



GOVERNMENT OF THE
VIRGIN ISLANDS
Premier's Office



VIRGIN ISLANDS
**RECOVERY AND
DEVELOPMENT AGENCY**

WHISTLE-BLOWER POLICY

2019

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To provide for a Whistle-blower System and the protection of Whistle-blowers from Retaliation.

1 INTRODUCTION

1.1 The Recovery and Development Agency (RDA) adheres to the highest standards of integrity, ethics, compliance, transparency and accountability, with zero tolerance for fraud, corruption, money laundering, financing of terrorism and similarly corrosive conduct. It adheres strictly to its core values of:

- Integrity
- Respect
- Innovation
- Selfless commitment
- Sustainability
- Delivering results
- Building BVI capacity
- Open Communications

1.2 The RDA has introduced a comprehensive Strategic Framework for Integrity, Compliance and Accountability (the Strategic Framework). This Whistle-blower Policy (the Policy) is issued pursuant to the RDA Business Plan.

2 KEY DEFINITIONS

For the purposes of this Policy:

Accountability	means 'operations-related', and specifically, 'project-related accountability,' which is the extent to which the RDA should prevent, monitor and resolve, the adverse environmental and social impacts of its Projects.
Affiliate	means in relation to an entity, its direct or indirect controller, shareholder, owner, parent, or subsidiary, or any other entity it controls or with which it is under common control.
Allegation	means an unproved assertion against someone related to suspected wrongdoing.
Code of Conduct	means the Code of Conduct for Staff and/or for the Board of Directors and any other Codes of Conduct issued by the RDA from time to time.
Complaint	means a formal Allegation or expression of discontent, concern or suspicion submitted to RDA regarding any suspected Ethics Violation, wrongdoing or presumed Misconduct.
Complainant	means the Person who has submitted a Complaint to an Investigator.

Compliance	means the RDA’s adherence to a policy and procedures which adopt relevant rules, regulations, standards, codes and norms to combat money laundering and financing of terrorism, and for monitoring in order to avoid violations of financial sanctions.
Conflict of Interest	means any situation in which a Person has interests that could improperly influence that Person’s performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.
Counterparty	includes any supplier, contractor or consultant for, or beneficiary of, a Project and any Affiliate thereof who has engaged directly or indirectly with the RDA including through its policies and procedures for external or project procurement or internal or corporate procurement by the RDA for its own account. The term “Counterparties” shall be construed to mean more than one Counterparty.
Director	means a member of the RDA’s Board of Directors. Every reference to a “Director” means the Director and his/her alternate and advisors.
Ethics	means adherence by relevant persons to any Code of Conduct, or rules and regulations issued by the RDA for its Directors and Staff.
Ethics Violation	means a violation of any ethical principle, rule or standard of conduct applicable to Staff and Directors as provided for in a Code of Conduct.
Environmental and Social Safeguards	means protection afforded by the operational policies and procedures and procedures issued by the RDA to minimize or mitigate any adverse environmental or social impacts from projects financed by the RDA.
Integrity	means ‘institutional integrity’ and includes, but is not limited to, the prohibition of wrongdoing related to fraud, corruption, collusion, coercion (known as Prohibited Practices) and other corrosive practices, like theft, bribery, Conflicts of Interest, deception, forgery, extortion, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts, Misconduct and any interference with, or obstruction of, investigations undertaken pursuant to the Strategic Framework.
Integrity Risks	means Integrity-related operational risks.
Integrity Violation	means any Violation related to Integrity, Compliance and Ethics including a Violation of this Policy.
Investigation	means the process designed to gather and analyse information and to determine whether a Violation has occurred and if so, the Person or Persons responsible. An Investigation is deemed to commence from the date of receipt of a Complaint by the Investigator on Tier 1 and ends only when the CEO has made a determination in writing that it has ended.
Investigator	means the person who gathers and analyses information to determine

whether a Violation has occurred and, if so, the Person or Persons responsible.

Misconduct

means the failure by any Person to observe the rules of conduct or standards of behaviour as prescribed by the RDA and includes a breach of any provision in the Code of Conduct and any act of Retaliation against a Whistle-blower whether such failure or act occurs within or outside of the RDA's premises.

Person

means any individual or entity and shall include a Director, a member of Staff, a body corporate, a trust and any other entity legally recognized as having the capacity to contract.

Prohibited Practices

are the following:¹

- (a) A *Corrupt practice* is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- (b) A *Fraudulent practice* 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;
- (c) A *Coercive practice* 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; and
- (d) A *Collusive practice* is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

Project

means any activity which the RDA has financed or committed to finance from its trust funds or from other funds administered by the RDA.

Retaliation

means any form of harassment, victimisation or other action taken against a Whistle-blower by any Person where it is suspected that such harassment, victimization or other action is related to or undertaken in response to a Complaint, submission, report or disclosure made by a Whistle-blower through the Whistle-blower System.

Safeguards Violation

means the violation of Environmental and Social Safeguards.

Staff

means the management, (including the CEO), professional and support staff, temporary employees, other contracted employees, consultants,

¹ As defined by The International Financial Institutions Anti-Corruption Task Force – Uniform Framework for Preventing and Combating Fraud and Corruption.

secondes, interns and personnel on exchange assignments without regard to their position, rank, title, duration of contract with, or length of service to, the RDA.

Violation	means an Integrity Violation, an Ethics Violation, a Safeguards Violation or Misconduct.
Whistle-blower	means any person who makes a Complaint, submission, report or disclosure of a suspicion, concern, or Allegation or provides any information concerning any Violation with respect to the RDA's systems and operations or in any Project or financing, in the knowledge or good faith belief that the Complaint, submission, report or disclosure is true.
Whistle-blower Hotline	means the secure telephone hotline for receipt of confidential Complaints, submission, reports and disclosures made by Whistle-blowers.
Whistle-blower System	means the RDA's processes, procedures and systems for secure receipt and handling of all Complaints, submission, reports and disclosures from Whistle-blowers and Witnesses as provided for in this Policy and any procedures issued pursuant to this Policy.
Whistleblowing	means the actions of a Whistle-blower in making a Complaint, submission, report or disclosure through the Whistle-blower System.
Witness	means a Person who is not subject to an investigation but who voluntarily offers, or from whom information or evidence regarding an Investigation is requested or who is otherwise providing assistance for the conduct of any contemplated or ongoing Investigation.

3 PRINCIPLES

3.1 The following four principles, as articulated in the RDA Business Plan, underpin this Policy:

- (a) Integrity;
- (b) Accountability;
- (c) Excellence; and
- (d) Transparency.

4 PURPOSE

4.1 Consistent with the RDA's mission as articulated in its Business Plan, this Policy is intended to provide:

- (a) Persons who wish in good faith to disclose to the RDA any serious concerns about

wrongdoing or harm with a single, comprehensive, formal, dedicated, confidential and secure Whistle-blower System to make any Complaints, submission, reports and disclosures including Allegations relating to Violations, money-laundering, financing of terrorism, and non-compliance with the RDA's policies to safeguard against social and environmental harms;

- (b) Whistle-blowers with protection from Retaliation; and
- (c) The RDA with a formal independent mechanism for confidential receipt and secure handling of Complaints, submissions, reports and disclosures received through the Whistle-blower System, and to facilitate their assessment, investigation and resolution.

5 ACTIVITIES COVERED BY THIS POLICY

5.1 This Policy covers all confidential Complaints, submissions, reports and disclosures of suspected Violations and Misconduct related to the areas of Integrity, Ethics, Compliance, Accountability and Environmental and Social Safeguards as provided for under the Strategic Framework that occur within any of the RDA's internal and external activities, systems and operations. Framework that occur within any of the RDA's internal and external activities, systems and operations.

6 ACTIVITIES NOT COVERED BY THIS POLICY

6.1 This Policy does not apply to Complaints, submissions, reports and disclosures wholly unrelated to Integrity, Ethics, Accountability and Environmental and Social Safeguards which are ordinarily addressed by the Human Resources Division, Projects Department and other offices and internal mechanisms except to the extent that they allege conduct being used in Retaliation against a Whistle-blower. Complaints to which this Policy does not apply include personal grievances relating to dissatisfaction with probation reports and Staff performance appraisal reports; sexual harassment; discrimination and equal opportunity issues.

6.2 All Complaints, submissions, reports and disclosures received through the whistle-blower System which relate only to Accountability and non-compliance with Environmental and Social Safeguards, shall be covered by the RDA's Projects Complaints Mechanism (PCM).

7 SCOPE OF PERSONS COVERED BY THIS POLICY

7.1 This Policy applies broadly to any Whistle-blower, Witness or other Person named in a Complaint or who is otherwise connected with the subject matter of a Complaint.

8 THE WHISTLEBLOWER SYSTEM

8.1 The RDA shall provide a Whistle-blower System which will be managed using a tiered approach outlined in **Appendix I**.

8.2 The RDA will encourage potential Whistle-blowers to make confidential Complaints, submissions, reports and disclosures through the Whistle-blower System prior to, or instead of, any public complaints, reports, submissions or disclosures so as to provide the RDA with the best opportunity to promptly investigate the matter alleged in the Complaint.

9 WHISTLEBLOWER PROTECTION

9.1 Every Whistle-blower making a Complaint, submission, report or disclosure in good faith shall be entitled to confidentiality, securely and discreetly disclose any suspected Violation, including an attempt to carry out such act, and after the Complaint, submission, report or disclosure, to benefit from protection against Retaliation as provided for in this Policy.

9.2 Conduct suspected to be Retaliation against a Whistle-blower shall be treated as a separate act of Misconduct and may be investigated using the Whistle-blower System and sanctioned accordingly.

10 GOOD FAITH

10.1 All Complaints must be made in good faith.

10.2 Complainants who knowingly make unsubstantiated, intentionally incomplete (such as withholding critical information), malicious or false Allegations or Allegations with reckless or negligent disregard for the truth shall not be protected by this Policy and may be treated as having committed a separate act of Misconduct and may be investigated using the Whistle-blower System and sanctioned accordingly.

11 DUTY TO REPORT AND COOPERATE

11.1 Each member of Staff has a duty promptly to report misconduct using the Whistle-blower System and, in any event, not later than three months after becoming aware of any suspected, actual or attempted Violation. Each such member of Staff is also expected to cooperate with the respective Investigator, to provide information in support of his/her report and generally to assist the Investigator in investigating the relevant suspected, actual or attempted Violation.

12 COMPLAINTS ALLEGING INTEGRITY VIOLATIONS, ETHICS VIOLATION AND MISCONDUCT

12.1 Integrity Violations, Ethics Violations and Misconduct may be reported by using the Whistle-blower System and may be made by telephone, email, mail or in person or by any other method outlined in the Procedures issued pursuant to this Policy.

13 COMPLAINTS ALLEGING SAFEGUARDS VIOLATIONS

13.1 Safeguards Violations may be reported using the Whistle-blower System by local telephone, email, mail, in person or by any other method outlined in the Procedures issued pursuant to this Policy.

14 FORM OF COMPLAINTS

14.1 All Complaints submitted through the Whistle-blower System must, as far as possible, identify the Complainant by name and provide relevant supporting information to enable the Investigator to adequately assess each Allegation made in the Complaint.

15 ANONYMOUS COMPLAINTS

15.1 To ensure appropriate attention and assessment, it is preferred that the Complainant is named in complaints received, but all Complaints will be accepted, including anonymous Complaints. Complainants are encouraged to make Complaints and any related submissions, reports and disclosures in a manner that will facilitate an effective investigation. Complainants who choose to disclose anonymously are encouraged to provide, in a timely manner, any information and supporting evidence in sufficient detail to enable the Investigator to responsibly pursue assessment of each Allegation made in the Complaint.

15.2 Anonymous Complaints will be treated with the same degree of diligence as a Complaint in which the Complainant has provided his/her name subject to the Investigator being satisfied that it can be supported based primarily on the:

- (a) Seriousness of the issue raised;
- (b) Credibility of the concern in the context of any other known facts; and
- (c) Likelihood of corroboration of the Complaint by other reliable sources.

16 USING THE WHISTLEBLOWER SYSTEM

16.1 The Whistle-blower System provides the best protection for Whistle-blowers and the RDA is committed to receiving and assessing all Complaints, however they are submitted. Complainants are encouraged to use the Whistle-blower System instead of first resorting to non-RDA public forums like the media or other non-confidential reporting channels which do not provide confidentiality, security, independent review of their concerns and protection from retaliation. Complainants will be made aware that only when Complaints are formally submitted through the Whistle-blower System will the Complainant be classified as a Whistle-blower for the purpose of this Policy and be entitled to benefit, as far as possible, from protection from Retaliation.

16.2 The RDA encourages full and appropriate use of the Whistle-blower System by Staff. Each member of Staff has a right to discuss concerns and suspicions with the management officers to whom they report.

Management officers, in accordance with their general duty to report wrongdoing, are expected to assist a potential Complainant to make prompt Complaints, submissions, reports and disclosures appropriately through the Whistle-blower System.

17 INVESTIGATION OF COMPLAINTS

17.1 All Complaints received through the Whistle-blower System shall be handled, investigated and otherwise resolved as provided for in the RDA's Procedures for Investigation, sanction and enforcement issued pursuant to the Strategic Framework.

18 INVESTIGATION OF RETALIATIONS – SHIFTING BURDEN OF PROOF

18.1 A Whistle-blower who alleges to have suffered from Retaliation is required only to prove to the Investigator that, in their reasonable belief, their Whistleblowing was a factor in the subsequent action which action they reasonably believe to be the Retaliation. The burden of proof shall then shift to the management of the RDA to establish, that the same action believed by the Whistle-blower to be a Retaliation would have been taken (whether by itself or as part of a series of actions) if the Whistleblowing did not occur.

19 SANCTION AND REMEDIATION OF RETALIATION

19.1 Pursuant to the RDA's Procedures for Investigation, sanction and enforcement, the Investigator shall make appropriate findings and recommendations to the RDA for the resolution, remediation and sanctioning of any conduct determined to be a Retaliation.

19.2 To promote Whistleblowing and to assist in determining Retaliation, the RDA will pursue a full remediation of a Retaliation as soon as possible, so that, as far as possible, the Whistle-blower is made whole and the effects of the Retaliation are mitigated.

20 MEASURES TO ASSIST A WHISTLEBLOWER

20.1 The Investigator on Tier 1 of the Whistle-blower System may, after reviewing a Complaint submitted by a Whistle-blower, consult promptly with the Investigator(s) at the higher Tiers and recommend to the RDA, any interim or permanent measures to avoid, mitigate or remediate the likelihood or impact of a Retaliation. Such a recommendation to the RDA may include recommendations with respect to (a) special measures to terminate, suspend or review the effects of any actions suspected to be retaliatory; (b) action to be taken with respect to the person committing the Retaliation; (c) the reassignment of Staff; (d) the authorization of appropriate leave; and (e) the exercise of contractual rights by the RDA.

20.2 The RDA may act at any time and of its own volition (with or without a recommendation from an Investigator) undertake any special measures to assist a Whistle-blower or Witness who is a Staff,

including measures to avoid, mitigate or remediate the likelihood or impact of a Retaliation. Such special measures may include assistance undertaken by the RDA along or in collaboration with any competent national authority, local police, local prosecutors or international organization to protect the identity, safety and security of any Whistle-blower or Witness who is a Staff.

21 CONFIDENTIALITY

Investigator and the RDA shall protect, with strict confidentiality, the substance of any information disclosed to the Whistle-blower System including the identities of the Whistle-blower and any Witness, subject only to the following exceptions, when:

- (a) A Whistle-blower or, where applicable, any Witness has provided written permission to Investigator and/or the RDA to make the disclosure; and
- (b) The Investigator determines that there is an imminent threat to public health, security or safety and after reasonable prior notice to the Whistle-blower and any Witness advises of his/her intention to make the disclosure.

21.2 General information, related to use of the Whistle-blower System, particularly basic numerical data like the number and origin of complaints received, may be published at any time by the RDA as appropriate and in accordance with the RDA's Information Disclosure Policy.

22 COLLABORATION AND APPOINTMENT OF AN INVESTIGATOR

22.1 All complaints shall be sent to the Chair of the Human Resources Sub-committee for review. The Sub-committee will then appoint an Investigator to investigate the complaints.

22.2. The Investigator shall, on the conclusion of its investigation, prepare a report to the Chair of the Human Resources Sub-committee, of its findings.

22.3 The Investigator shall collaborate with the Board's Human Resources Sub-committee for the development of international best practices to enhance the effectiveness of this Policy and the procedures issued pursuant to it.

23 REVIEW

23.1 The CEO may commission a review of this Policy, within the first three years of its operationalization and at least once every five years thereafter, as necessary, to help ensure its effectiveness.

24 OVERSIGHT AND IMPLEMENTATION

24.1 Pursuant to the Strategic Framework, the CEO directly oversees this Policy.

24.2 Management of the RDA bears primary responsibility to ensure effective implementation of, and adherence to, this Policy.

APPENDIX I

