

Fraud Prevention & Whistleblower Protection Manual

Zero Tolerance Fraud Policy	2012
Fraud Manual	24.4.2014
Fraud Prevention and Whistleblowing policy	December 2016

I hereby approve the Fraud Prevention and Whistleblower Protection Policy for SPREP.

This policy will strengthen SPREP'S role as an Implementing Agency and/or Executing Agency.

 Date: 1st February 2017
Kosi Latu
Director General



This table tracks all revisions and updates to this policy from time to time. It attempts to capture the date of when the policy has been reviewed and updated together with the official designation and signature of the Director General or proxy for approval. A summary of the changes that are made to this policy should be provided in a separate form and attached as an "Addendum".

Policy Reviewed and Updated			
Date	Designation	Signature	Addendum Number

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1 Background

1. This Manual elaborates the core requirement set out in the “SPREP Governance Policy” endorsed by the Senior Management in December of 2016 relating to fraud prevention. It contains SPREP’s policy and procedural guidelines on fraud.
2. This Manual provides a mechanism so anyone can report allegations of fraud with whistleblower protection. It provides guidance for the review and investigation of allegations and acting on the outcome thereof. It is done within the context of the Organisational Values and the Code of Conduct. The manual is a direct response to the issue of implementing internal controls on fraud identified in the 2012 Risk Management Plan.
3. The procedural guidelines are based on *the International Financial Institutions Principles and Guidelines for Investigations (December 2012)* which is the internationally recognised standard to use in multilateral organizations. It has been adjusted based on SPREP’s individual circumstances and its policies and procedures.
4. The fraud prevention policy enables SPREP to serve its members and meet its obligations to the donors who help fund its services. It assists the organization in maintaining high ethical standards in all its operations.

1.1 Scope and Application

5. This manual applies to all operations of SPREP and to all projects executed or implemented by SPREP or by any of its implementing or executing partner. It applies to all SPREP staff, consultants, service contract holders, individual contractors, interns, volunteers and attachments¹. The manual also covers all third parties dealing with projects financed by SPREP funds. For example, it applies to individuals working on SPREP projects in SPREP Member countries and to suppliers to SPREP projects.

1.2 Existing Policies and Procedures Relevant to this Manual

6. Existing policies and Procedures relevant to this Manual include SPREP’s:
 - *Governance Policy,*
 - *Organisational Values and Code of Conduct,*
 - *Staff Regulations,*
 - *Financial Regulations,*
 - *Internal Audit Charter,*
 - *Audit Committee Charter, and the*
 - *2012 Risk Management Plan*

2 Principles

7. SPREP strongly affirms the importance of a “zero-tolerance” approach for SPREP’s staff and within its operations including projects. This principle shall be applied in a practical, fair and consistent manner that is cost effective.

¹ These are collectively referred to as SPREP staff in this Manual

2.1 Building a Culture of Honesty and Ethics

8. This Manual is part of the drive to ensure that SPREP operates as an ethical and transparent organisation that encourages staff members to participate in protecting its resources. The SPREP Organisational Values and Code of Conduct provide a statement of its commitment to ensuring the highest standards of ethical conduct of its staff and contractors. Senior Management has a responsibility to ensure that staff members under their control actively participate in protecting SPREP and its resources.

2.2 Risk Management and Internal Control

9. This Manual contributes to the wider goal of effective risk management at SPREP established in the 2012 Risk Management Plan. In the plan the Director General is tasked with establishing effective internal controls to detect, report, and deter fraud which are cost effective and commensurate with the magnitude of identified risks.

3 What is Fraud?

3.1 Definition of Fraud

10. The definition of fraud varies among countries and jurisdictions, however in simple terms, fraud is any act or omission that intentionally misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

11. For the purposes of this manual, fraud includes:

Corrupt practice, which is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;

Fraudulent practice, which is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

Coercive practice, which is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

Collusive practice, which is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;

Abuse, which is theft, waste or improper use of assets related to SPREP activity, either committed intentionally or through reckless disregard;

Conflict of interest, any situation in which a party has interests that could improperly influence that party's performance of official duties and responsibilities, contractual obligations, or compliance with applicable laws and regulations;

Obstructive practices, which includes (a) deliberately destroying, falsifying, altering, or concealing of evidence material to a SPREP investigation; (b) making false statements to materially impede a SPREP investigation; (c) threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or (d) materially impeding SPREP's contractual rights of audit or access to information; and

Retaliation against whistleblowers or witnesses, which is any detrimental act, direct or indirect, recommended, threatened or taken against a whistleblower or witness, in a manner

material to a complaint because of the report or cooperation with a SPREP investigation by the whistleblower or witness.

4 Responsibility for Fraud Prevention

12. The Director General has the overall responsibility for the implementation of this Manual. However, to ensure independence he or she will not have any role in the investigation but will deal with investigation reports once submitted.
13. The responsibility for the implementation of this Manual is delegated to the Head of Internal Audit also called the Internal Auditor on the understanding that this should not interfere with the completion of the Annual Internal Audit Plan. The Audit Committee provides oversight over the investigative function.

4.1 Responsibilities of the Internal Auditor

14. The principal responsibilities of the Internal Auditor in collaboration with the services are to:
 - advance awareness of this Manual;
 - provide fraud prevention training;
 - review this Manual at least every four years and submit texts for improvements for approval by the Senior Management Team;
 - submit text for improvement to the Manual whenever the need for improvement is identified;
 - serve as the initial contact point to receive complaints and allegations;
 - ensure that the proper system exist to keep all related information confidential;
 - oversee and co-ordinate all investigations; and
 - investigate complaints relating to financial fraud as set out in this Manual.

5 Awareness Raising and Training

15. SPREP will ensure that all employees and contractors are aware of their responsibilities for fraud control and ethical behavior. Training will be provided or coordinated by the Internal Auditor for new and existing staff on:
 - definition of fraud, including use of examples and underlining that fraud can involve pursuit of tangible and intangible benefits;
 - the need for ethical behavior and the fact that fraud avoidance is everyone's responsibility;
 - the details of the SPREP Fraud Prevention Manual;
 - indicators of fraudulent activity;
 - steps to take if fraud is identified;
 - responsibilities for handling allegations and enquiries into cases of fraud at SPREP;
 - the roles of Director General, the Internal Auditor and other key personnel involved in implementing this Manual;
 - the role of the Audit Committee; and

- measures to ensure that third parties, including national implementing partners, are aware of this Manual and its provisions.

6 Updating this Manual

16. For this Manual to be effective in preventing fraud and providing a mechanism for investigation, it is vital that the effectiveness of its provisions is reviewed on a regular and ongoing basis. The review of this Manual will take place by the Internal Auditor every five years and needs to reflect the latest Risk Management Plan. The results of these reviews will be conveyed to the Director General who will produce a written response outlining the measures to be taken, with timeframes (where relevant) for action and implementation.

7 Making a Complaint about Suspected Fraud

7.1 Reporting Fraud

17. A complainant is anyone who brings forward an allegation of fraud in accordance with the provisions of this manual. A complainant can be someone internal or external to SPREP. Matters that may be disclosed can be based on actual or suspected incidents. Amongst others they may relate to unethical, illegal or improper practices or other misconduct. They include:

- fraudulent practices as defined and elaborated upon in this Manual;
- violation of the SPREP Organizational Values and Code of Conduct;
- retaliation against whistleblowers or witnesses, which is any detrimental act;
- direct or indirect, recommended, threatened or taken against a whistleblower or witness, in a manner material to a complaint because of the report or cooperation with a SPREP investigation by the whistleblower or witness; and
- conduct that poses serious threat to the health, safety or the environment, whether affecting the public in general or any SPREP employee

18. Complaints are addressed to the Internal Auditor can be communicated in several ways including:

- complete the form in Annex 1 or an equivalent writing;
- request a face to face meeting;
- phone call;
- write a letter; or
- sent to email: fraud@sprep.org

19. Complaints are treated confidentially and only the Internal Auditor and the Legal Advisor have access to the contents of the emails send to this address. Any allegations received by SPREP staff should be immediately forwarded to the Internal Auditor.

7.2 Anonymity

20. A complainant is not obliged to reveal his or her identity when reporting fraud. However, if an investigator is not able to go back to the complainant to get more information or clarification the investigation would likely be hampered. In the instance where the complainant wishes to

remain anonymous it can be done by setting up an email account set up under an alternative name.

7.3 Acknowledgement of Complaints

21. The Internal Auditor shall acknowledge all complaints within one week of receipt.

7.4 Obligations and provisions related to SPREP Staff

22. All SPREP staff members have an obligation to report a reasonable suspicion of fraud directly to the Internal Auditor. If the staff member feels uncomfortable reporting the matter to the Internal Auditor, then the report may be sent to the Legal Adviser or the Human Resources Adviser for transmission to the Internal Auditor.

23. Any reporting of a suspicion of fraud should be made in good faith. It is a violation of SPREP Organizational Values and Code of Conduct to misuse or abuse the investigative procedures to make a report that is knowingly frivolous, misleading, or untrue. If a report of misconduct is not made in good faith, or is found to be knowingly false, deliberately misleading, frivolous, or malicious, the person making such report may be subject to disciplinary action.

24. To avoid doubt, this Manual and its procedures relate to complaints of fraud as defined under this Manual. This Manual and its procedures do not serve as a mechanism for lodging a complaint of any other nature such as complaints or concerns an employee may have about their personal employment situation or staffing issues. Those concerns or complaints can be raised by filing a grievance with the Human Resources Department. The process described in this Manual is not intended to express disagreement with management decisions unless they constitute intentional misconduct of the nature described under the definitions of fraud.

7.5 Content of the allegation

25. The Internal Auditor receiving the complaint must ensure that as much information as possible regarding the alleged fraud is gathered from the complainant. This will include, but not necessarily be limited to:

- a reasonably detailed description of the suspected misconduct including time frame and location;
- all individuals directly or indirectly involved in the incident or having knowledge thereof;
- details of any third parties involved in the incident;
- references to documents, electronic records or other evidentiary material which help explain or support; and
- other relevant information.

8 Responsibility for the investigation

26. The Internal Auditor is tasked with **overseeing and coordinating** all investigations under this Manual and may obtain the advice of the Legal Advisor.

27. The individual who will **conduct** of the investigation is decided by the Internal Auditor, on a case by case basis and should be a senior staff member. The choice of “Investigator Officer” is

decided in consultation with the Head of Division that is most equipped to handle the complaint and that has no conflict of interest and is not the subject of the complaint. As a general guideline, the following areas should handle the investigation of complaints:

- internal audit relating to financial fraud including financial fraud within projects;
- a project division if it involves technical matters relating to projects;
- security relating to theft and security violations;
- human resources relating to ethics and SPREP's Organisational Values and Code of Conduct except for financial fraud; and
- Secretariat's Legal Counsel relating to legal matters and this would often be in an advisory support function to the investigation.

9 Confidentiality

28. SPREP will not divulge the identity of complainants to outside parties without obtaining explicit consent. Information in the Internal Audit Office and with anyone involved in the investigation is strictly controlled and will not be released in the absence of written consent from the complainant. Limited exceptions may be necessary to comply with applicable law or the requirements of law enforcement authorities.
29. The Internal Auditor shall establish a confidential filing system in both electronic and paper formats. All electronic files which concern a complaint or information relating to all investigations shall be given password protection. Any party involved in the investigation shall hand over the investigation files to the Internal Auditor for filing upon the conclusion of the investigation.
30. Confidentiality of all complaints and the identity of those involved will be assured by the Internal Auditor and any party involved in an investigation.
31. All reports are to be treated with the utmost confidentiality by all parties concerned. The Internal Auditor shall ensure that all parties involved in an investigation sign the confidentiality agreement contained in Annex 2.

10 Whistleblower Protection

10.1 Whistleblower Protection for SPREP staff

32. No SPREP staff shall be subjected to intimidation, harassment, threat, discrimination, or other detriment, disadvantage or punishment during their employment at SPREP because of making a disclosure under this Manual.
33. SPREP shall take all reasonable steps to ensure that sufficient and appropriate protection is provided for those who make a good faith disclosure under this Manual. It shall take steps to ensure the complainant is not disadvantaged, intimidated or threatened. This will be the case regardless of the outcome of the investigation, whether the disclosure is proven or not or whether it is reported to an external authority.

34. If the whistleblower feels that he or she has been the subject of discrimination, harassment, intimidation, or other unwarranted treatment because of this investigation, the staff member is encouraged to appeal to the Internal Auditor or to the SPREP Internal Audit Committee.

10.2 Whistleblower Protection for external Complainants

35. External complainants shall have the same protection as SPREP staff in relation to any dealing with SPREP including the ability to appeal should he or she feel discriminated, harassed, intimidated or subject to other unwarranted treatment from SPREP because of the investigation.

11 Natural Justice in Investigations

36. The principles of natural justice will always be followed during the investigation. The principles concern procedural fairness and ensure a fair decision is reached by an objective decision maker. Maintaining procedural fairness protects the rights of individuals and enhances public confidence in this process.

37. The Internal Auditor and the person conducting the investigation shall have regard to the following issues in ensuring procedural fairness:

- the person who is the subject of the complaint is entitled to know the allegations made against him or her and given the right to respond. This does not mean that the person must be advised of the allegation as soon as the allegation is made or the investigation has commenced;
- should the conclusions of an investigation be averse to the interests of any person, that person should be given the opportunity to present any material that may influence the Report's findings and any defense must be fully reflected in the report;
- all relevant parties to the matter must be heard and all submissions considered fully;
- the Internal Auditor or investigator should not have a personal or professional interest in the investigation;
- all proceedings must be carried out fairly and without bias. Care should be taken to ensure that *perceived* bias is also avoided;
- the investigator must be impartial in assessing the credibility of the whistleblower and any witnesses. Where appropriate, conclusions as to credibility of the whistleblower should be contained in the investigation report.

12 Planning the Investigation

12.1 Preliminary Screening

38. This Manual is applicable in respect of fraud as defined in Section 3. To establish whether the subject matter of a complaint falls within the scope of this Manual, the Internal Auditor will establish:

- whether the complaint relate to the conduct of a SPREP employee or contractor acting in their official capacity or within the scope of their employment or to a third party dealing directly or indirectly with SPREP or a

project funded by SPREP;

- whether the complainant has presented reasonable grounds for believing that the alleged conduct has occurred;
- whether there is a reasonable possibility that a violation has occurred; and
- whether the matter is of sufficient importance to justify the projected requirements of the investigation and any remedial action.

39. Where a complaint does not meet these criteria, the complaint does not have to be dealt with under this Manual and the complainant is informed thereof in writing by the Internal Auditor within 14 days of receipt of disclosure. This communication will be restricted to stating that the criteria have not been met and is copied to the Director General and Chair of the Audit Committee.

12.2 Preparing the Investigation

40. Where a disclosure meets the preliminary criteria, the Internal Auditor together with the person that will conduct the investigation will begin preparing the investigation.

41. An external consultant may be appointed when the subject matter of the allegation is beyond the expertise of the investigator, involves specialist knowledge, or cannot otherwise be completed within a reasonable time frame,

42. The objectives of the investigation will be to:

- collect information regarding the allegation as quickly as possible. This may involve taking steps to preserve documents, materials and equipment;
- consider the information collected and to draw reasonable, objective and impartial conclusions on the alleged conduct;
- maintain procedural fairness in the treatment of witnesses and the person who is subject to the disclosure; and
- make recommendations arising from the conclusions drawn concerning remedial or appropriate action.

43. Where an external consultant is appointed to conduct the investigation, the Internal Auditor will provide a Terms of Reference to the Investigator which sets out:

- the resources available for the investigation;
- requirements for the investigator to make regular reports to the Internal Auditor; and
- set concrete timelines for completion of the investigation.

The Internal Auditor may approve an extension of the time requested by the investigator.

12.3 Preparation of the Investigation Plan

44. The investigator responsible to conduct the investigation or the external consultant, as appropriate, will prepare an investigation plan listing the issues to be substantiated and describe the avenue of enquiry. It will address the following:

- what is being alleged;
 - what are the possible findings or offences including, where appropriate, criminal aspects;
 - what the facts are in the issue;
 - how the enquiry is to be conducted; and
 - the resources required.
45. At this stage, the Internal Auditor should notify the complainant that an investigation will be conducted and further information and clarification may be requested. The Internal Auditor and those conducting the investigation shall always give effect to the whistleblower protection and confidentiality provisions set out in this Manual.

13 Conducting the Investigation

13.1 Record Keeping

46. The investigator shall make contemporaneous notes of all discussions and phone calls and all interviews. Whenever possible, two persons should conduct an interview with witnesses. If this is not possible the interview should be taped with the knowledge of the interviewee.

13.2 Right to legal representation

47. The processes in this Manual are administrative in nature and **do not** constitute a legal nor judicial, nor quasi-legal or quasi-judicial proceeding. Accordingly, persons under investigation or under interview are not entitled to have legal representation unless permitted by the Internal Auditor on advice from the Legal Counsel. For the avoidance of doubt, any costs associated with legal representation, where permitted, will be borne solely by the person under investigation.

13.3 Access to information

48. The investigator and the Internal Auditor shall have full and unrestricted access (and may have temporary possession and control of) to all the information and records relating to activities, personnel and physical property. This includes electronic records and emails.

14 Final Report and Follow-up Action

49. During the conclusion of the investigation, the Internal Auditor works together with the investigator to finalize two reports:
- a report on the findings; and
 - a report on the steps to be taken to prevent the same issue from occurring again.
50. Both reports are submitted to the Director General and to the Chair of the Audit Committee.

14.1 Report on the findings

51. The Investigator's final report on the findings will contain:
- detailed outline of the allegations;

- an account of all relevant information received, and if the investigator has rejected any evidence, a statement of the reasons therefore; and
- any recommendations arising from the conclusions.

52. Where the investigation has found that fraud or misconduct has occurred, recommendations made by the investigator will include suggested action that should be taken by SPREP to remedy any harm or loss arising from the conduct. This action may include bringing disciplinary proceedings against the person responsible for the conduct and referring the matter to the appropriate authorities for further consideration.

53. The following additional information will be available to the readers of the report on the findings:

- the transcript and other record of any oral evidence taken, including tape recordings; and
- all documents, statements or other exhibits received by the officer and accepted as evidence during the investigation.

54. Where the report on the findings contains an adverse comment against any person, that person will be given the opportunity to respond and his or her defense will be included in the report.

14.2 Report on the preventive steps

55. This report would normally be structured as if it is an audit report and could contain recommendations or Agreed Actions aimed at preventing the similar occurrences in the future.

14.3 Review of the reports by a review team

56. Prior to review by the Director General, both reports will be examined by a “Review Team” comprising of the Legal Advisor and the Chair of the SPREP Staff Committee. The Review Team may request advice or inputs during the review from relevant staff members including staff from Human Resources, Legal and Finance and Administration. This review, and any further recommendations, may be taken into consideration by the Director General in reaching a decision on the appropriate response to the review.

14.4 Situations involving a conflict of interest

57. In cases where the Internal Auditor is a suspect, the complaint should be made, in the first instance, to the Legal Advisor who will take the overseeing and coordinating role of the investigation.

58. The Legal Advisor should also take the overseeing and coordinating role of the investigation if the Internal Auditor makes a conflict of interest declaration

59. In cases where the Director General is the subject of the allegation, the investigation report will be sent directly to the Chair of the SPREP Governing Council and the Chair of the Audit Committee.

14.5 Management Response

60. The Director General will carefully consider any recommendations made in the final reports and provide a response detailing the steps to be taken to ensure that similar incidents do not occur

in the future.

15 Sanctions and Remedial Action

61. The Sanctions and Remedial Action available under this Manual depend on the contractual relationship between the subject of the investigation and SPREP as an organisation.

15.1 SPREP Employees

62. If an investigation finds that a SPREP Staff Member has committed an integrity violation the Director General will consult Human Resources Advisor and Deputy Director General to discuss recommendations submitted before taking a decision on the disciplinary action. The final decision of the appropriate disciplinary action to be imposed rests with Executive Management should a disagreement arise of the appropriate disciplinary action to apply.

15.2 Other Parties

63. Where a bidder, consultant, contractor, supplier, or other non-governmental third party is found to have committed a violation the Director General will determine, based on the investigator's report and Review Team findings, if there is a basis to impose remedial action several actions outlined in paragraphs below may be taken.

15.3 Debarment

64. Debarment reflects an administrative decision not to do business with a party who falls short of the ethical standards required under this Manual. Debarment will usually not affect existing contractual obligations, but this can be recommended if the cancellation of existing contractual obligations is appropriate.

65. A debarment can also be made based on a debarment by the World Bank, the Asian Development Bank, The United Nations or another reputable multilateral organization.

66. Debarments will have a specific minimum period but reinstatement is not automatic upon expiry.

15.4 Debarment with conditional reinstatement

67. The Director General may determine that a party should be debarred, but set specific conditions that would merit reduction of the period of debarment if met. These may include (i) improvement of integrity/corporate controls; (ii) actions taken (in the case that the party is a company) to discipline/terminate those responsible for the integrity violation; and (iii) correction of the harm caused by the integrity violation.

15.5 Conditional non-debarment

68. The Director General may determine that debarment is not required if specific actions are taken by a party. In such circumstances, the party is required to comply with conditions set by the Director General within a specified period. Should the sanctioned party fail to demonstrate compliance with the conditions within the time periods established, a debarment will automatically become effective for the minimum period established by the Director General.

15.6 Reprimand

69. A reprimand is a censure for a party's actions and notification that subsequent violations may result in a higher penalty. A written reprimand is appropriate for an isolated incident of lack of oversight, or where the integrity violation is minor.

15.7 Restitution and/or Remedy

70. Restitution and other financial remedies may be used where there is a quantifiable amount to be restored to the client country or project. This may be recommended independently or jointly with other sanctions.

Annex 1: Disclosure Form

DECLARATION IS CONFIDENTIAL

Secretariat of the Pacific Regional Environment Programme (SPREP) Lodging A Disclosure	
SUBJECT OF Disclosure:	
List specific reasons for lodging this report against the above-named person/group (if possible, provide specific examples and attach any relevant documentation including evidence to substantiate the complaint lodged):	
Declaration: I have read the SPREP Fraud Manual and I fully understand and agree to its terms and conditions. I declare that this disclosure is made in good faith and is not intended to deliberately hurt anyone. I take full responsibility of all statements made in this disclosure.	
Name:	Date:
Position:	Signature:

Annex 2: Confidentiality Agreement

<NAME>

In accordance with the terms and conditions of the SPREP Fraud Manual, all persons involved in the investigation shall make the following written declaration witnessed by the Investigation Officer or an authorized representative:

“I solemnly declare and promise to exercise in all loyalty, discretion and conscience the functions entrusted to me as an interested party in the ongoing investigation relating to "SUBJECT OF INVESTIGATION", to disclose truthfully and in all honesty, any information that is deemed relevant to the investigation.

“I also solemnly declare and promise to respect the obligations incumbent upon me, especially in ensuring the confidentiality of all information relating to this investigation as set out in the Whistleblower Procedure and related policies and procedures”

Signed:
Employee

Date: _____

Witnessed by:

Investigation Officer/ Authorised Representative

Date: _____