

Solidarity Response Fund NPC - Anti-Bribery and Anti-Corruption Policy

Target audience	All Board members, employees, vendors, donors and beneficiaries	
Responsible Person	Chief Financial Officer	
Current Version	V1	
Other relevant policies		

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1. DEFINITIONS

- 1.1. "ABC" means "Anti-bribery and corruption";
- 1.2. "ABC law" means "The South African Prevention and Combating of Corrupt Activities Act, 2004, or any other applicable national or international regulatory enactment of similar import that may have a bearing on the activities of the person or entity concerned";
- 1.3. "the Fund" means "The Solidarity Response Fund NPC";
- 1.4. "Board" means "The Governing Board of the Fund";
- 1.5. "books and records" means "Accounts, invoices, correspondence, papers, CDs, tapes, electronic storage media, memoranda and any other document or transcribed information of any type";
- 1.6. "bribery risk" means "The risk or likelihood of a bribery and corruption incident occurring within the course and scope of a commercial organisation's business activities";
- 1.7. "bribery and corruption" means "A "bribe" is the direct or indirect offer, authorization, gift or promise to give anything of value to a government/public official or any other person, with the intent to obtain or retain business or gain an improper advantage. This includes facilitation payments. For the sake of clarity, bribery and corruption include, inter-alia, the following:
 - 1.7.1. any payment or anything else of value to any official of any government or public international organization (including any officer or employee of any government department, agency or instrumentality) to influence or reward his or its decision, or to gain any other undue advantage;
 - 1.7.2. any payment or anything else of value to any representative of a private enterprise (whether for profit or otherwise) to improperly, dishonestly and outside the ordinary course of ethical business practice, influence or reward his or its decision, or to gain any other undue advantage; and
 - 1.7.3. any act or omission that constitutes a contravention of any applicable ABC Laws";
- 1.8. "employee/s" means "All employees working at all levels and grades (whether permanent, fixed-term or temporary), including directors, senior managers, officers, trainees, seconded staff, home based staff, casual staff, agency staff, volunteers and interns";
- 1.9. "facilitation payment" means "Low value payments made to government officials to induce them to perform routine functions expeditiously";
- 1.10. "government official" means "People not only working directly for government, but also employees of government owned or controlled companies or agencies. In some countries it can be difficult to determine whether you are dealing with "government officials". The following persons may, depending on the circumstances, be considered to be government officials:
 - 1.10.1. an official or employee of a government or government owned enterprise;
 - 1.10.2. an official or employee of a government agency or regulatory authority;
 - 1.10.3. an official or employee of a political party or a political candidate;

- 1.10.4. any official or employee of an international public organisation such as the United Nations, World Bank or International Monetary Fund;
- 1.10.5. a member of the judiciary or magistracy;
- 1.10.6. an individual who holds or performs the duties of an appointment, office or position created by custom or convention, including some members or royal families and some tribal leaders;
- 1.10.7. a person who is, or holds themselves out to be, an authorised intermediary of a government official; and
- 1.10.8. police officers, customs and tax officials, and employees of state owned enterprises ("SOEs");
- 1.11. "improper advantage" means "Something to which the Fund, a person or entity is not clearly entitled, such as the provision of benefits, contract award, grant of operating permits, product registration approval, favourable court decision, or a tax dispute settlement"; and
- 1.12. "vendor" means "A third party that supplies the Fund with goods or services".

2. INTRODUCTION

- 2.1. The Solidarity Response Fund NPC (**"the Fund"**) has been established to prevent, detect, care for and support South Africans that have been impacted by COVID-19. The private and corporate donors of the Fund have entrusted their money and resources to the fund for this purpose, and the Fund recognises the importance of ensuring that none of these donations are tainted by any bribery or corruption.
- 2.2. The Fund is committed to operating on an ethical and sound basis and in-line with applicable legislation and is also committed to complying fully with Anti-Bribery and Anti-Corruption ("ABC") laws applicable to it. The Fund has a zero tolerance approach to acts of bribery and corruption by donors, employees, vendors, beneficiaries and all third parties that it engages with.
- 2.3. The Board will actively and visibly lead the Fund's anti-bribery and anti-corruption policy, and ensure that this policy is implemented consistently and with clear lines of authority. The Fund is committed to continually improving its anti-bribery and anti-corruption controls.

3. PURPOSE AND SCOPE

This policy details the measures that the Fund has taken to prevent bribery and corruption, and the procedures that should be followed if any incident of bribery and corruption occurs within the purview of its activities. This policy does not form part of any employee's contract of employment and it may be amended at any time. Be that as it may, all employees are required to comply with this policy at all times and any failure to do so may result in appropriate disciplinary action being taken against any employee concerned.

4. POLICY STATEMENT

No donor, employee, vendor or beneficiary of the Fund may engage in any act of bribery and corruption in relation to the activities of the Fund, including (but not limited to) the determination and distribution of any benefit from the Fund.

5. POLICY PROVISIONS

5.1. This policy applies to all employees and vendors of the Fund (when engaging in activities for and on behalf of the Fund), wherever located. All employees and vendors must read, become familiar and comply with this policy. Where vendors are juristic entities, the vendors must ensure that its employees and agents that engage in activities for and on behalf of the Fund are familiar with this policy. Donors and beneficiaries are also expected to comply with the principles set-out in this policy.

5.2. Any breach of this policy will be regarded as a serious matter, which may result in:

- 5.2.1. disciplinary action being taken against employees, which could result in dismissal and criminal proceedings;
 - 5.2.2. the termination of contracts for vendors and criminal proceedings;
 - 5.2.3. the termination of ongoing support for a beneficiary, criminal proceedings and steps to recover any support already provided; and
 - 5.2.4. the termination of any further relationship with a donor (with a right for the Fund to retain any funds already received), and criminal proceedings,
- all depending on the circumstances of the particular breach.

5.3. Receipt of Donations

- 5.3.1. The Fund welcomes donations from all South Africans and from international donors, no matter how great or small. The Fund will operate with the highest principles of corporate governance to ensure that donations are used for the purposes that the Fund was established.
- 5.3.2. Donating to the Fund will not result in any donor receiving any undue benefit or preference by the South African government, the Fund and its employees. Donations should be given in good faith, based on the principles in terms of which the Fund was established. No matter how generous a particular donation is, the donor will not receive any undue benefit or preference.
- 5.3.3. Donations and funding received, and all matters incidental thereto, shall be governed in terms of the Fund's Donations Policy.

5.4. Determination and Distribution of Benefits

- 5.4.1. The Fund will establish appropriate governance frameworks for the determination and distribution of benefits, and the beneficiaries of such benefits.
- 5.4.2. Any third party that attempts to unduly influence the Fund, any of its employees or any of its vendors in order to be given any benefit from the Fund through the provision of anything of value shall be disqualified from receiving any benefit (or further benefit) from the Fund. In addition, the

Fund may consider taking steps to recover any benefit already provided, and it may consider instituting criminal proceedings against the third party (depending on the circumstances).

5.5. Facilitation Payments

5.5.1. The Fund does not make, and will not accept, facilitation payments of any kind and prohibits all employees and vendors from making these payments for or on behalf of the Fund, even to secure or expedite a routine government action by a government official. It is also not permitted to establish accounts or internal budgets for the purpose of facilitation payments to government officials.

5.5.2. All employees and vendors must avoid any activity that might lead to, or suggest, that a facilitation payment or kickback will be made or accepted by or on behalf of the Fund, recognising that refusal to make such payments may result in delays to delivering relief and benefits, and that there may be additional costs attributable to adherence with this policy. If any employee or vendor encounters a demand for a facilitation payment whilst working within the purview of the Fund's activities, or think they are likely to do so, they should report the situation to the Chief Financial Officer of the Fund without delay.

5.5.3. The Fund however recognises that there may be exceptional circumstances where an individual's health and safety may be at risk. In such circumstances, there may be no alternative but to make a facilitation payment in order to protect the individual. Any such payment should be reported to the Chief Financial Officer of the Fund so that action can be taken against the person(s) who have perpetrated the facilitation payment solicitation.

5.6. Gifts, entertainment and hospitality

5.6.1. Whilst conducting business for or on behalf of the Fund, employees and vendors may not offer to, or accept from any third parties (including, but not limited to, any public official), any gift, entertainment or hospitality.

5.6.2. Furthermore, the Fund shall not provide any gifts, entertainment or hospitality to any third parties. The Fund shall only provide support or benefit to third parties through its established processes to do so.

5.7. Dealing with government officials

5.7.1. Dealing with government officials may pose a high risk in respect of bribery and corruption by virtue of the power vested in these officials. Furthermore, engaging in any bribery or corruption in respect of government officials is an offence in terms of the ABC laws applicable to the Fund.

5.7.2. The Fund strictly prohibits the provision of money or anything else of value, no matter how small, to any government official for the purpose of influencing such official inappropriately.

6. **ABC COMPLIANCE PROCEDURES**

6.1. Ethical principles

6.1.1. The Fund expects that all employees and vendors should at all times act in accordance with the following principles:

- Behave honestly, be trustworthy and set a good example;
- Use the resources of The Fund in-line with the principles in terms of which the Fund was established;
- Make a clear distinction between the interests of The Fund and private interests to avoid any conflict of interest, and if such conflict does arise, to report it immediately;
- Ensure that any benefit provided to any third party does not constitute bribery and corruption, and if in doubt, to immediately consult the Chief Financial Officer of the Fund;
- Confidentially report all incidents, risks and issues which are contrary to this policy to the Chief Financial Officer of the Fund, in the strictest confidence; and
- Not offer or accept any bribes and not be involved with any act of bribery and corruption.

6.2. Due diligence

6.2.1. The Fund recognises the importance of conducting due diligence on third parties in appropriate circumstances. Given the pressing needs that the Fund seeks to address, it may not always be possible for comprehensive due diligence processes to be followed whilst the current crises prevails. Be that as it may, the Board of the Fund shall take reasonable steps to evaluate the beneficiaries of the Fund and it shall determine appropriate process and procedures for this.

6.2.2. The Fund may engage third party service providers to conduct compliance due diligence on beneficiaries and vendors, and the Board of the Fund may develop processes and procedures on this.

6.3. Contracts with vendors and beneficiaries

As far as reasonably practicable, the Fund shall ensure that vendors are engaged based on written contracts, and beneficiaries agree to donation agreements (where practical), and that these contracts include specific obligations that address (and prohibit) bribery and corruption.

6.4. Record-keeping

6.4.1. The Fund shall maintain financial records and appropriate internal controls that evidence the business reason for making payments to third parties. In this regard, all books and records will be prepared and maintained with strict accuracy and completeness. No transactions will be accounted for off-record to facilitate or conceal improper payments.

6.4.2. When invoices are received from vendors acting for or on behalf of The Fund, the descriptions of services rendered and/or disbursements must be properly interrogated and vague or suspicious descriptions (for example "special services", "special bonus" and "administrative expense") should be properly interrogated by the responsible person before submitting the account for payment. A failure to do so on the part of any employee may result in disciplinary action being taken against such employee.

6.5. Whistleblowing

6.5.1. The Fund encourages all employees, business partners and vendors to raise concerns about any issue or suspicion of bribery and corruption without delay. "Red flag" situations that may indicate bribery or corruption are set out in Annexure A to this policy.

6.5.2. Concerns should be reported through the following channels:

6.5.2.1. Chief Financial Officer of the Fund; and/or

6.5.2.2. The Whistleblowing hotline:

TOLL FREE NUMBER	0801114945
SMS CALL-BACK	30916
EMAIL ADDRESS:	solidarity@thehotline.co.za
FAX 2 EMAIL:	0867261681
TELEPHONE WEB APP:	www.thehotlineapp.co.za
WEBSITE:	www.thehotline.co.za

Policy agreed to by the Solidarity Fund Board on 27 May 2020

SIGNED:



CHAIR OF SOLIDARITY FUND BOARD

Annexure A**ABC “RED FLAGS”**

The following is a list of potential ABC “red flags” that should raise concern. The list is not intended to be exhaustive and is for illustrative purposes only. Any of these “red flags” must be reported to the Chief Financial Officer of the Fund:

- a) if a vendor or other relevant third party engages in, or has been accused of engaging in, improper business practices;
- b) if a vendor or other relevant third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a reputation for having inappropriate relationships with government officials;
- c) if a vendor or other relevant third party insists on receiving a commission or fee payment before committing to sign a contract with the Fund;
- d) if a vendor or other relevant third party requests payment in physical cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for payments made;
- e) if a vendor or other relevant third party requests that payment is made to a country or geographic location different from where the vendor or third party resides or conducts business;
- f) if a vendor or other relevant third party requests an unexpected additional fee or commission;
- g) if a vendor or other relevant third party demands lavish entertainment or gifts before commencing or continuing contractual obligations or services;
- h) if a vendor or other relevant third party requests that a payment is made to “overlook” potential legal violations or to reimburse unsubstantiated expenses or requests a blank value sheet in order to insert their own value of goods supplied;
- i) if a vendor or other relevant third party requests employment or other benefit to a friend or relative;
- j) if a vendor or other relevant third party insists on the use of side letters or refuses to put agreed terms in writing;
- k) an invoice for a commission or fee payment that appears vague or excessive, given the nature of the services provided;
- l) an invoice from a vendor that appears to be non-standard or customised; and
- m) an unusually generous gift or lavish hospitality offered by a third party.