

Micronesia Conservation Trust (MCT) Fraud Prevention and Whistle Blower Protection Policy

1. Principles

- 1.1. *Zero Tolerance*: MCT strongly affirms the importance of a “zero-tolerance” approach for MCT’s staff and within its operations including its programs and projects. This principle shall be applied in a practical, fair and consistent manner that is cost effective
- 1.2. *Building a culture of honesty and ethics* is part of the drive to ensure that MCT operates as an ethical and transparent organisation that encourages staff members to participate in protecting its resources. MCT’s Code of Conduct provides 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 MCT and its resources.

2. Scope and Application

- 2.1. The Fraud Prevention and Whistleblower Protection Policy (policy) 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.
- 2.2. The policy enables and assists MCT in maintaining high ethical standards in all its operations and to meet its obligations to the donors who help fund its services.
- 2.3. This policy applies to all operations of MCT. It applies to all MCT associates, supporters, entities, and direct beneficiaries (partners).¹ The policy also covers all third parties dealing with projects financed by MCT funds.

3. Definition of Fraud

- 3.1. 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.
- 3.2. For the purposes of this policy, fraud includes:
 - 3.2.1. Corrupt practice, which is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
 - 3.2.2. 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;
 - 3.2.3. 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;
 - 3.2.4. 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;
 - 3.2.5. Abuse, which is theft, waste or improper use of assets related to MCT activity, either committed intentionally or through reckless disregard;

- 3.2.6. 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;
- 3.2.7. Obstructive practices, which includes (a) deliberately destroying, falsifying, altering, or concealing of evidence material to an MCT investigation; (b) making false statements to materially impede a MCT 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 MCT's contractual rights of audit or access to information; and
- 3.2.8. 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 MCT investigation by the whistleblower or witness.

4. Whistleblower Protection

- 4.1. MCT is committed to high standards of ethical, moral and legal business conduct. In line with this commitment and MCT's commitment to open communication, this policy provides an avenue for employees, grantees, local partners and any individual to raise concerns, as well as provide reassurance that the individual will be protected from reprisals or victimization for whistle blowing.
- 4.2. No MCT staff shall be subjected to intimidation, harassment, threat, discrimination, or other detriment, disadvantage or punishment during their employment at MCT because of making a disclosure under this policy.
- 4.3. MCT shall take all reasonable steps to ensure that sufficient and appropriate protection is provided for those who make a good faith disclosure under this policy. 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.
- 4.4. If the whistleblower feels that she or he 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 Board of Trustees.
- 4.5. External complainants shall have the same protection as MCT staff in relation to any dealing with MCT including the ability to appeal should she or he feel discriminated, harassed, intimidated or subject to other unwarranted treatment from MCT because of the investigation.

¹ Definitions -- Associates: means employees, partners, suppliers, landlords, sub-grantees, contractors, direct beneficiaries, borrowers and donors with whom MCT has a formal association as indicated by the existence of a signed agreement. This includes persons (or entities owned or controlled by persons) that act for or on behalf of associates; Support: means, but is not limited to, the making or receiving of any contribution of funds, goods, or services including purchasing from, selling to, lending to, donating to or working/partnering with; Entity: means a partnership, association, corporation, or other organization, group, or subgroup; Direct Beneficiary: means any person or entity that receives material support including cash grants, loans or other significant material support.

5. Responsibility for Fraud Prevention

5.1.1. The Executive Director (ED) has the overall responsibility for the implementation of this policy. However, to ensure independence he or she will not have any role in the investigation but will deal with investigation reports once submitted.

5.1.2. The responsibility for the implementation of this policy is delegated to the Deputy Executive Director (DED). The Board of Trustees provides oversight over the investigative function.

5.2. Responsibilities of the Deputy Executive Director

5.2.1. The principal responsibilities of the DED is to:

5.2.1.1. advance awareness of the policy;

5.2.1.2. review this policy at least every five years and submit texts for improvements for approval by the Board of Trustees;

5.2.1.3. submit text for improvement to the policy whenever the need for improvement is identified;

5.2.1.4. serve as the initial contact point to receive complaints and allegations;

5.2.1.5. ensure that the proper system exists to keep all related information confidential;

5.2.1.6. oversee and co-ordinate all investigations; and

5.2.1.7. investigate complaints relating to financial fraud as set out in this policy.

5.3. Awareness Raising and Training

5.3.1. MCT 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 DED for new and existing staff on:

5.3.1.1. definition of fraud, including use of examples and underlining that fraud can involve pursuit of tangible and intangible benefits;

5.3.1.2. the need for ethical behavior and the fact that fraud avoidance is everyone's responsibility;

5.3.1.3. the details of the MCT Fraud Prevention Policy;

5.3.1.4. indicators of fraudulent activity;

5.3.1.5. steps to take if fraud is identified;

5.3.1.6. responsibilities for handling allegations and enquiries into cases of fraud at MCT;

5.3.1.7. the roles of ED, DED and other key personnel involved in implementing this policy;

5.3.1.8. the role of the Board of Trustees; and

5.3.1.9. measures to ensure that third parties, including partners, are aware of this policy and its provisions.

5.3.2. The policy will be presented and reviewed at the first staff meeting of every year and staff members will be requested to sign confirming they have been made aware of the policy.

The following form contains the names and signatures of members of the staff that have read and been made aware of the Fraud and Anti-Corruption Policy

NAME OF STAFF MEMBER	SIGNATURE	DATE

5.4. Updating this Policy

5.4.1. For this policy 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 policy will take place every five years by the Public Auditor of one of MCT's partner countries on a rotating basis (Federated States of Micronesia, Republic of Palau, Republic of the Marshall Islands). The results of these reviews will be conveyed to the ED who will produce a written response outlining the measures to be taken, with timeframes (where relevant) for action and implementation.

6. Making a Complaint about Suspected Fraud Directly to MCT

6.1.1. Reporting Fraud

6.1.1.1. A complainant is anyone who brings forward an allegation of fraud in accordance with the provisions of this policy. A complainant can be someone internal or external to MCT. 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:

6.1.1.1.1. fraudulent practices as defined and elaborated upon in this policy;

6.1.1.1.2. violation of the MCT's organizational values and Code of Conduct;

6.1.1.1.3. retaliation against whistleblowers or witnesses, which is any detrimental act;

6.1.1.1.4. conduct that poses serious threat to the health, safety or the environment, whether affecting the public in general or any MCT employee

6.1.1.1.5. Complaints are addressed to the DED in several ways including:

6.1.1.1.5.1. complete the form in Annex 1 or an equivalent writing;

6.1.1.1.5.2. request a face to face meeting;

6.1.1.1.5.3. phone call;

6.1.1.1.5.4. write a letter; or

6.1.1.1.5.5. send to email: fraud@ourmicronesia.org

6.1.1.1.5.6. via complaints form on MCT website: www.outmicronesia.org

6.1.1.2. Complaints are treated confidentially and only DED and ED have access to the contents of the emails sent to this address. Any allegations received by MCT staff should be immediately forwarded to the DED.

6.1.2. Anonymity

6.1.2.1. 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.

6.1.3. Acknowledgement of Complaints

6.1.3.1. The DED shall acknowledge all complaints within one week of receipt.

6.2. Obligations and provisions related to MCT Staff

6.2.1.1. All MCT staff members have an obligation to report on a reasonable suspicion of fraud directly to the DED. If the staff member feels uncomfortable reporting the matter to the DED, then the report may be sent to the finance officer for transmission to the DED.

6.2.1.2. Any reporting of a suspicion of fraud should be made in good faith. It is a violation of MCT 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.

6.2.1.3. To avoid doubt, this policy and its procedures relate to complaints of fraud as defined under this policy. This policy 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. The process described in this policy is not intended to express disagreement with management decisions unless they constitute intentional misconduct of the nature described under the definitions of fraud.

6.2.1.4. The policy and procedures also do not relate to complaints raised about environmental and social safeguard concerns. These should be directed through MCT's grievance mechanism set-up specifically to deal with environmental and social safeguard violations or grievances.

6.3. Content of the allegation

6.3.1. The DED 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:

6.3.1.1. a reasonably detailed description of the suspected misconduct including time frame and location;

6.3.1.2. all individuals directly or indirectly involved in the incident or having knowledge thereof;

6.3.1.3. details of any third parties involved in the incident;

6.3.1.4. references to documents, electronic records or other evidentiary material which help explain or support; and

6.3.1.5. other relevant information.

6.4. Responsibility for the investigation

6.4.1. The DED is tasked with overseeing and coordinating all investigations under this policy and may obtain the advice of the Board of Trustees.

6.4.2. The individual who will conduct the investigation is decided by the DED, on a case by case basis. The choice of “Investigator Officer” is decided in consultation with the ED and should be someone (i) most equipped to handle the complaint; (ii) has no conflict of interest; and (iii) is not the subject of the complaint.

6.5. Confidentiality

6.5.1. MCT will not divulge the identity of complainants to outside parties without obtaining explicit consent. Information with the DED 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.

6.5.2. The DED 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 DED for filing upon the conclusion of the investigation.

6.5.3. Confidentiality of all complaints and the identity of those involved will be assured by the DED and any party involved in an investigation.

6.5.4. All reports are to be treated with the utmost confidentiality by all parties concerned. The DED shall ensure that all parties involved in an investigation sign the confidentiality agreement contained in Annex 2.

7. Making a Complaint about Suspected Fraud to Public Auditor

7.1. While MCT has an internal system for receiving complaints related to fraud, mismanagement or corruption directly. A complaint can also be submitted through an external independent channel by directing complaints through one of the Public Auditors working in MCT’s partner countries.

7.2. Complaints can be made directly through the hotline of the respective public auditor offices. Complaints handled through this external mechanism will follow the investigation procedures of the public auditors:

7.2.1. The Federated State of Micronesia’s Office of the Public Auditor accepts reporting of any incident of fraud, abuse, or waste to the Public Auditor hotline. The Hotline is available twenty-four hours a day, every day of the week. Collect calls are also accepted during regular government business hours from the States of Yap, Chuuk, and Kosrae. All calls to the Hotline remain absolutely confidential

- 7.2.1.1.1. Further inquiries may be made by calling: Staff of the Compliance Investigation Division at the HOTLINE 320-6768 or at 320-2862/2863
- 7.2.1.1.2. Complaints may also be filled out using the [on-line complaint](#) form. All reports will be treated as confidential.
- 7.2.2. The Republic of Palau's Office of the Public Auditor accepts reporting of fraud, corruption, theft of abuse. All reports are confidential
 - 7.2.2.1. Complaints can be made via phone at: (680) 488-2889/5687
 - 7.2.2.2. Or through the use of the [online report form](#).
- 7.2.3. The Republic of the Marshal Island's Office of the Auditor General accepts reporting of fraud waste, or abuse through a telephone hotline available Monday through Sunday and anytime of the day. Calls to the number are anonymous and non-traceable.
 - 7.2.3.1. Complaints can be made via phone at: (692) 625-1155; by writing via Facsimile (Fax) Line (692) 625-1156. (Calls or faxes are anonymous and non-traceable); or by mail to the Office of Auditor-General, P.O. BOX 245, Majuro MH, 96960
 - 7.2.3.2. Complaints can also be made through by filling out an [online complaint form](#).

8. Natural Justice in Investigations

- 8.1. 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.
- 8.2. The DED and the person conducting the investigation shall have regard to the following issues in ensuring procedural fairness:
 - 8.2.1. 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;
 - 8.2.2. 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;
 - 8.2.3. all relevant parties to the matter must be heard and all submissions considered fully;
 - 8.2.4. the DED or investigator should not have a personal or professional interest in the investigation;
 - 8.2.5. all proceedings must be carried out fairly and without bias. Care should be taken to ensure that perceived bias is also avoided;
 - 8.2.6. 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.

9. Planning the Investigation

9.1. Preliminary Screening

9.1.1. To establish whether the subject matter of a complaint falls within the scope of this policy, the DED will establish:

9.1.1.1. whether the complaint relate to the conduct of an MCT 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 MCT or a project funded by MCT;

9.1.1.2. whether the complainant has presented reasonable grounds for believing that the alleged conduct has occurred;

9.1.1.3. whether there is a reasonable possibility that a violation has occurred; and

9.1.1.4. whether the matter is of sufficient importance to justify the projected requirements of the investigation and any remedial action.

9.1.2. Where a complaint does not meet these criteria, the complaint does not have to be dealt with under this policy and the complainant is informed thereof in writing by the DED 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 ED and Board of Trustees.

10. Preparing the Investigation

10.1. Where a disclosure meets the preliminary criteria, the DED together with the person that will conduct the investigation will begin preparing the investigation.

10.2. 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,

10.3. The objectives of the investigation will be to:

10.3.1. collect information regarding the allegation as quickly as possible. This may involve taking steps to preserve documents, materials and equipment;

10.3.2. consider the information collected and to draw reasonable, objective and impartial conclusions on the alleged conduct;

10.3.3. maintain procedural fairness in the treatment of witnesses and the person who is subject to the disclosure; and

10.3.4. make recommendations arising from the conclusions drawn concerning remedial or appropriate action.

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

10.4.1. the resources available for the investigation;

10.4.2. requirements for the investigator to make regular reports to the DED; and

10.4.3. set concrete timelines for completion of the investigation.

10.4.4. The DED may approve an extension of the time requested by the investigator.

11. Preparation of the Investigation Plan

11.1. 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:

11.1.1. what is being alleged;

11.1.2. what are the possible findings or offences including, where appropriate, criminal aspects;

11.1.3. what the facts are in the issue;

11.1.4. how the enquiry is to be conducted; and

11.1.5. the resources required.

11.2. At this stage, the DED should notify the complainant that an investigation will be conducted and further information and clarification may be requested. The DED and those conducting the investigation shall always give effect to the whistleblower protection and confidentiality provisions set out in this policy.

12. Conducting the Investigation

12.1. Record Keeping

12.1.1. 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.

12.2. Right to legal representation

12.2.1. The processes in this policy 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 DED on advice from the Board of Trustee. For the avoidance of doubt, any costs associated with legal representation, where permitted, will be borne solely by the person under investigation.

12.3. Access to information

12.3.1. The investigator and the DED 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.

12.4. Final Report and Follow-up Action

12.4.1. During the conclusion of the investigation, the DED works together with the investigator to finalize two reports:

- 12.4.1.1. a report on the findings; and
- 12.4.1.2. a report on the steps to be taken to prevent the same issue from occurring again.
- 12.4.2. Both reports are submitted to the ED and to the Chair of the Board of Trustees.
- 12.5. The Investigator's final report on the findings will contain:
 - 12.5.1. detailed outline of the allegations;
 - 12.5.2. an account of all relevant information received, and if the investigator has rejected any evidence, a statement of the reasons therefore; and
 - 12.5.3. any recommendations arising from the conclusions.
- 12.6. 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 MCT 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.
- 12.7. The following additional information will be available to the readers of the report on the findings:
 - 12.7.1. the transcript and other record of any oral evidence taken, including tape recordings; and
 - 12.7.2. all documents, statements or other exhibits received by the officer and accepted as evidence during the investigation.
 - 12.7.3. 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.
- 12.8. The Investigator's report on the preventive steps
 - 12.8.1. 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.
- 12.9. Situations involving a conflict of interest
 - 12.9.1. In cases where the DED is a suspect, the complaint should be made, in the first instance, to the finance officer who will take the overseeing and coordinating role of the investigation.
 - 12.9.2. The finance officer should also take the overseeing and coordinating role of the investigation if the DED makes a conflict of interest declaration
 - 12.9.3. In cases where the ED is the subject of the allegation, the investigation report will be sent directly to the Chair of the Board of Trustees.
- 12.10. Management Response

12.10.1. The ED 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.

13. Sanctions and Remedial Action

13.1. The Sanctions and Remedial Action available under this policy depend on the contractual relationship between the subject of the investigation and MCT as an organization.

13.1.1. MCT Employees

13.1.1.1. If an investigation finds that an MCT Staff Member has committed an integrity violation the ED will consult DED 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 the ED should a disagreement arise of the appropriate disciplinary action to apply.

13.1.2. Other Parties

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

13.1.3. Debarment

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

13.1.3.2. 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.

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

13.1.4. Debarment with conditional reinstatement

13.1.4.1. The ED 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.

13.1.5. Conditional non-debarment

13.1.5.1. The ED 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 ED 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 ED.

13.1.6. Reprimand

13.1.6.1. 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.

13.1.7. Restitution and/or Remedy

13.1.7.1. 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

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 MCT's Fraud Prevention Policy 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 MCT Fraud and Mismanagement Policy, all persons involved in the investigation shall make the following written declaration witnessed by the **xxx** 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:

XX/ Authorized Representative Date: