

**AGRI AFRICA FZE t/as AG Aviation Africa
Foreign Corrupt Practices Act
(FCPA)
Compliance Manual**



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INTRODUCTION

Ag Aviation Africa considers a "bribe" to be anything that has value and is given to influence a decision to do business with Ag Aviation Africa or to give Ag Aviation Africa an unfair advantage. Bribes to government officials are also illegal under the U.S. Foreign Corrupt Practices Act ("FCPA"), as well as under the laws of practically every country in which we do business

MANDATORY COMPLIANCE TRAINING

All Third Parties, Sales Agents, partners and AAA staff will have to do the compliance online® anti-corruption training modules.

Module 1 - Introduction to anti-corruption legislation -This module gives an overview of the scope of, and rationale for, anti-corruption legislation.

Module 2 – PCCA - This module gives an overview of the South African Prevention and Combating of Corrupt Activities Act (PCCA).

Module 3 – FCPA - This module gives an overview of the Foreign Corrupt Practices Act (FCPA). After completion of this module, you should be able to answer the following questions:

- What is the FCPA and what is its purpose?
- What activities does the FCPA cover?
- Who does the FCPA apply to, or who are "covered persons"?
- What is "anything of value"?
- Who is a foreign official?
- What is an "improper purpose"?
- What is "corrupt intent"?
- What if the payment is made by a third party and not directly by [business name]?
- What conduct would not contravene the anti-bribery provisions of the FCPA?
- What do the accounting and record-keeping provisions regulate?
- Why is it important to comply with the FCPA?
- What are the consequences of non-compliance with the FCPA?
- What preventative steps should you take to reduce the risk of contravening the FCPA?
- Who enforces the FCPA?

Module 4 – Whistleblowing - This module discusses the process by which ethical individuals in AAA may raise concerns regarding possible unlawful and unethical conduct in the workplace.

Module 5- Promotion of Access to Information - This module provides an overview of the Promotion of Access to Information Act (No 2 of 2000) (PAIA) and sets out the primary responsibilities of public sector employees to ensure compliance with the Act.

Module 6 - Introduction to money laundering - This module explains what money laundering is and provides an overview of the legislation and institutions that aim to prevent money laundering in South Africa

Module 7 – FICA - This module introduces you to the provisions of the South African Financial Intelligence Centre Act (FICA) that are relevant to your day-to-day business activities.

Module 8 - The Public Finance Management Act - This module provides an overview of the provisions of the Public Finance Management Act (PFMA) that are relevant to the curbing of corruption in the public sector.

PROCEDURES FOR SCREENING END USERS AGAINST DENIED PARTIES LIST

Below is a link to a downloadable file that consolidates export screening lists of the Departments of Commerce, State and the Treasury into one spreadsheet as an aide to AAA in conducting electronic screens of potential parties to regulated transactions. In the event that a company, entity or person on the list appears to match a party potentially involved in AAA's export transaction, is a potential **THIRD PARTY, SALES AGENTS or JOINT VENTURE PARTNER**, additional due diligence should be conducted before proceeding by following the steps outlined.

http://export.gov/static/cl_downloading_instructions_08102011_gh_Latest_eg_main_040971.pdf

THIRD PARTIES, SALES AGENTS & JOINT VENTURE PARTNERS

When AAA works with Sales Agents, Joint Venture Partners or some Third Parties, AAA must provide them with a copy of the AAA Code of Conduct. They must comply with AAA's anti-corruption compliance policies.

DOCUMENTATION

AAA keep copies of the documents required by this Manual for five years:

FCPA BACKGROUND

The FCPA covers two areas: (1) bribery, and (2) recordkeeping and accounting.

- **Bribery**. The FCPA makes it illegal to pay or promise to pay money or give anything of value to a non-U.S. government official to bring in or keep business or to gain any improper advantage. This applies to payments and gifts paid by companies and their employees, as well as third parties such as sales agents. For example, any payment to a government official by a company's agent violates the FCPA if it is made in return for the official exercising his or her influence to help the company bring in new business, keep existing business, or obtain any improper advantage—even if the company did not know about the agent's actions.
- **Recordkeeping and Accounting**. The FCPA contains broad requirements regarding recordkeeping and accounting. The FCPA makes it illegal for AAA to make any false or misleading entries on their books.—FCPA recordkeeping and accounting requirements apply to all AAA's transactions, regardless of their size or nature.

IMPORTANT CONSIDERATIONS

ACTS IN FURTHERANCE OF A PAYMENT

Anti-corruption laws such as the FCPA apply not only to the person who pays the bribe; they also apply to the people who have taken action in furtherance of a payment. For example, anti-corruption laws could apply to anyone who:

- Approves the payment of a bribe;
- Creates or accepts false invoices;
- Relays email instructions to pay a bribe;
- Covers up the payment of a bribe; or
- Knowingly cooperates in the payment of a bribe

SALES AGENTS

SALES AGENT DUE DILIGENCE STANDARD OPERATING PROCEDURE

The ***Sales Agent Due Diligence Standard Operating Procedures*** establish required steps that will allow AAA to assess sales agent risks effectively. Most fundamentally, AAA employees must document that:

- A sales agent has a verified ethical reputation and appropriate qualifications. WF+SCREENING PROCEDURES DOCUMENTED ON A FORM.
- There is an appropriate business reason for entering into the relationship with the sales agent.
- The payment arrangements (commission or otherwise) are commercially reasonable and match the level and type of services being provided by the sales agent.
- After the performance of effective due diligence in accordance with the procedures outlined in the Sales Agent Due Diligence Standard Operating Procedures, there are no inappropriate relationships between any sales agent and any Government Official or other "red flags" suggesting irregularities.
- There is a written agreement containing appropriate contractual safeguards against improper conduct involving the sales agent.
- The relationship is being monitored effectively going forward, with appropriate training for both the sales agent and AAA employees managing the relationship, and the sales agent's agreement is regularly reviewed.

Due to the associated FCPA risks, entry into and renewal of all sales agent relationships require the prior written approval of the Compliance Officer.

MANAGING POTENTIAL FCPA RISK

Managing potential FCPA risk requires that any sales agency relationship be based on reasonable commercial terms. Therefore, sales agent compensation must be:

- Based on the fair market value of the sale agent's scope of work, expertise, and commercial results.
- Based on reasonable commission rates, if applicable, with reference to commission levels in similar circumstances and with safeguards to prevent the payment of multiple or excessive commissions in the case of multiple agents involved with a single customer or sale.
- Supported by the business performance of the sales agent.
- In accordance with appropriate payments terms as established by the relevant written agreement, and not paid in cash or outside of the sales agent's country of operation or residence.
- Legal under all applicable laws.

DUE DILIGENCE & "RED FLAGS"

All prospective and existing sales agents must undergo the due diligence requirements set out.

Procedures. The due diligence process should focus on (1) determining the qualifications of the sales agent, (2) discovering any links between the proposed sales agent and any Government Officials, (3) establishing the positive ethical reputation of the sales agent, and (4) detecting "red flags" that are likely to arise in any sales agency relationship.

Examples of possible "red flags" related to prospective or existing sales agents include:

- The sales agent is, or has close family or business ties to, a Government Official.
- The sales agent has been recommended by a Government Official or a close relation or affiliate of a Government Official.
- The sales agent requests a commission that is excessive or to be paid in cash.
- The sales agent requests unusual payment terms, such as upfront lump sum payments, payment to an account not in the sale agent's name, or payment to a country that is not the country where the sales agent resides or where the sales agent will provide services.
- The sales agent indicates that a particular amount of money is needed in order to "get the business" or "make the necessary arrangements."
- The sales agent requests that AAA prepares false invoices or any other type of false documentation.
- The sales agent refuses to promise in writing to comply with the FCPA, AAA's Code of Conduct, or equivalent contractual representations and warranties and other contractual conditions required by this Policy related to improper payments to Government Officials.
- The relationship with the sales agent is not in accordance with local laws or rules, including rules regarding the role of sales intermediaries or civil service rules concerning outside interests for any Government Officials involved.
- The sales agent has a reputation for bypassing normal business channels, particularly in activities involving the government.
- AAA learns that the sales agent has made an improper payment to a Government Official in other representative arrangements or involving other principals.
- The sales agent insists on having sole control over any interactions with Government Officials or related to government approvals.
- AAA learns or has reason to suspect that the sales agent has a "silent partner" who is a Government Official.
- The due diligence notes the presence of one or more unexplained subcontractors or vendors that the sales agent proposes to retain to assist with interactions with the government or customer.

MONITORING & TRAINING

All sales agents will be required periodically to certify their compliance with relevant provisions of their written agreements covering FCPA and related anti-corruption issues.

Every three years from execution or from the last date of the completion of previous due diligence, the Compliance Officer will require updated due diligence regarding all sales agent agreements, with assistance from the relevant business units. Such due diligence will be tied to the renewal of such agreements pursuant to applicable contract terms. The review will cover all relevant issues, including the following:

- Continuing business need for the sales agent and evaluation of the continued reasonableness of compensation paid to the sales agent, based on the performance of the business.
- Update of due diligence information on the sales agent and on any subagents or other related vendors.
- Compliance with anti-corruption obligations and other contractual safeguards.
- Need for and results of any audits/reviews of the sales agent.
- Need for possible amendments to sales agency agreements in light of any compliance issues.
- Need for additional compliance training of the sales agent and relevant AAA employees managing the agency relationship

THIRD PARTIES

It is sometimes necessary for AAA to hire contractors, consultants, suppliers, and other companies or individuals to provide a range of services that vary across countries. For example, third parties sometimes help clear shipments through customs, conduct studies, help to obtain permits and visas, screen job applicants, and supply goods.

Most fundamentally, AAA employees must document that:

- The Third Party has a verified ethical reputation.
- There is an appropriate business reason for entering into the transaction or relationship with the Third Party.
- The payment arrangements are commercially reasonable and are commensurate with the level and type of services being provided.
- There must be no inappropriate relationships between any Third Party and any Government Official or other “red flags” suggesting irregularities.
- The relationship is structured and governed by appropriate written documentation containing relevant contractual safeguards against improper conduct involving the Third Party.
- The relationship is being monitored effectively going forward, with appropriate training for both the Third Party and AAA employees managing the relationship and the regular review and renewal of the relevant documents and compliance certifications.

DUE DILIGENCE & “RED FLAGS”

Examples of possible “red flags” related to Third Parties include:

- The Third Party refuses to reveal the identities of its principals or others holding a beneficial interest in the Third Party.
- The Third Party includes an owner or employee who is, or has close family or business ties to, a Government Official.
- A Government Official or a close relation or affiliate of a Government Official has requested or recommended that the Third Party be used or engaged by AAA.
- The Third Party insists on having sole control over any interactions with Government Officials or related to government approvals.
- AAA learns or has reason to suspect that the Third Party has a “silent partner” who is a Government Official.
- The due diligence notes the presence of one or more unexplained subcontractors or vendors that the Third Party proposes to retain to assist with interactions with Government Entities.
- The Third Party has requested compensation that is excessive or to be paid in cash.
- The Third Party requests unusual payment terms, such as upfront lump sum payments, payment to an account not in the Third Party’s name, or payment to a country that is not the country where the Third Party resides or where the Third Party will perform services.
- The Third Party indicates that a particular amount of money is needed in order to “get the business,” “expedite the clearance,” or “make the necessary arrangements.”

- The Third Party requests that AAA prepare false invoices or any other type of false documentation.
- There are indications that the Third Party may have made improper payments to Government Officials or had improper dealings with Government Entities in the past.
- The Third Party refuses to promise in writing to comply with anti-corruption laws, AAA's **Code of Conduct**, or equivalent contractual representations and warranties and other contractual conditions required by this Policy related to improper payments to Government Officials.
- The relationship with the Third Party is not in accordance with local laws or rules, including rules concerning outside interests for any Government Officials involved.

MONITORING & TRAINING

Third Parties will be required to certify their compliance with relevant provisions of the written agreements on an annual basis. The Third Parties shall receive training with regard to their obligations under the relevant agreements and applicable laws regarding anti-corruption compliance.

PARTNERS

AAA sometime partner with individuals or companies to gain access to a particular market or to develop or operate a facility in appropriate circumstances.

It is important that AAA knows its potential partners and is able to determine whether the potential partner has engaged, or will engage, in activities that are prohibited by AAA.

Most fundamentally, AAA employees must document that:

- A partner has a verified ethical reputation.
- There is an appropriate business reason for entering into the relationship with the partner.
- There are no inappropriate relationships between a partner and any Government Official or other "red flags" suggesting irregularities.
- There is a written agreement containing appropriate contractual safeguards against improper conduct involving the partner.
- The relationship is being monitored effectively going forward, with appropriate training for both the partner and AAA employees managing the relationship where appropriate.

DUE DILIGENCE & "RED FLAGS"

The due diligence process should focus on (1) determining the qualifications and business "value added" of the proposed partner, (2) discovering any links between the proposed partner and any Government Officials, (3) establishing the positive ethical reputation of the partner, and (4) detecting "red flags" that are likely to arise in a partnership relationship.

To fulfill due diligence requirements:

- Have the proposed partner complete and return a **Partner Questionnaire**.
- Complete the **Partner Due Diligence Checklist** and attach the designated external due diligence reports, which include **Denied Party Screening Results**, financial and background reports, media searches, and business references.

Examples of possible "red flags" related to prospective or existing partnerships include the following scenarios:

- The partner is, or has close family or business ties to, a Government Official.
- Due diligence suggests that the partner is a shell company or has other irregularities in corporate structure or operations.
- The partner or a principal shareholder has a government affiliation (directly or through close relatives).
- The partner cannot contribute anything to the venture except influence with Government Entities or Government Officials.
- The partner refuses to agree to reasonable financial and other controls and other standard AAA company policies in the joint venture.
- The relationship with the partner is not in accordance with local laws or rules, including civil service rules concerning outside interests for any Government Officials involved.
- The partner has a reputation for bypassing normal business channels, particularly in activities involving the government.

- The partner requests approval of a significantly excessive operating budget or unusual expenditures.
- AAA learns that the partner made an improper payment to Government Officials prior to AAA's entry into the venture.
- The partner insists on financial terms that are unduly generous to it in light of its contributions to the venture.
- The partner insists on having sole control over any host country government approvals.
- AAA learns or has reason to suspect that the partner has a "silent partner" who is a Government Official.

The partner refuses to reveal the identities of its Principals or others holding a beneficial interest in the company.

CONTRACTUAL SAFEGUARDS & OVERSIGHT

Prior to the commitment of any AAA funds to the venture, the relevant AAA company and the partner must have negotiated and executed a written agreement containing terms and conditions that address relevant FCPA risks. The agreement must require, among other items:

- That the partner (and any relevant legal entity created by the partnership) comply with specific anti-corruption provisions and all applicable laws, and periodically certify to such compliance.
- That the partner has not brought into the business relationship property, local authorizations/ permits, or other assets that were obtained through corruption.
- That the partner will obtain AAA's written approval, following due diligence, before retention of subcontractors, agents, and representatives for the business who will interact with the government on behalf of the venture.
- That the partner will agree to make the books and accounting records of the business venture available for review by AAA or AAA's designated representative and will cooperate in any audits of any legal entity created by the partnership.
- That, if a new entity will be formed by the venture, that entity will implement an anti corruption compliance program tailored to the venture's risk profile.
- That the partner agrees to complete any training provided by AAA and to require owners, directors, and employees who interact with government entities on behalf of the joint venture to complete such training.
- That AAA may terminate the agreement in the event that AAA has a reasonable belief that the partner has violated any of the anti corruption related provisions of the agreement.
- That the partner represents and warrants that the due diligence information previously provided by the partner during the selection process remains accurate and complete. If there are any significant changes in the due diligence information previously provided to AAA, the partner will promptly notify AAA.

MONITORING & TRAINING

All partners will be required periodically to certify their compliance with relevant provisions of their written agreements covering FCPA and related anti-corruption issues.

GIFTS, TRAVEL & HOSPITALITY

The *Code of Conduct* and this Policy permits AAA personnel to provide certain gift, travel, and hospitality (e.g. meals & entertainment) to customers, suppliers, and others with whom we do business, provided that the expenses satisfy certain criteria. In all cases, AAA will only pay for these expenses when they are reasonable in value, appropriate to a business relationship, and do not create an appearance of impropriety.

Complying with the U.S. and other laws that regulate these activities requires AAA personnel to evaluate the facts and circumstances related to each instance. When considering the offer of gifts, travel, or hospitality to or for the benefit of any recipient, including Government Officials, AAA employees must evaluate:

- Whether there is a specific, legitimate, and proper business purpose that underlies the proposal.
- Whether the expenditure is part (or may be understood at the time or in hindsight as being part) of an exchange in which AAA will receive something of value.
- Whether the nature and/or value of the items or activities covered by the expenditure might seem inappropriate or unreasonable (for example, if the value becomes known to the recipient's employer or to the public through press coverage).
- Whether the estimated amount of the expenditure is disproportionate to what is known regarding the salary of the recipient, especially any Government Official, or for the location where provided.

- Whether, to the AAA employee's knowledge, local law, regulations, local practice, and the ethics policies covering the recipient allow the expenditure.
- Whether the expenditure is required, or prohibited, by any contract with a customer.
- Whether the timing or place of the expenditure seems unusual or inappropriate (for example, offering a gift immediately before or after the recipient makes an important business decision affecting AAA).
- Whether the expenditure is being provided openly, as opposed to being hidden from the recipient's organization and superiors.
- Whether the expense involved is one that is normally paid by a Government Entity or by any other entity for which the recipient works.

In addition to the guidelines above, the following principles apply when providing gifts, travel, and hospitality. In no case may AAA employee or anyone representing AAA:

- Offer any bribe to any third party, including any customer, vendor, or other party;
- Offer or give anything to any customer or vendor when that gift or other benefit is contingent on, or directly tied to, the provision of a business benefit to AAA or the employee; or
- Offer or provide benefits to other persons if such benefits violate the code or policies of the recipient's organization, or any applicable law or regulation.

METHOD OF PAYMENT

All payments for gift, meal, travel, entertainment, and related expenses must comply with applicable AAA policy and procedure.

DOCUMENTING EXPENSES

It is important to remember that all payments or reimbursements of expenses must be properly recorded in AAA's books and records. This requirement places a premium on obtaining the proper documentation of all expenses and payments to cover them. Accounting personnel are responsible for ensuring that employees properly record payments or reimbursement of expenses, including the purpose and cost of the expense as well as the names and titles of the participants.