

FRAUD AND LOSS (FRAUD POLICY)

Responsible Officer: Secretary for Finance and Economic Development



MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT

GOVERNMENT OF TUVALU

VERSION COMMENTS:

(Additional information only – not all policies shall be reviewed by DCC or Cabinet)

Updated from 2015.01

Changes since previous version:

- Further detail about process to be followed.
- Clarified definition of Fraud and loss
- Clarified reporting procedures
- Summarised process of fraud reporting.

DCC comment or clearance:

Approved by SFED on 25/8/16

Cabinet comment or clearance:

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BACKGROUND

1. This fraud policy is established to support increased awareness, understanding and transparency of the control environment to support the detection and prevention of fraud against the Government of Tuvalu.
2. The Government of Tuvalu has a zero tolerance approach to fraud, and shall promote consistent behaviour by providing guidelines for staff, assigning responsibility for controls to positions and conducting investigations into alleged fraud.
3. In relation to the commitment to prevent and discourage fraud the Secretary for Finance and Economic Development shall be responsible for the following items:
 - a. Developing and maintaining effective controls to prevent fraud;
 - b. Ensuring if fraud occurs a vigorous and prompt investigation takes place;
 - c. Recording and reporting all cases of fraud to the Audit Committee, the Auditor-General and the Ombudsman;
 - d. Taking appropriate disciplinary and legal action in all cases;
 - e. Reviewing and updating the systems and procedures which did not prevent or detect a fraud from occurring, in order to prevent similar frauds from occurring in the future; and
 - f. Investigating where fraud has occurred if there has been a failure in supervision, and taking appropriate disciplinary action where supervisory failures occurred.

SCOPE OF POLICY

4. This policy applies to any irregularity, or suspected irregularity, involving employees as well as members of Parliament, the public service, consultants, vendors, contractors, donors, and/or any other parties with a financial or operational relationship with the Government of Tuvalu.
5. Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship to the Government of Tuvalu.

POLICY

6. Accounting Officers, all senior officers and management officers are responsible for the detection and prevention of fraud, misappropriations, and other irregularities.

7. Fraud is an intentional act, and all senior public officers should be aware of the types of improprieties or fraud that might occur within his or her area of responsibility, and be alert and prepared to act where there is any suspicion or indication of fraud or an irregularity.
8. Any fraud, or irregularity that is detected or suspected must be reported immediately to the Secretary for Finance and Economic Development who shall then report to the Ombudsman and the Auditor-General.

POSSIBLE ACTIONS CONSTITUTING FRAUD

9. No precise legal definition of fraud exists within the legislation of Tuvalu.
10. The terms fraud, misuse, and other irregularities refer to, but are not limited to the following acts:
 - a. Any dishonest or fraudulent act (lying, forgery, blackmail);
 - b. Misappropriation or misuse of funds, supplies, or other assets (stealing);
 - c. Impropriety in the handling or reporting of money or financial transactions;
 - d. Profiteering as a result of insider knowledge of Government activities;
 - e. Disclosing confidential Government information to outside parties (corruption);
 - f. Disclosing confidential information to other persons the activities engaged in or contemplated by the Government of Tuvalu (corruption, conspiracy);
 - g. Accepting or seeking anything of material value from donors, vendors, or any other persons providing services/materials to the Government (bribery);
 - h. Destruction, removal, or inappropriate use of government assets, including, vehicles, computers, furniture, fixtures, and equipment (misuse of property);
 - i. Concealment of material facts; and/or
 - j. Any other similar or related irregularity.

OTHER IRREGULARITIES

11. Irregularities concerning an employee's moral, ethical, or behavioural conduct should be resolved by departmental management and the Human Resources Management Department rather than through the processes for addressing Fraud.
12. If there is any question as to whether an action constitutes fraud, contact the Ombudsman or the Attorney General's Office for guidance.

CONFIDENTIALITY

13. Any officer who suspects fraud should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act.
14. The person who reports the suspected fraud in good faith shall not be subject to any retaliation. Any employee who retaliates against someone who has reported a suspected fraud in good faith is subject to disciplinary actions.
15. Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.
16. The employee or other complainant may remain anonymous. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the Secretary for Finance and Economic Development. No information concerning the status of an investigation will be given out.
17. The proper response to any inquiries is: "I am not at liberty to discuss this matter." Under no circumstances should any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.
18. Investigation results of the Internal Audit Unit, the Ombudsman and the Auditor-General will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the Government of Tuvalu from potential civil liability.

REPORTING PROCEDURES

19. An employee who discovers or suspects fraudulent activity will immediately report the activity to their senior officer and the Secretary for Finance and Economic Development.
20. The Secretary for Finance and Economic Development shall, within 48 hours of the suspected fraud being reported provide a written report detailing the suspected fraud to the Government Ombudsman, the Head of the Internal Audit Unit and the Auditor-General's Office. The written report and other information will be treated confidentially
21. The officer initially reporting the suspected fraud should be instructed not to:
 - a. contact the suspected individual in an effort to determine facts or demand restitution
 - b. discuss the case, facts, suspicions, or allegations with any-one unless specifically asked to do so by the Secretary for Finance and Economic Development.
22. If the person(s) suspected of Fraud are the Secretary for Finance and Economic Development, the Ombudsman and/or the Auditor-General, the employee shall report the fraud directly to the Head of Internal Audit and the Secretary to Government. In these cases, The Secretary to Government shall instruct the Internal Audit Unit (unless the Internal Audit Unit is suspected) to perform the investigation of the suspected fraud. The investigation report and recommendations shall be provided within 2 weeks to the Secretary to Government and the below process shall be followed.

INVESTIGATION RESPONSIBILITIES AND PROCESS

23. The Secretary for Finance and Economic Development shall instruct the Internal Audit Unit (unless the Internal Audit Unit is suspected) to perform the investigation of the suspected fraud. The investigation report and recommendations shall be provided within 2 weeks to the Secretary for Finance and Economic Development, the Ombudsman, and the Auditor-General.
24. If the Auditor-General or the Ombudsman is dissatisfied with the progress of the investigation, they may perform their own investigations, in accordance with their legislation.
25. If the Internal Audit Unit is suspected, than the Secretary for Finance and Economic Development shall request that the Auditor-General performs the investigation.
26. At the conclusion of investigation by the Internal Audit Unit if there is a finding that indicates possible criminal behaviour, the Secretary for Finance and Economic Development shall immediately provide a report to the Police Department and the Attorney-General.
27. The Police Department and the Attorney-General will be responsible for prosecuting the person(s) who have committed the fraud to the maximum extent of the law.
28. The report of the Internal Audit Unit shall also include if there were any shortages or failures in the internal controls and recommendations to address these shortages or failures.

AUTHORIZATION FOR INVESTIGATING SUSPECTED FRAUD

29. The Internal Audit Unit shall have:
 - a. Free and unrestricted access to all Government of Tuvalu records and premises, whether owned or rented; and
 - b. The authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of their investigation.

TERMINATION

30. If an investigation results in a recommendation to terminate an individual, the recommendation will be reviewed for approval by the designated representatives from the Public Service Commission and Attorney General's Office and, if necessary, by outside counsel, before any such action is taken.

PERSONAL AND FINANCIAL RESPONSIBILITIES

31. All public officers shall be personally responsible for the due performance of their duties, and shall be held financially responsible where they act in a manner which is fraudulent, or directly results in

- the misuse, or loss of Government property or funds may occur.
32. The Treasury Department shall record all amounts owing to Government and shall be responsible for the monitoring and collection of funds as they fall due.

ADMINISTRATION

33. The Secretary for Finance and Economic Development is responsible for the administration, revision, interpretation, and application of this policy. The policy will be reviewed annually and revised as needed.

SUMMARY OF THE PROCESS OF FRAUD REPORTING AND INVESTIGATION

1. Suspected Fraud is noted by person.
2. Reported to Senior Officer and Secretary for Finance and Economic Development.
3. SFED reports to IAU, Auditor-General and Ombudsman within 48 hours.
4. IAU commences investigation into suspected fraud.
5. IAU, gathers evidence, produces report on fraud and recommendation.
6. Report given to SFED, AG and Ombudsman.
7. Recommendations are taken up by SFED.
8. Reported to Police for criminal prosecution if assessed can prove beyond reasonable doubt
9. Then:
 - a. Police commence criminal prosecution.
 - b. Reported to the Attorney-General for civil case.
 - c. Commence in house administrative remedies (disciplinary hearings, termination, and recovery of funds from salary).
10. Recovery of Loss.
11. Evaluate cause of fraud occurrence.
12. Implement any actions identified to prevent further occurrences.
13. While the last three processes are occurring, there should be communication to Tuvalu Government Staff via appropriate methods.