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Department:
Public Works; Roads and Transport
North West Provincial Government
Republic of South Africa

WHISTLE-BLOWING POLICY
2012/2013

TITLE : WHISTLE-BLOWING POLICY
DEPARTMENT : PUBLIC WORKS, ROADS AND TRANSPORT

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1. PURPOSE OF POLICY

The purpose of this policy is:

- 1.1 To encourage whistle blowing around suspected impropriety within the Department.
- 1.2 To protect those who have blown the whistle against any form of occupational detriment, and
- 1.3 To provide the procedures in which an employee can disclose information regarding improprieties in the workplace.

2. REGULATORY FRAMEWORK

This policy derives its mandate from the following legislation and prescripts:

- 2.1 The Public Finance Management Act, 1999 (Act No 1 of 1999);
- 2.2 Protected Disclosures Act, 2000 (Act No. 26 of 2000);
- 2.3 Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);
- 2.4 A guide for Public Sector Accountability implementing the protected Disclosures Act;
- 2.5 Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004).

3. DEFINITIONS

In this policy, unless the context otherwise indicates:

"Accounting Officer" means Head of Department;

"Department" means the North West Department of Public Works, Roads and Transport;

"Employer" means a person:-

- a) Who employs or provides work for any other person and undertakes to remunerate such person;
- b) Who permits any person to assist in the carrying out of the department's mandate.

"Employee/ Official" means a person who:-

- a) Has been appointed permanently, notwithstanding that such appointment may be on probation, to a post contemplated in section 8 (1) (a) of the Public Service Act, and includes a person contemplated in section 8 (1) (b) or 8 (3) (c) of that act; or

- b) Has been appointed on contract in terms of section 8 (1) (c) (ii) of the Public Service Act.

"Occupational Detriment" in relation to the working environment of an employee, means:-

- a) Being subjected to any disciplinary action;
- b) Being dismissed, suspended, demoted, harassed or intimidated;
- c) Being transferred against one's will;
- d) Being refused transfer or promotion;
- e) Being refused, or provided with an adverse reference from one's employer;
- f) Being threatened with any of the actions referred to above;
- g) Being otherwise adversely affected in respect of one's employment, including employment opportunities and work security.

"Protected Disclosure" means a disclosure made in terms of this policy or the Act;

"Act" means the Protected Disclosure Act, 2000 (Act No. 26 of 2000);

"Whistle blower" means a person who has made a disclosure in terms of this policy or the Act;

4. SCOPE OF APPLICATION

4.1 This policy applies to all employees of the Department, including interns and learners.

4.2 The policy does not apply to personal grievances, which are dealt with in terms of the existing procedures on grievance, discipline and misconduct.

4.3 The policy covers all forms of improprieties, including:-

- 4.3.1 Financial misconduct;
- 4.3.2 Failure to comply with a legal obligation;
- 4.3.3 Health and Safety risks;
- 4.3.4 Environmental damage;
- 4.3.5 Criminal offence;
- 4.3.6 Unfair discrimination;
- 4.3.7 Corruption and misconduct; or
- 4.3.8 Attempt to deliberately conceal any of the above matters.

5. RESPONSIBILITY OF THE EMPLOYER

The Department commits itself to a culture that promotes openness. This must be done by:-

- 5.1 Educating, training, informing employees about the events which constitute fraud, corruption and malpractice and the effect they have to the Department;
- 5.2 Involving employees, listening to their concerns and encouraging the appropriate use of the process of whistle blowing as outlined in this policy;
- 5.3 Conducting an investigation on any allegations of fraud and corruption;
- 5.4 Having a strategy to combat fraud;
- 5.5 To ensure strict and proper implementation of this policy.

6. PROTECTED DISCLOSURE

Who can raise a concern?

- 6.1 Any employee who has a reasonable belief that there is corruption, fraud or malpractice relating to any of the matters listed in clause 4.3 of this policy may make a disclosure in terms of the procedure outlined in this policy.
- 6.2 The employee who makes a disclosure as contemplated in clause 6.1 above, must not be driven by malice, bad faith or personal gain in making such a disclosure.
- 6.3 The disclosure referred to above may be made against any form of fraud, corruption, malpractice or likelihood of such, being committed by any manager, another officials or group thereof, the employee's own section or different section in the Department.
- 6.4 A disclosure made in terms of this policy and the Act is a protected disclosure provided that it fully complies with the requirements of the Act.

7. PROCEDURE FOR DISCLOSURE

- 7.1 An employee must make a disclosure to any of the following:-
 - 7.1.1 The Head of Department;
 - 7.1.2 The MEC of the Department;
 - 7.1.3 The Head Internal Audit;
 - 7.1.4 Supervisor of such employee;

7.1.5 A legal practitioner or a person whose occupation involves the giving of legal advice, as contemplated in section 5 (a) of the Act;

7.1.6 To the National hotline number **0800 701 701**;

7.1.7 Public Protector

7.1.8 Any other person contemplated in the Act.

7.2 The disclosure may be in writing or verbally.

7.3 The employee is entitled to choose any of the persons mentioned in clause 7.1 to whom the disclosure may be made.

7.4 Once a disclosure is received an internal inquiry or a more formal investigation may be undertaken.

7.5 The whistle blower must be informed of the progress made in the investigation as well as the final outcome of the case.

8. PROTECTION OF A WHISTLE-BLOWER

8.1 An employee who has made a disclosure in terms of this policy or the Act may not be subjected to any form of occupational detriment by his or her employer.

8.2 If the whistle blower so wishes, his or her identity must be kept confidential and will not be disclosed without the official's consent.

9. CONTRAVENTIONS

9.1 An employee who makes a disclosure in bad faith or who makes an allegation without having reasonable grounds for believing it to be true or who makes it maliciously may be subjected to disciplinary action.

9.2 Any person who subject an employee in any form of occupational detriment on account or partly on account of having made a protected disclosure, may be subjected to disciplinary action.

9.3 Any person who contravenes or fails to comply with any provision of this policy may be subjected to disciplinary action.

10. REVIEW OF POLICY

This policy will be reviewed annually, or whenever the need arises and any review thereof is the responsibility of the Senior Management of the Department.

11. EFFECTIVE DATE OF THE POLICY

This policy is effective from the date of approval by the Accounting Officer.

Signed:



Accounting Officer:

10/12/2012 M. S. Thobekpile

Date Approved
