museums of South Africa which may arise therefrom.

6.1 Responsibilities of DITSONG Museums of South Africa management

DMSA management in terms of section 51(1)(a)(i) of the Public Finance Management, 1999 is responsible for adopting sound accounting policies, for maintaining “effective, efficient and transparent systems of financial and risk management and internal control” that will, inter alia, assist in the production of adequate financial statements and deter theft and fraud.

DMSA management from the level equivalent to manager will be required to adopt and sign a policy document declaring a zero tolerance approach towards fraud, theft and other acts of dishonesty, thus committing themselves to assist in combating any such acts.

All staff members are responsible for the detection, prevention and reporting of fraud, corruption, theft, maladministration or any dishonest activities of a similar nature, within their areas of responsibility.

6.2 Code of Conduct for public servants

DMSA has adopted the “Code of Conduct for Public Servants” published in Part 2 of the Public Service Regulations, 1999, which gives clear guidelines on expected behaviour and re-enforces appropriate behaviour in the organisation. Each staff member will be issued with a copy of the Code of Conduct after receiving a letter of appointment. The Code of Conduct is also available to suppliers and stakeholders on their request.

It is the responsibility of DMSA employees to report all incidents of fraud, corruption, theft, maladministration or any other dishonest activities of a similar nature to his or her manager. If the employee or official is not comfortable reporting such matters to his or her manager, he or she should

Fraud Prevention Policy and Response Plan

report the matter to his or her manager's superior, with final recourse to the Head of Internal Audit or CEO. Employees may also report incidents by using the hotline if they wish to remain anonymous or for any other reason.

6.3 Staff declarations

DMSA recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees. In this regard, temporary and contract employees should be treated in the same manner as permanent staff.

- Employees are expected to follow standards of conduct laid down by the Institution's code of conduct for employees.
- All employees are required to declare in the Gifts Register for any offers of gifts or hospitality which are in any way related to the performance of their duties in relation to DMSA.
- Employees must declare any monetary interests in contracts that have been or are proposed to be entered into by DMSA.
- Employees may also voluntarily disclose any personal and private non-monetary interests in the Register of Gifts.

6.4 Council

Members of the Council are required to operate within:

- The relevant and applicable legislative framework
- In particular for promotion of fraud prevention. The PFMA and related Treasury regulations a paramount
- Council Charter
- DMSA Code of Conduct and Ethics
- DMSA Policies
- The Fraud Prevention Policy and Response Plan
- Shareholders Compact
- DMSA Strategic and Annual Performance Plans
- Furthermore, Council Members who are members of Council Sub-Committees should also comply to the relevant Committee Charters

6.5 Acknowledgement and Declaration Registers

- The CEO supported by the Council Secretariat should specifically bring these matters to the attention of Members of the Council. Members have to sign an undertaking to observe the code of conduct.
- Members of Council are required to provide specific information concerning their financial and other interests and keep this information up to date.
- The Council Secretariat must keep a register of the Members' of Council financial and other interests.
- All Council Members are required to declare in the Gifts Register for any offers of gifts or hospitality which are in any way related to the performance of their duties in relation to DMSA.

Fraud Prevention Policy and Response Plan

6.6 Responsibilities of Internal Audit Division

Internal Audit Division should fulfil its responsibilities in terms of the requirements of the PFMA and Internal Audit Charter to assist management to examine and evaluating the adequacy and effectiveness of internal controls in the safeguarding of assets, etc.

7. Policy Statement – Detection

Detection consists of “speedy identification of indicators pointing to the commission of fraud and/or theft and/or corruption.” These indicators should be such as to warrant an investigation. They may come to light from the control established by management, by auditors’ tests, and/or other sources, both within and outside DMSA.

7.1 The Protected Disclosures Act

The Protected Disclosures Act, 26 of 2000 makes provision for the protection of employees who make a disclosure that is protected in terms of this Act.

Any disclosure made in good faith and substantially in accordance with any procedure prescribed by the employee’s employer for reporting is considered a protected disclosure under this Act. An employee making a protected disclosure is protected from victimisation on the basis of the disclosure.

An employee or official, who suspects or reports suspected dishonest activity or such activity which he or she has witnessed, should be afforded the opportunity to remain anonymous should he or she so require.

7.2 Actions Constituting Fraud

The terms fraud, misappropriation, theft and corruption refer to, but are not limited to:

- | | |
|---|---|
| a. Loaning out artefacts and assets of the DMSA without following proper procedure. | b. Disclosing sensitive information regarding the safe keeping of high value artefacts. |
| c. Impropriety in the handling or reporting of money or financial transactions. | d. Substituting dummy artefacts in place originals without proper procedure. |
| e. Forgery or alteration of any document or account belonging to DMSA. | f. Destruction or removing of records. |
| g. Conflict of interest | h. Giving and receiving of bribes from suppliers. |
| i. Misuse of DMSA assets. | j. Excessive use of the telephone facility for private business. |
| k. Consistently arriving late for work. | l. Being absent from place of work without good reason. |
| m. Sloppy work output | n. Cheating about ones academic qualifications and experience. |
| o. Any dishonest or fraudulent act. | p. Concealment of material facts. |
| q. Collusion. | r. Embezzlement. |

Fraud Prevention Policy and Response Plan

- s. Extortion
- u. Conspiracy
- t. Theft
- v. Misrepresentation.

7.3 Disclosure/reporting methods

It is practice within DMSA to allow reporting of suspected theft, fraud and corruption anonymously to Internal Audit and to protect informants.

DMSA implemented a hotline 0800 701 701, thus enabling the reporting of theft, fraud and other suspicious activities. Anyone reporting any such activities will have the right to anonymity and all calls will be treated with sensitivity. Details of the hotline have been made available to all staff.

The hotline page is designed to achieve the following:

- To deter potential fraudsters by making all employees and stakeholders aware that DMSA is not a soft target, as well as encouraging employee participation in supporting, and making use of this facility. In order to encourage hesitant whistle blowers, the caller does not pay for the call.
- To raise the level of awareness that DMSA is serious about fraud and corruption.
- To detect incidents of fraud through encouraging whistle blowers to report incidents which they witness.
- To assist DMSA in managing the requirements of the Protected Disclosures Act by creating a channel through which whistle blowers can report irregularities that they witness or which come to their attention. Anonymous persons are also encouraged to report to the hotline. The hotline will also protect the identity of whistle blowers who wish to remain anonymous.
- To assist DMSA to identify areas of fraud risk so that preventive and detective controls can be improved.

7.4 Malicious or false allegations are not protected

Employees are prohibited from making allegations which are false and made with malicious intentions. Where such malicious or false allegations are discovered, the person who made the allegations must be subjected to firm disciplinary action. The Protected Disclosures Act does not protect false disclosures.

7.5 Responsibilities of Internal audit

In conducting audit assignments, Internal Audit is responsible for assisting DMSA management in detecting fraud and corruption by -

- Possessing sufficient knowledge of the elements of these offences as to timeously identify indicators denoting commission of a possible offence;
- Recognising the characteristics of fraud and theft, their essential elements, the techniques used to commit fraud and theft and the types of fraud and theft associated with the activities audited; and
- Evaluating the indicators that fraud and theft may have been committed and deciding whether any further action is necessary or whether an investigation should be recommended. Investigating procedures and actions to be taken.

Fraud Prevention Policy and Response Plan

7.6 Disclosure responsibilities of employees

Employees who discover actions (or omissions) which may suggest fraud, theft and corruption must report their findings in accordance with the procedures provided for in the Protected Disclosure Act in paragraph 8.1 above. Where employees have lost state assets or state assets being stolen from them the lost or stolen assets must be reported to the Finance Division and a case reported to the South African Police Services for laying and investigation of criminal charges.

Where an employee is alleged to have committed an act of fraud, corruption, theft or maladministration, the manager must institute disciplinary proceedings within a reasonable period, in terms of the disciplinary code and procedure of DMSA.

7.7 Investigation of fraud, theft and corruption

In the event of an alleged fraud, theft and corruption, the investigation will consist of carrying out the necessary procedures to determine whether the offence, as suggested by the indicators, has occurred. This will include the gathering of sufficient evidential information about the alleged misconduct.

Internal Audit and other specialists from inside or outside DMSA will conduct or participate in investigations of alleged fraud, theft or corruption. A procedure manual should be compiled outlining the roles and responsibilities, as well as work procedures of the appropriate section within the Finance Division. The efforts of Internal Audit and Finance for the following services are to be co-ordinated:

- Designing appropriate procedures in attempting to identify the alleged perpetrators, extent of the alleged fraud, theft and corruption techniques used, and the cause of the alleged fraud, theft and corruption.
- Interview persons having knowledge of the allegations, as well as possible evidence.
- Carry out various audit tests and gather all necessary evidence.
- Attempt to identify the perpetrator(s).

The services of the internal legal services or the State Attorney should be acquired and, where necessary, the services of public forensic accountants should be sought as a last resort, inter alia, to

- provide legal advice and support;
 - evaluate the available evidence;
 - assist in determining what further evidence would be required to prove the alleged misconduct;
 - advise on whether the matter should be reported to the SAPS;
 - advise on steps to recover losses;
 - assist with the preparation of the clearance and the necessary evidence; and
 - supporting the charge, for delivery to the SAPS
- Internal Audit's finding on each case of alleged fraud, theft and corruption shall be the basis for the CEO's decision to institute disciplinary action against any employee and/or lay criminal charges against the alleged perpetrators. The CEO may also decide to take steps to secure restitution or compensation.

The above decisions are to be made in accordance with the Public Service Act, 1994, and Public Service Regulations, 1999 relating to disciplinary action.

Based on the amount involved and the complexity of the case, the CEO must decide on who is to represent DMSA in attending (and taking notes) at the hearing/court case.

Fraud Prevention Policy and Response Plan

DMSA management's attention should be drawn to the "Statutes of the Republic of South Africa – Criminal Law and Procedure" and the "Criminal Procedure Act, No. 51 of 1977", specifically section 300 dealing with compensation and restitution, where –

"Court may award compensation where offence causes damage to or loss of property:

- (1) Where a person is convicted by a superior court, a regional court or a magistrate's court of an offence which has caused damage to or loss of property (including money) belonging to some other person, the court in question may, upon the application of the injured person or of the prosecutor acting on the instructions of the injured person, forthwith award the injured person compensation for such damage or loss.

To apply this section, the CEO should refer its application to the internal legal advisor or State Attorney, who is to prepare a written request through the appropriate channels.

On completion of the investigation, Internal Audit is to make an assessment of the control procedures in order to:-

- determine whether further controls need to be implemented or existing controls strengthened or reduce future vulnerability;
- design audit tasks to help disclose the existence of similar behaviour in future; and
- determine the reason for existing controls not functioning effectively.

Appropriate steps must be taken by the appropriate managers to secure assets at risk or misappropriated assets which may be recovered.

7.8 Remove employee-signing authorities/suspension of employee

Any suspect in respect of whom there is a prima facie case of fraud, theft and corruption shall after discussion with Human Resources and Accounting Officer be removed from a position of authority. This fact and the suspension of signing authorities must be communicated to the employee in writing.

The employee may be suspended as provided for in the Public Services Regulations, 1999.

8. REPORTING

Reporting consists of the various oral or written, interim or final communications to DMSA management regarding the progress and/or results of investigations into alleged fraud, theft and corruption.

When a possible offence has been detected, a preliminary report is to be drawn up. This report should be completed by the responsible manager and distributed to the relevant director, CEO and to Internal Audit.

A final report on the investigation should be prepared by Internal Audit. This report should indicate what evidence has been gathered, set out conclusions based on such evidence and be distributed accordingly.

All evidence is to be retained by the investigating team for use in possible criminal prosecution.

Fraud Prevention Policy and Response Plan

The report should attempt to identify the cause of the misconduct and the reason why the occurrence went undetected or was not prevented. If there are weaknesses in control, recommendations should be made for remedial action.

The written report should include the following:

- Source of discovery (regular audit, complaint, confession, discovery by management).
- What was discovered (theft, misappropriation of funds)?
- Who was the perpetrator (employee, manager, outside accomplice), and has there been collusion?
- How much money has been lost (audited amount, suspected amount, and admitted amount) or what has been misappropriated?
- How was the occurrence concealed (e.g. forgeries)?
- Duration of crime (when first begun).
- Effect on financial statements (how will loss or potential loss be reported).
- Method of prevention (control deficiency, recommendation for future).
- Prosecution (waived, pending, sentence, restitution).
- Report to be signed by all personnel participating in the investigation.

9. SUMMARY

It is the policy of DMSA that fraud, corruption, theft, maladministration or any other dishonest activities of a similar nature will not be tolerated. In addition, these will be investigated and followed up by the application of all remedies available within the full extent of the law to recover losses or damages arising from fraud, corruption, theft or maladministration and all criminal activities will be vigorously prosecuted.

~~RECOMMENDED / NOT RECOMMENDED / RECOMMENDED AS AMENDED~~



Ms. A. Lebethe
Chief Executive Officer

26 January 2019

Date

APPROVED BY:



Ms. K Rapoo
Chairperson: DMSA

26 January 2019

Date