



# South Eastern Aboriginal Regional Management Services (SEARMS) Aboriginal Corporation

## Policy Document

Location	General Manager
Policy	Probity Policy
Version	Version 0.2
Issue Date	23 September 2016
PARS Performance Outcome	5.1 Fraud and Corruption

### 1. Introduction

SEARMS have a commitment to high legal and ethical conduct and integrity in business activities. This Probity Policy outlines SEARMS' position on preventing bribery fraud and related offences. It also sets out the code of conduct and how employees are protected under whistle blowing. SEARMS will not tolerate any form of bribery or fraud by its Board members, employees or agents, consultants or any person or body acting on its behalf.

#### *Introduction*

Fraud can be defined as dishonestly obtaining an advantage, avoiding an obligation or causing a loss to another party.

This section of the probity policy, together with the fraud response plan and investigator's guide, is intended to provide direction and help to those employees, directors and board members who find themselves having to deal with suspected cases of theft, fraud or corruption. These documents give a framework for a response and advice and information on various aspects and implications of an investigation. These documents are not intended to provide direction on prevention of fraud.

## **2. Scope of this policy**

This policy applies to all Board members, employees of SEARMS and associated person acting for or on behalf of SEARMS. Every Board member, employee and associated person is responsible for maintaining high standards of business conduct. Any breach of this policy is likely to constitute a serious disciplinary, contractual and criminal matter for the individual concerned and may cause serious damage to the reputation and standing of SEARMS.

In the context of the legislation and the Probity Policy the term “employee” is taken to embrace all employees (full-time, part-time, casual, permanent, temporary and volunteer). An “associated person” refers to all contractors, consultants, agents and agency staff engaged by SEARMS.

SEARMS may also face, criminal liability for unlawful actions taken by its Board members, employees or associated persons. All board members, employees and associated persons are required to familiarise themselves and comply with this policy, including any future updates that may be issued.

This should policy should be read in conjunction with the relevant policies and procedures.

## **3. The Board’s commitment**

The Board of SEARMS encourages anyone having reasonable suspicions of bribery, fraud or related offences to report them. If they wish an employee can report such suspicions using SEARMS’ whistleblowing policy. It is also the Board’s policy that no employee will suffer in any way as a result of reporting reasonably held suspicions. For these purposes “reasonably held suspicions” shall mean any suspicions other than those which are shown to be raised maliciously and found to be groundless. All allegations will be investigated but if allegations are found to have been raised maliciously then the employee’s behaviour will be dealt with under disciplinary procedures.

## **4. Adequate procedures – the six management principles**

There is a defence to the corporate offence if SEARMS can show it had “adequate procedures” in place, designed to prevent bribery.

Six broad management principles to assist in organisations to put in place proper anti-bribery procedures. SEARMS will follow these principles to show that it is committed to eliminating bribery within or on behalf of SEARMS. The management principles to follow are:

### *Proportionality*

Anti-bribery policies and procedures should be proportionate to the activities and size of the organisation, the sector in which it operates and the risks it faces.

### *Top level commitment*

Establishing a clear culture within SEARMS which reinforces that bribery is unacceptable.

### *Risk Assessment*

Understanding and keeping up to date with the bribery risks it faces by carrying out regular risk assessments.

### *Due Diligence*

SEARMS needs to know details about who it does business with, who it's paying money to and why – and make sure those that SEARMS works with, also have reciprocal anti-bribery agreements in place.

### *Communication*

All employees, board members, associated persons know the procedures to follow in situations which may be sensitive to bribery. SEARMS must ensure that its anti-bribery policies are embedded in the organisation's culture, not just a "box-ticking" exercise. SEARMS will publish its Probity Statement on its web and intranet sites.

### *Monitoring and Review*

Through audit and to other internal controls SEARMS must monitor its anti-bribery procedures to prevent and detect bribery – to make sure and prove that its procedures are working.

## **5. Prohibited actions**

SEARMS prohibits board members, employees or associated persons from offering, promising, giving, soliciting or accepting any bribe. The bribe might be cash, a gift or other inducement to, or from, any person or company, whether a public or government official, official of a state-controlled industry, political party or a private person or company, regardless of where they are situated. The bribe might be made to ensure that a person or company improperly performs duties or functions (for example, by not acting impartially or in good faith or in accordance with their position of trust) to gain any commercial, contractual or regulatory advantage for the company in either obtaining or maintaining company business, or to gain any personal advantage, financial or otherwise, for the individual or anyone connected with the individual.

## **6. Records**

Board members and employees are required to take particular care to ensure that SEARMS records are accurately maintained in relation to any contracts or business activities, including financial invoices and all payment transactions with tenants, clients, suppliers and public officials.

No accounts can be kept "off-book" to facilitate or conceal improper payments.

Due diligence should be undertaken by employees prior to entering into any contract, arrangement or relationship with a potential supplier of services, agent, consultant or

representative or other associated persons in accordance with SEARMS' processes and procedures.

Board members and employees are required to keep accurate, detailed and up-to-date records of all corporate hospitality, entertainment or gifts accepted or offered by way of recording them in a register available through SEARMS.

## **7. Facilitation payments and kickbacks**

### *Principle*

SEARMS prohibits its employees or associated persons from making or accepting any facilitation payments or "kickbacks" of any kind.

Facilitation payments are payments made to government officials for carrying out or speeding up routine procedures. Facilitation payments or offers of such payment will constitute a criminal offence by both the individual concerned and by SEARMS.

Kickbacks are typically payments made in return for a business favour or advantage. Kickbacks can include discounts of other types of cash incentives and can commonly be found to occur in, and so particular vigilance should be paid to, supply chain arrangements.

### *Procedure*

Where a public official has requested a payment employees or associated persons should ask for further details of the purpose and nature of the payment in writing, If the public official refuses to give these, this should be reported immediately to SEARMS General Manager.

If the public official provides written details, the General Manager will consider the nature of the nature of the payment. Local legal advice may be sought by SEARMS. If it is concluded that the payment is a legitimate fee, for example part of a genuine fast-track process, or is permitted locally, the employee may be authorised to make the payment.

Where the General Manager considers that the request is for a facilitation payment, the employee or associated person will be instructed to refuse to make the payment and notify the public official.

SEARMS will seek the assistance of the employee from who the facilitation payment was requested as part of the investigation process and may determine that the matter should be referred to the prosecution authorities. If an employee or associated person has any other concerns about the nature of a request for payment, he/she should report it to the General Manager using the reporting procedures set out in this document and in accordance with SEARMS whistleblowing policy.

## **8. Corporate entertainment, gifts, hospitality and promotional expenditure**

### *Principle*

SEARMS permits corporate entertainment, gifts, hospitality and promotional expenditure that is undertaken:

- For the purpose of establishing or maintaining good business relationships;
- Show genuine appreciation for services;
- To improve the image and reputation of SEARMS; or
- To market products and SEARMS service effectively.

Provided that it is:

- Appropriate and reasonable in the circumstances
- Arranged in good faith; and
- Not offered, promised or accepted to secure an advantage for SEARMS or any of its employee or associated person or to influence the impartiality of the recipient.

SEARMS will authorise only reasonable, appropriate and proportionate entertainment and promotional expenditure. This principle applies to Board members, employees and associated persons acting on behalf of SEARMS.

#### *Procedure*

Employees should submit requests for proposed hospitality (to a third party) and promotional expenditure well in advance of proposed date with the General Manager. Employees are required to set out in writing:

- The objective of the proposed client entertainment or expenditure
- The identity of those who will be attending
- The organisation that they represent and
- Details and rationale of the proposed activity

SEARMS will approve business entertainment proposals only if they demonstrate a clear business objective and are appropriate for the nature of the business relationship. SEARMS will not approve business entertainment where it considers that a conflict of interest may arise or where it could be perceived that undue influence or a particular business benefit was being sought (for example, taking a supplier out for lunch prior to a tendering exercise).

Any gifts, rewards or entertainment received or offered from tenants, customers, public officials, suppliers contractors or other business contracts should be reported immediately to your direct supervisor and recorded in SEARMS' register. In certain circumstances, it may not be appropriate such gifts or be provided with the entertainment and employees and associated persons may be asked to return the gifts to the sender or refuse the entertainment, for example, where there could be a real perceived conflict of interest. As a general rule, small tokens of appreciation, such as flowers etc. (around the value of \$20.00) may be retained by employees, but must still be recorded in SEARMS gifts register.

If an employee or associated person wishes to provide gifts to tenants, suppliers, customers, clients or other business contacts, prior written approval from the General Manager is required, together with details of the intended recipients, reasons for the gift and business objective. These will be authorised only in very limited circumstances. Employees and where applicable, associated persons must supply records and receipts, in accordance with SEARMS expenses policy and these should be recorded in SEARMS gifts register.

### *Charitable Donations*

SEARMS considers that charitable giving can form part of its wider commitment and responsibility to the Aboriginal community. SEARMS selects a charity to support each year, by means of nominations from board members or staff. SEARMS may support fundraising events involving employees and also support local group and charities via its community development fund.

## **9. Reporting suspected bribery**

### *Principle*

SEARMS depends on its board members, employees and associated persons to ensure that high standards of ethical conduct are maintained in all its business dealing. Board members employees and associated persons are encouraged to report any concerns that they may have to SEARMS General Manager as soon as possible can use the whistleblowing procedure to do so. Issues that should be reported include:

- Any suspected or actual attempts at bribery
- Concerns that other employees or associated persons may be being bribed or;
- Concerns that other employees or associated persons may be bribing third parties, such as tenants, clients or government officials.

### *Procedure*

If an incident or suspected incident of bribery occurs it will recorded in SEARMS fraud and bribery register when it has been reported to the General Manager. Any such reports will be thoroughly and promptly investigated in conjunction with SEARMS investigation procedure within the terms and conditions of employment, contract or consultancy agreement. Employees and associated person will be required to assist in any investigation into possible or suspected bribery. Employees will also be required to comply with SEARMS whistleblowing procedure.

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### *Reporting*

On a quarterly basis the General Manager will submit the hospitality and gifts register and highlight any concerns to the Chairman of the Board, where it will be minuted. SEARMS General Manager will provide an annual probity report to the Board of SEARMS. This report will include

- Disclosure of interests register

- Details of payments, benefits and corporate hospitality made
- Reported instances of bribery, fraud and irregularity

#### **10. Training and communication**

Training on this policy forms part of the induction process for all new employee. All existing employees identified as operating in 'at-risk' roles will receive regular training on how to implement and adhere to this policy.

#### **11. Anti-Money Laundering**

Money laundering is any process whereby funds derived from criminal activity are given appearance of being legitimate and participating in handling such funds is illegal, as can be becoming involved in them with knowledge or suspicion.

In common with all businesses SEARMS are vulnerable to money laundering, and SEARMS are determined to protect SEARMS against penalties that money laundering offence can carry.

Any areas of the business might be open to money laundering, and all employees, board members and associated persons need to be aware of, and alert to the possibilities that some areas of activity are more exposed to higher levels of risk as a result of their nature and employees working in these areas, need to be particularly vigilant.

All employees are encouraged to remain alert to suspicious behaviour and to report any incidence of any of SEARMS' assets being used for criminal purposes.

#### **12. Confidentiality**

Violations or suspected violations may be submitted on a confidential basis by the complainant. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

#### **13. Related Documents**

- Fraud and Corruption Policy
- Whistleblower Policy
- Code of Conduct Policy

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#### **13. Policy Review**

This Policy will be reviewed 23/09/2017

#### **14. Policy Adoption**

This policy was adopted 23/09/2016

Issuing Authority



Jesse White  
General Manger



Tom Slockee  
Co-Chairperson

SEARMS Common Seal

