



**Australian Government**  
**Department of Foreign Affairs and Trade**



# **FRAUD & ANTI-CORRUPTION GUIDANCE FOR DFAT PARTNERS**

June 2016

The Department of Foreign Affairs and Trade (DFAT) has robust systems and procedures in place to protect public money and property from fraud and corruption. DFAT's partner organisations also play a critical role in minimising exposure of Australian aid funding to fraud and corruption.

This guidance note for DFAT partners articulates DFAT's requirements and expectations it has of its partners who manage and deliver aid programs on behalf of DFAT. Aid delivery partners are required to have robust systems and procedures in place to be able to clearly identify any suspected fraud and corruption associated with aid funding. Delivery partners must ensure staff are aware of and able to access information on fraud control procedures.

## DEFINITION OF FRAUD

The *Commonwealth Fraud Control Framework 2014* defines fraud as 'dishonestly obtaining a benefit or causing a loss by deception or other means'. This includes:

- › Theft;
- › Obtaining property, a financial advantage or any other benefit by deception;
- › Causing a loss, or avoiding or creating a liability by deception;
- › Providing false or misleading information to the Commonwealth, or failing to provide information where there is an obligation to do so;
- › Making, using or possessing forged or falsified documents;
- › Bribery, corruption or abuse of position;
- › Unlawful use of Commonwealth computers, vehicles, telephones and other property or services;
- › Divulging confidential information to outside sources;
- › Hacking into, or interfering with a Commonwealth computer system; and
- › Any offences of a like nature to those listed above.

DFAT has responded to the added risks of delivering functions, programs and services in challenging overseas environments by adding to the Commonwealth definition, to expressly forbid all facilitation payments.

Facilitation payments are defined under section 70.4 of the *Australia Criminal Code Act 1995*. The code defines these as payments to foreign public officials for the 'sole or dominant purpose of expediting or securing the performance of a routine government action of a minor nature.'

Facilitation payments are indistinct from bribes in many jurisdictions and pose a serious reputational risk to the Australian Government, DFAT, and any organisation or individual who make such payments.

## DEFINITION OF CORRUPTION

DFAT defines corruption as the abuse of entrusted power for private gain. Corruption can be large or small scale, political in nature and is usually perpetrated for financial gain.

- › Large scale corruption can consist of acts that distort policies or the general functioning of the State.
- › Small scale corruption refers to the abuse of power by lower to mid-level government officials.
- › Political corruption refers to the abuse of power to manipulate policies of institutions for political gain.

## ZERO TOLERANCE – MORE THAN JUST COMPLIANCE

All delivery partners and contractors are required to report within five (5) days all cases of suspected or detected fraud or corruption in accordance with DFAT policy and contractual funding agreement requirements.

DFAT's zero tolerance approach to all fraud and corruption applies to all external parties that receive Australian Government funds. This includes all aid program funds. Accordingly the policy applies to contractors, third party service providers, multilateral organisations, NGOs, partner governments and other recipients of DFAT funds.

In practice, 'zero tolerance' means DFAT will:

- › investigate all alleged instances or reports of fraud and corruption to determine the nature and extent of the fraud;
- › apply appropriate administrative or contractual sanctions, including termination of engagement;
- › seek prosecution of offenders and the application of appropriate penalties, including through referral to local law enforcement authorities overseas and/or the Australian Federal Police; and
- › seek the recovery of misappropriated funds or assets.

A zero tolerance approach to fraud and corruption does not mean that all fraud and corruption can be avoided or prevented. Instead a zero tolerance approach represents a set of principles and actions that are applied by DFAT to prevent, detect, investigate and respond to fraud and corruption in order to effectively manage risks.

## OBLIGATIONS UPON IMPLEMENTING PARTNERS

The Australian aid program is delivered in a uniquely difficult set of country environments where significant fraud and corruption can be commonplace. Consequently, DFAT requires implementing partners to have policies and procedures in place to manage the risk of fraud and corruption for all DFAT activities and funding. These measures are set out in contract and grant agreement documents.

Contracts and grant agreements require program delivery partners to:

- › Ensure that the partner or its personnel do not engage in any fraud and must prevent and detect fraud, including by the partners personnel.
- › Within one month of Project Start Date, conduct a fraud risk assessment and produce a fraud control strategy in compliance with the *Commonwealth Fraud Control Framework 2014*, [www.ag.gov.au/CrimeAndCorruption/FraudControl/Pages/FraudControlFramework.aspx](http://www.ag.gov.au/CrimeAndCorruption/FraudControl/Pages/FraudControlFramework.aspx) The risk assessment and strategy must contain appropriate fraud prevention, detection, investigation and reporting processes and procedures.
- › Ensure that personnel are responsible and accountable to the delivery partner for preventing and reporting fraud as part of their routine responsibilities. This includes reporting potential fraud matters within five (5) business days of detection.
- › In consultation with DFAT, develop and implement a strategy to investigate reports of fraud.
- › Recover any DFAT funds or DFAT-funded property acquired or distributed through the fraud, including taking recovery action in accordance with recovery procedures (including civil litigation) available in the partner country.
- › Adhere to the relevant conflict of interest and confidentiality clauses.
- › Ensure that the partner or its personnel do not make or cause to be made, receive or seek to receive any offer, gift, payment or benefit of any kind, which could be construed as an illegal or corrupt act.
- › On a monthly basis keep DFAT informed of the progress of its efforts to recover any DFAT funds the subject of fraud or corruption.
- › Manage program finances and assets including the use and maintenance of asset registers. (Delivery partner asset management systems are also subject to DFAT review/audit upon request).
- › Provide access and assistance to DFAT or its representatives to conduct audits or reviews regarding possible fraud.
- › Ensure their subsequent sub-contractors, grantees or representatives are compliant with DFAT's requirements and manage the risk of fraud and corruption.

## FRAUD AWARENESS AND TRAINING

DFAT delivery partners are required to prevent and detect fraud or corruption as part of their normal contractual responsibilities. Contractor staff who are primarily engaged in detecting or investigating fraud or corruption should be appropriately skilled and experienced.

Appropriate partner fraud awareness training for staff needs to be in place. This should include a rolling program of regular fraud awareness raising and prevention training for all staff, sub-contractors, grantees, agents and representatives. Such training should be included in employee induction programs with all fraud training undertaken by staff recorded in a training register.

Training programs should be evaluated to determine whether participants are in fact more aware of fraud control and their responsibilities.

Implementing partners need to clearly document their fraud and anti-corruption procedures and instructions to assist with staff awareness. These should be clearly communicated to all employees and sub-contractors, grantees, agents or representatives.

Such documents are an important part of effective fraud control and should be kept up to date and made available to all employees.

## SUPPLIER CONTROLS

DFAT communicates and enforces its expectations relating to fraud and corruption control via grant agreement provisions with its delivery partners. DFAT's contracts and grant agreements include standard fraud clauses which detail the responsibilities of DFAT's partners. The standard fraud clauses place an obligation on implementing partners to investigate allegations and suspected fraud cases in the Australian aid program. These clauses also require partners to repay funds or replace assets lost to fraud or corruption by:

- › the organisation or an employee of the organisation; or
- › an implementing partner or subcontractor of the organisation or employees of implementing partners or subcontractors of the organisation.

DFAT uses these agreement clauses to recover funds where appropriate. Additionally, as part of DFAT's due diligence checks on DFAT's major implementing partners, suppliers are required to present a code of conduct, fraud control policy and anti-corruption/bribery policy to ensure their compliance.

Implementing partners are also contractually required to act in accordance with the *Commonwealth Procurement Rules*, of which due diligence assessments are a component.

## EXTERNAL REPORTING CHANNELS

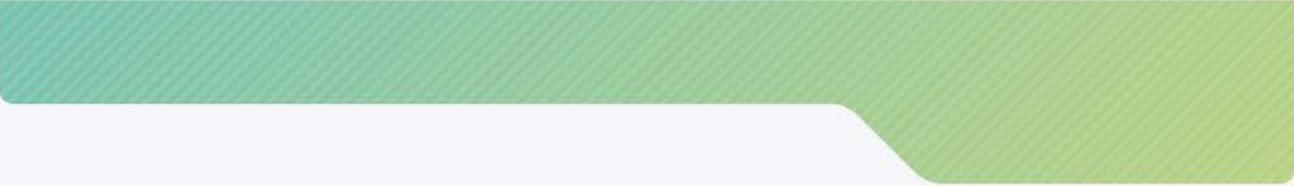
A key obligation of DFAT funded recipients is to report all cases of suspected, alleged or committed fraud or corruption within 5 (five) business days of becoming aware of the fraud or corruption. All cases of fraud and corruption are handled in a confidential, prompt and professional manner.

DFAT maintains a 'Suspected or Detected fraud – What to Report Form' to assist departmental personnel and implementing partners to report instances of alleged wrongdoing in the Australian aid program in accordance with DFAT's zero tolerance policy.

A template of the 'What to Report Form' is located at:

<http://dfat.gov.au/about-us/publications/Pages/fraud-what-to-report-form.aspx>

The Fraud Control Section (FCS) oversees the management of fraud and corruption committed by external parties against DFAT including in relation to the Australian aid program.



All entities that receive funding from DFAT should use this statement as an important reference tool and are advised to contact FCS for any further information relating to fraud and corruption risks at [fraud@dfat.gov.au](mailto:fraud@dfat.gov.au)