



Anti-Corruption & Anti-Fraud Policy

Policy & Procedure Owner	ERFA Board	
Approved by	ERFA Board of Directors	
Date Approved	Date of Last Revision	Next Review
22 September 2015	February 2018	February 2021

Abbreviations

ACFID	Australian Council for International Development
OECD	The Organisation for Economic Co-operation and Development

Contact information

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Related policies

- Complaints Handling Policy
- Counter-Terrorism Policy
- Corporate Credit Card Policy & Procedure
- Funding, Donations & Refunds Policy

Implementation plan

- Included as part of staff induction

Legal definitions

Edmund Rice Foundation (Australia) is a company limited by guarantee. The objects of the company are set out in clause 3 of ERFA's constitution. Clause 3 (f) reads as follows:

To develop partnerships with overseas aid agencies or formal arrangements with other delivery agents related to the Company but resident in Developing Countries for the implementation of the objects in paragraph (a).

One of EFRA's roles is to act as trustee of the Edmund Rice Overseas Aid Fund.

Partners

Throughout its policies and official documentation ERFA uses the term **Partners** for those organisations with which it has formed alliances in developing countries for the receipt of overseas aid funding for the in-country delivery of education programs. Whilst ERFA has an active, engaged and qualitative role with these programs, working to build capacity and maximise the impact of best practice development outcomes, these are not partnerships in the legal sense. Rather they are alliances that ERFA has formed with in-country organisations with whom ERFA has communicated its vision, mission, values, policies and expectations with respect to sustainable development and whose own vision, mission, values, policies and development goals are congruent with those of ERFA. The in-country organisations implement the programs and ERFA supports them.

Corruption

[Transparency International](#) defines corruption as, *the abuse of entrusted power for private gain*, meaning private in contrast to the public good. This includes financial corruption such as fraud, bribery and extortion and also non-financial forms such as the diversion of aid to non-target groups, allocation of resources in return for favours and preferential treatment for family and friends. These practices may be associated with coercion and intimidation of staff or beneficiaries who decline to participate in corruption.

Fraud

ERFA defines fraud as: the theft or misuse of ERFA funds or other resources by ERFA Australia based personnel or third party or in-country ERFA funded program personnel or third party, which may or may not also involve misstatement of financial documents or records to conceal the theft or misuse.

Examples of fraud include but are not limited to:

- theft of funds or other property and resources
- falsification of costs or expenses
- collusion among tenderers and falsification of quotations
- forgery, falsification or alteration of documents
- destruction or removal of records
- inappropriate personal use of assets
- seeking or accepting of cash, gifts or other benefits from third parties in exchange for preferment of the third parties
- blackmail or extortion
- intentionally paying excessive prices or fees to third parties to obtain personal gain
- offering, promising or giving of a bribe or requesting or agreeing to receive or accepting of a bribe for any reason

Bribery of Foreign Public Official

The elements of the offence of bribing a foreign public official include the following:

- Providing or offering a benefit to another person, or causing a benefit to be provided or offered to another person, where the benefit is not legitimately due to the other person.
- The benefit must be intended to influence a foreign public official in the exercise of his or her official duties for the purpose of obtaining business or a business advantage.
- A *benefit* can be a non-monetary or non-tangible inducement. It does not need to be provided or offered to the foreign public official (that is, it can be provided or offered to another person). It can also be provided or offered by an agent.

Foreign Public Official

The definition of *foreign public official* includes:

- employees, officials or contractors of a foreign government body
- individuals performing the duties of an appointment, office or position under a law of a foreign country; individuals holding or performing the duties of an appointment, office or position created by custom or convention of a foreign country
- members of the executive, judiciary, magistracy or legislature of a foreign country
- employees, contractors and individuals who perform the duties of an office or position, or are otherwise in the service of a public international organisation (e.g. United Nations)
- individuals who hold themselves out to be an authorised intermediary of a foreign public official

Benefit

A benefit is any advantage and is not limited to property. A benefit can be a non-monetary or non-tangible inducement. It does not need to be provided or offered to the foreign public official directly; it can be provided or offered to another person. A benefit can also be provided or offered by an agent.

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1.0 Introduction

Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a Government's ability to provide basic services, feeding inequality and injustice and discouraging foreign aid and investment. (Kofi A. Annan, former Secretary-General of the United Nations, *UN Convention against Corruption*, page iv)

2.0 Purpose

The purpose of Edmund Rice Foundation Australia's (ERFA) Anti-Corruption and Anti-Fraud Policy is to ensure that all ERFA Australia based personnel and all overseas program personnel associated with the programs ERFA funds in developing countries, are aware of their responsibilities regarding the identification and prevention of corruption and fraudulent activity and to articulate:

- ERFA's commitment to the highest standards in the conduct of all of its operations, in an accountable, transparent and ethical manner
- ERFA's rejection of all forms of corruption and fraud
- ERFA expectation that these same standards will be mirrored in the management of the programs it funds in developing countries

3.0 Relevant legislation & conventions

It is a criminal offence under Australian law to bribe a foreign public official. Details of this offence are contained in Section 70.2 of the Criminal Code Act 1995 (Commonwealth). Australia is also a party to significant international instruments on bribery and corruption, including the *United Nations Convention against Corruption 2004* and the *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 2011* (the Anti-Bribery Convention).

Links:

[Criminal Code Act 1995 \(Commonwealth\)](#)

[United Nations Convention against Corruption 2004](#)

[OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions 2011](#)

4.0 Policy statement

Edmund Rice Foundation Australia is committed to maintaining a culture of honesty and zero-tolerance of all forms of corruption and fraud. Nevertheless, ERFA is aware, that as with commercial organisations, not-for-profit organisations may potentially be subject to corruption and fraudulent activity.

ERFA has an obligation to all stakeholders to ensure that all monies used and disbursed by ERFA are used only for their articulated purposes and that processes are in place to protect those funds from fraud both in Australia and in the developing countries where the programs it funds are located.

ERFA recognizes that in many developing countries corruption is corrosive of good governance and an impediment to sustainable development.

ERFA recognizes that virtually all countries now have criminal laws against the bribing of domestic officials and a growing number of countries have laws against the bribing of foreign officials.

ERFA will uphold all laws relevant to countering corruption and fraudulent activity in all jurisdictions in which it operates and expects that the programs it funds in developing countries will uphold relevant legislation in their local jurisdictions.

ERFA will investigate all suspected acts of corruption and fraud.

All proven corruption and fraud will constitute grounds for dismissal. Serious cases of fraud, whether suspected or proven, will be reported to the relevant and appropriate civil authorities.

ERFA personnel and in-country program personnel who suspect corruption or the commission of fraud must report their suspicions. Procedures for the reporting of suspected corruption or fraud are set out in ERFA Complaints Handling Policy.

Reports of suspected corruption or fraud will be handled confidentially and the identity of the person making the report will not be revealed to the accused without their consent. Nor will any person making such report be penalised in any way.

5.0 Scope

This policy applies to all ERFA directors, staff, volunteers and contractors. It also extends to all ERFA funded programs in developing countries and their associated management, staff, volunteers, contractors and governing authorities.

Because it is a criminal offence under Australian law to bribe a foreign public official, all above mentioned ERFA and in-country program personnel need be aware that the offence applies to:

- both individuals and companies, whether or not they are Australian, who bribe or attempt to bribe a foreign public official while in Australia
- Australian citizens, Australian residents or companies incorporated in Australia who bribe or attempt to bribe a foreign public official while overseas

Companies can be found guilty of the foreign bribery offence and can be held criminally responsible for the acts of their agents.

Individuals or companies that commit the offence can be prosecuted in an Australian court.

Imprisonment

Australian law provides for up to 10 years imprisonment for persons found guilty of bribing a foreign public official. A court can also impose a fine instead of, or in addition to, imprisonment. Proceeds of this criminal activity can also be forfeited to the Australian Government.

6.0 Responsibilities

ERFA Board of Directors has ultimate responsibility for the prevention and detection of corruption and fraud and is responsible for ensuring that appropriate and effective internal control systems are in place.

ERFA CEO is responsible for investigating reported instances of corruption or fraud and for the education of ERFA Australia based personnel re corruption and fraud recognition and prevention.

ERFA expects in-country program managers to:

- assess the risk of corruption and fraud within their area of responsibility
- educate their personnel about corruption and fraud detection and prevention
- facilitate the reporting of suspected corruption and fraudulent activities
- ensure that their program Risk Management Plan identifies and assesses issues of potential risk with respect to corruption and fraud, sets out related mitigation strategies in place and identifies the program personnel responsible for the implementation of those strategies

All ERFA Australia based personnel and in-country ERFA funded program personnel share the responsibility for the detection and prevention of corruption and fraud.

7.0 Reporting

All ERFA Australia based personnel and in-country ERFA funded program personnel have the responsibility to report suspected corruption and fraud.

ERFA Complaints Handling Policy is a channel which is available for the reporting of suspected corruption and fraud.

8.0 Resources

ERFA recommends the following resources for anti-corruption and anti-bribery education and training for ERFA Australia based personnel and in-country program personnel:

- [Australian Government Foreign Bribery Information & Awareness Pack](#)
- [Australian Government : Attorney General's Department - Foreign Bribery – online learning module](#)
- [OECD Anti-Bribery Resource Guide](#)
- [Australian Federal Police - Foreign Bribery Fact Sheet](#)