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FRAUD AND CORRUPTION: PREVENTION, DETECTION AND RESPONSE POLICY – FOR SUPPLIERS

DOCUMENT CONTROL

Managed by Division: Corporate Governance	File number: POL-PCM020 Version No: 8 Status: Current
Contact position: Director Office of Chief Executive	Date effective: 19 September 2019
Approved by: General Manager Corporate Services	Scheduled review date: 19 September 2020

APPROVED 19 September 2019

Signed:

Print Name:

Damian De Luca

Position:

General Manager Corporate Services

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1. TITLE

Fraud and Corruption: Prevention, Detection and Response Policy – For Suppliers.

2. POLICY STATEMENT

The Urban Renewal Authority trading as Renewal SA (**'Renewal SA'**) is committed to professionalism and ethical behaviour in all its activities and functions. Renewal SA does not accept or tolerate fraud, corruption, other criminal conduct, maladministration or misconduct.

All Suppliers as Public Officers need to be aware of their obligations under the ICAC Act and the ICAC Directions and Guidelines.

For the purposes of this Policy and the *Independent Commissioner Against Corruption Act 2012*, a Public Officer includes all Renewal SA Suppliers.

Renewal SA will take reasonable steps to prevent and detect fraud, corruption, other criminal conduct, maladministration and misconduct through:

- developing and implementing this policy;
- proactively seeking to identify potential areas of fraud risk;
- maintaining adequate internal controls (and treating fraud risk areas);
- monitoring the effectiveness of controls and identifying and implementing improvements; and
- developing and implementing fraud and corruption prevention/detection strategies.

This Policy has been developed in accordance with the principles outlined in the:

- South Australian Public Sector Fraud and Corruption Control Policy (**'SA Fraud Policy'**);
- *Independent Commissioner Against Corruption Act 2012* (**'ICAC Act'**);
- Independent Commissioner Against Corruption Directions and Guidelines (**'ICAC Guidelines'**);
- Treasurer's Instruction 2: Financial Management (**'TI 2'**);
- Fraud and Corruption Control Standard (AS 8001:2008) (**'Fraud Standard'**);
- *Public Sector Act 2009* (**'PS Act'**); and
- Code of Ethics for the South Australian Public Sector (**'Code of Ethics'**).

This Policy reflects Renewal SA's commitment to the prevention and management of fraud, corruption and other criminal conduct, misconduct and maladministration, and the promotion of ethical and honest behaviour in the workplace and creation and maintenance of an appropriate workplace culture.

Renewal SA will not tolerate fraud, corruption and other criminal conduct, misconduct and maladministration and will investigate or otherwise address any suspected, alleged or proven instances of such conduct.

3. PURPOSE

This Policy provides awareness, guidance and instruction to Suppliers regarding the prevention, detection and response (including reporting) of fraud, corruption, other criminal conduct, maladministration and misconduct.

4. SCOPE

This Policy applies to all Suppliers of Renewal SA.

5. OBJECTIVES

The key objectives of this Policy in relation to fraud, corruption, maladministration and misconduct:

- provide awareness and understanding of Renewal SA's position;
- prevent Renewal SA suffering loss;
- establish prevention strategies;
- provide instruction and guidance on reporting, investigation and resolution;
- minimise loss to Renewal SA; and
- facilitate compliance by Renewal SA with relevant legislative obligations.

6. POLICY DETAILS

6.1 Reporting of Suspected Fraud, Corruption, Maladministration or Misconduct

All Suppliers as Public Officers need to be aware of their obligations under the ICAC Act and the ICAC Directions and Guidelines. In summary, Public Officers must report to the OPI any matter they reasonably suspect involves:

- corruption in public administration unless the employee is aware that it has already been reported to OPI;
- serious or systemic misconduct in public administration unless the employee is aware that it has been reported to an inquiry agency (as defined in the ICAC Act) or the OPI; and
- serious or systemic maladministration in public administration unless the employee is aware that it has been reported to an inquiry agency or the OPI.

The ICAC Directions and Guidelines published in relation to the ICAC Act will assist Public Officers to understand their obligations pursuant to the ICAC Act.

A 'reasonable suspicion' is defined in the ICAC Guidelines as requiring a factual basis, and whether a suspicion is reasonable will depend on the surrounding circumstances. It is not necessary for a Public Officer to 'believe' that conduct amounts to corruption, misconduct or maladministration, only that there is a reasonable suspicion based on a proper consideration

of the available facts.

Public Officers are required to report to OPI matters of misconduct or maladministration that are 'serious or systemic'. What constitutes serious or systemic misconduct or maladministration is a matter of judgment. However relevant factors to consider in determining whether the matter is serious or systemic may include:

- the nature and circumstances of the allegations (including the number of allegations, the degree of organisation and planning – i.e. steps taken to cover up conduct);
- the status of the person(s) involved;
- the harm (or potential harm) to an individual or government resulting from the matter, including physical, financial or other harm; and
- whether the matter is widespread, involves more than one agency and/or occurs on a frequent basis.

A matter may be considered **serious** if it:

- involves a senior Public Officer;
- involves alleged misconduct or maladministration that has resulted in a substantial loss or damage to assets;
- involves allegations that would, if proved, bring an agency or the Crown into disrepute; or
- is otherwise of particular prominence or importance.

A matter may be considered **systemic** if it:

- causes widespread disruption to services or programs;
- affects a number of persons;
- is spread throughout the agency or authority or is otherwise accepted or condoned; or
- involves a large sum of money.

The ICAC Guidelines set out the information that a report to OPI must include. The report can be made on the ICAC website, by phone, email or in person, and can be made anonymously – see ICAC website for further detail (www.icac.sa.gov.au).

Section 54 of the ICAC Act imposes strict requirements in respect of matters that are the subject of a complaint, report, assessment, investigation, referral or evaluation under the ICAC Act. A person must not, directly or indirectly, disclose information in relation to or connected with a matter that forms or is the subject of a complaint, report, assessment, investigation, referral or evaluation under the ICAC Act. Breach of this carries with it a maximum penalty of \$2 500 or imprisonment for 6 months. It is recommended that all suppliers are aware of these requirements.

Section 56 of the ICAC Act makes it a criminal offence to publish certain information and evidence in respect of a matter covered by the ICAC Act except as authorised.

ICAC offers educational /awareness training sessions for suppliers and contractors if required/desired. Please see ICAC website for information on sessions available

6.2 Gifts, Benefits and Hospitality

Renewal SA has a *Gifts, Benefits and Hospitality Policy* which outlines its position in relation to Renewal SA staff receiving gifts, benefits and hospitality from third parties, such as suppliers.

The policy states that Renewal SA staff and their associates **cannot** accept gifts and benefits from third parties in connection with their employment at Renewal SA.

It is unacceptable for Renewal SA staff (as public officers) to accept gifts or benefits as it may give the appearance of a past, present or future conflict of interest with public duty.

Hospitality can only be accommodated under limited circumstances and must directly relate to opportunities to promote Renewal SA's business objectives.

6.3 Prevention and Detection Measures

Renewal SA recognises that despite preventative actions and controls, acts of fraud, corruption, other criminal conduct, maladministration and misconduct may still occur. Accordingly Renewal SA has adopted a program aimed at preventing, detecting and responding appropriately to such acts. The key elements of this program include:

- monitoring and reviewing performance against contracts, service level agreements or equivalent, to ensure services are being provided, and income is received, in accordance with agreed arrangements;
- conducting all procurements in an ethical manner and in accordance with relevant policies and guidelines;
- making payments in accordance with agreed arrangements; and
- segregation of duties as appropriate.

Examples of the types of conduct that may constitute fraud, corruption, misconduct or maladministration in public administration include, but are not limited to:

- theft (i.e. of plant and equipment, inventory, funds, cash and/or intellectual property or other confidential information);
- release of confidential information for other than a proper business purpose;
- manipulation of Renewal SA records;
- providing false or misleading information, or failing to provide information where there is an obligation to do so;
- making, using or possessing forged or falsified documents; and
- unlawful use of Renewal SA's computers, vehicles, telephones and other property or services; and

- manipulation of Renewal SA’s procurement framework (by favouring one tenderer over others, or selectively providing information to some tenderers).

7. ROLES AND RESPONSIBILITIES

Party / Parties	Roles and responsibilities
Suppliers	<p>Have a responsibility to:</p> <ul style="list-style-type: none"> • act honestly and in an ethical manner at all times; • make a report to OPI if they reasonably suspect corruption or serious/systemic misconduct or maladministration; • comply with this Policy and associated laws and regulations, including not condoning, or failing to take appropriate action in relation to, suspected fraudulent, corrupt or improper conduct within Renewal SA; • deal with all reports of fraud, corruption or improper conduct in a professional and prompt manner in accordance with this Policy; • not knowingly make a false or misleading report; • not act in a retaliatory, discriminatory or otherwise adverse manner in regard to a person, on account of that person making a genuine report or providing assistance in a relevant inquiry; and • not hinder or impede an investigation, and give every courtesy and assistance to any person authorised by management to conduct an investigation pursuant to this Policy.

8. MONITORING, EVALUATION AND REVIEW

The Audit and Risk Committee and Corporate Services Division will provide oversight of Renewal SA’s fraud and corruption processes.

Treasurer’s Instruction 2 ‘Financial Management’ requires that the Chief Executive establish and review on at least an annual basis Renewal SA’s fraud policies.

9. DEFINITIONS AND ABBREVIATIONS

Term	Meaning
Audit and Risk Committee	An internal Renewal SA Committee established by the Board of Management.
Corruption	<p>Corruption (in public administration) is defined in section 5(1) of the ICAC Act and for the purposes of this Policy as follows:</p> <p>5. (1) <i>Corruption in public administration means conduct that constitutes—</i></p> <p><i>(a) an offence against Part 7 Division 4 (Offences relating to public officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:</i></p> <p><i>(i) bribery or corruption of public officers;</i></p>

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Term	Meaning
	<p>(ii) <i>threats or reprisals against public officers;</i></p> <p>(iii) <i>abuse of public office;</i></p> <p>(iv) <i>demanding or requiring benefit on basis of public office;</i></p> <p>(v) <i>offences relating to appointment to public office; or</i></p> <p>(b) <i>an offence against the Public Sector (Honesty and Accountability) Act 1995 or the Public Corporations Act 1993, or an attempt to commit such an offence; or</i></p> <p>(c) <i>any other offence (including an offence against Part 5 (Offences of dishonesty) of the Criminal Law Consolidation Act 1935) committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence; Or</i></p> <p>(d) <i>any of the following in relation to an offence referred to in a preceding paragraph:</i></p> <p>(i) <i>aiding, abetting, counselling or procuring the commission of the offence;</i></p> <p>(ii) <i>inducing, whether by threats or promises or otherwise, the commission of the offence;</i></p> <p>(iii) <i>being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;</i></p> <p>(iv) <i>conspiring with others to effect the commission of the offence.</i></p>
<p>Fraud</p>	<p>For the purpose of this Policy, Renewal SA has adopted the definition of fraud from the SA Fraud Policy which is defined as:</p> <p><i>“a dishonest activity causing actual or potential financial loss to any person or entity including the theft of moneys or other property by employees or persons external to the entity (this includes the deliberate falsification, concealment, destruction or use of falsified documents used or intended for normal business purposes and the improper use of information or position/status for personal financial benefit).”</i></p> <p>Fraud requires knowledge or intention to deceive or deprive, or reckless negligence. Fraud includes bribery and abuse of office and can be seen as a major subset of corruption. Fraud can be perpetuated by staff and by persons external to Renewal SA such as contractor or suppliers, or a combination of both. It can involve financial or non-financial incidents that have an impact on operations and the reputation of Renewal SA.</p> <p>Under the <i>Criminal Law Consolidation Act 1935</i>, fraud is a criminal offence which may lead to a prison sentence. An incident of fraud may also fall within the definition of corruption in the ICAC Act (see below).</p>
<p>ICAC</p>	<p>Independent Commissioner Against Corruption.</p> <p>The Independent Commissioner Against Corruption has been established to identify and investigate corruption, misconduct and maladministration in public administration;</p>
<p>ICAC Act</p>	<p><i>Independent Commissioner Against Corruption Act 2012</i></p> <p>The ICAC Act establishes the Independent Commissioner Against Corruption and OPI.</p>
<p>ICAC Directions and</p>	

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Term	Meaning
Guidelines	Means Independent Commissioner Against Corruption Directions and Guidelines –issued pursuant to section 20 of the ICAC Act and govern reporting obligations of public authorities and Public Officers to OPI.
Maladministration	<p>Maladministration in public administration is defined in section 5(4) of the ICAC Act and for the purposes of this Policy as follows:</p> <p>5(4) <i>Maladministration in public administration—</i></p> <p>(a) <i>means –</i></p> <p>(i) <i>conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or</i></p> <p>(ii) <i>conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and</i></p> <p>(b) <i>includes conduct resulting from impropriety, incompetence or negligence; and</i></p> <p>(c) <i>is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.</i></p> <p>5(5) <i>Without limiting or extending the conduct that may comprise corruption, misconduct or maladministration in public administration, this Act applies to conduct that—</i></p> <p>(a) <i>occurred before the commencement of this Act; or</i></p> <p>(b) <i>occurs outside this State; or</i></p> <p>(c) <i>comprises a failure to act; or</i></p> <p>(d) <i>is conduct of a person who was a public officer at the time of its occurrence but who has since ceased to be a public officer; or</i></p> <p>(e) <i>is conduct of a person who was not a public officer at the time of its occurrence but who has since become a public officer.</i></p>
Misconduct	<p>Public Sector Act Definition:</p> <p>Misconduct is defined under the <i>Public Sector Act 2009</i> as follows:</p> <p><i>Misconduct means –</i></p> <p>(a) <i>a breach of a disciplinary provision of a public sector code of conduct while in employment as a public sector employee; or</i></p> <p>(b) <i>other misconduct while in employment as a public sector employee.</i></p> <p><i>The term includes making a false statement in connection with an application for engagement as a public sector employee and being convicted, while in employment as a public sector employee, of an offence punishable by imprisonment.</i></p> <p>ICAC Act Definition:</p> <p>Misconduct in public administration is defined in section 5(3) of the ICAC Act as follows:</p> <p><i>Misconduct in public administration –</i></p> <p>(a) <i>contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or</i></p> <p>(b) <i>other misconduct of a public officer while acting in his or her capacity as a public officer.</i></p>
OPI	The Office for Public Integrity receives complaints and reports about corruption, misconduct and

Term	Meaning
(Office for Public Integrity)	maladministration in public administration, and assesses those matters.
Public Officer	As defined under the ICAC Act and ICAC Directions and Guidelines, a Public Officer includes all Suppliers.
Suppliers	Are third party contractors and/or consultants engaged by Renewal SA or its Board of Management to provide services or works to Renewal SA.

10. ASSOCIATED DOCUMENTS AND REFERENCES

Legislation

Criminal Law Consolidation Act 1935

Independent Commissioner Against Corruption Act 2012

Public Interest Disclosure Act 2018

SA Government Standards & Guidelines

Independent Commissioner Against Corruption – Directions and Guidelines (available from the ICAC website).

South Australian Public Sector Fraud and Corruption Control Policy

Treasurer’s Instruction 2 – Financial Management

Treasurer’s Instruction 28 – Financial Management Compliance Program

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Public Interest Disclosure Policy