

<b>POLICY</b>	<b>WHISTLEBLOWER PROTECTION POLICY</b>		<b>Policy # GP011</b>
	Status: Draft <input type="checkbox"/> Final <input type="checkbox"/> New <input type="checkbox"/> Revised <input checked="" type="checkbox"/>		Page 1 of 10
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<b>Approver:</b> CEO	<b>Owner:</b> CEO	<b>Partner:</b> Designated Officer	<b>Monitor:</b> Designated Officer
<b>Legal Review:</b>			
<b>Name:</b>	Craig Floden	<b>Signature:</b> (signed original in file)	<b>Date:</b> March 29, 2018

## Purpose

The Public Interest Disclosure (Whistleblower Protection) Act (PIDA) came into effect on June 1, 2013. Bill 11: *Public Interest Disclosure (Whistleblower Protection) Amendment Act* effective March 1, 2018. PIDA applies to the Agriculture Financial Services Corporation (AFSC) as a public entity. The main purposes of PIDA are:

- To facilitate the Disclosure and investigation of “Wrongdoings” as defined in this document which are in brief, significant and serious matters in or relating to public entities that an employee believes may be unlawful, dangerous to the public or injurious to the public interest. This includes an act or omission that is deliberate, and shows a reckless or willful disregard for proper management of public funds or assets, of the delivery of public services, or of employees.
- To protect employees who make those Disclosures;
- To manage, investigate, and make recommendations respecting Disclosures of Wrongdoing and Reprisals; and
- To promote public confidence in the administration of public entities.

Day to day workplace issues that fall short of “Wrongdoings” will be dealt with using existing AFSC policies and procedures.

AFSC is committed to conducting its affairs to the highest standards of ethics, integrity, honesty, fairness and professionalism and in accordance with the principles of procedural fairness and natural justice. The purpose of this Policy is:

- To establish and maintain Whistleblower policies and procedures that comply with Public Interest Disclosure (Whistleblower Protection) Act (PIDA);
- To promote ethical behavior by AFSC employees, managers and staff members. Every employee, manager and staff member is expected to perform his or her duties with the utmost integrity; and to conduct themselves honestly, ethically and with the highest degree of professionalism;
- To deter and detect Wrongdoing within AFSC in order to positively impact the reputation, effectiveness and finances of AFSC and enhance the working environment for employees, managers and staff members;
- To provide clear guidance for the Disclosure of any Wrongdoing occurring within AFSC; and
- To protect from retaliatory action any employee, manager, staff member or other individual, who in good faith discloses Wrongdoing occurring within AFSC. Protection from reprisal is also known as “Whistleblower” protection.

## Audience & Scope

This policy applies to all employees, managers, staff members and the public whom are expected to:

- Know and adhere to all applicable laws and regulations, contracts, policies and procedures applicable to their duties and responsibilities;
- Be proactive to prevent and detect any Wrongdoings; and
- Follow up to ensure that any Disclosures made or received are resolved, including reporting to internal and external authorities as appropriate.

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The AFSC Whistleblower Protection policy does not apply to matters that may be more appropriately dealt with by another applicable policy of AFSC, another Public Entity or the Office of the Public Interest Commissioner. For example, this policy does not apply to:

- Employee or manager performance;
- Personal human resource matters; or
- Any unethical conduct by a board member of AFSC’s Board of Directors.

This policy may apply to a human rights complaint as it could potentially be a contravention of the *Alberta Human Rights Act*, and therefore a Wrongdoing under Section 3(1)(a).

## Definitions

“**Act**” means the Public Interest Disclosure (Whistleblower Protection) Act (Alberta) as may be amended from time to time, and any regulations thereunder.

“**Business Day**” means a day other than a Saturday, Sunday, statutory holiday in Alberta or any other day on which AFSC is not open.

“**Chief Officer**” means the individual charged with the administration and operation of AFSC. The Chief Officer for AFSC is the Chief Executive Officer of AFSC appointed by its Board of Directors. The responsibilities of the Chief Officer include, but are not limited to:

- Establishing and maintaining effective internal policies and procedures for the Disclosure and investigation of Wrongsdoings;
- Establishing and maintaining effective systems and strategies that mitigate the risk of Reprisals against Whistleblowers;
- Providing adequate financial and human resources to those investigating a Disclosure of Wrongsdoings;
- Ensuring that employees and managers are aware of AFSC’s whistleblower policies and procedures and the Whistleblower protections available in PIDA; and
- Preparation and submission of an annual report to the Public Interest Commissioner on all Disclosures that have been made to the Designated Officer of AFSC relating to Wrongsdoings.

“**Commissioner**” means the Public Interest Commissioner appointed by the Lieutenant Governor in Council in accordance with the Act;

“**Department**” means a department established under section 2 of the Government Organization Act (Alberta).

“**Designated Officer**” means the individual designated by the Chief Officer as the individual primarily responsible to manage and investigate Disclosures of Wrongsdoings. The Designated Officer for AFSC is the individual who leads internal Audit who reports directly to the Board of Directors through the Chair of the Audit Committee. The responsibilities of the Designated Officer include, but are not limited to:

- Being a contact point for general advice and guidance about PIDA and AFSC’s Whistleblower policies and procedures;
- Liaising with the office of the Public Interest Commissioner;
- Coordinating the Disclosure process including impartially assessing each Disclosure to determine whether it is a public interest Disclosure;
- Coordinating an investigation where an investigator has been appointed;
- Advising the Whistleblower of the progress of an investigation;
- Establishing and managing a confidential filing system;

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- Developing a tracking system to manage Disclosures and investigations;
- Maintaining the confidentiality of the identity of the Whistleblower and the identity of the person who is the subject of the Disclosure; and
- Protecting employees and managers involved in a Disclosure of Wrongdoing from possible Reprisals.

“**Employee**” means an individual employed by, or an individual who has suffered a Reprisal and has been terminated by AFSC.

“**General Counsel**” means an individual employed by AFSC to provide oversight in corporate governance on all legal functions as they pertain to AFSC. The responsibilities of General Counsel include engaging with the Designated Officer and Human Resources to determine whether a Disclosure is frivolous.

“**Manager**” means the individuals employed by AFSC who sets goals for organization, and decides what work needs to be done to meet those goals” and or has suffered a Reprisal and has been terminated by AFSC.

“**PIDA**” means the Public Interest Disclosure (Whistleblower Protection) Act

“**Procedures**” means the procedures for handling and management of Disclosures by AFSC as outlined in the *AFSC Whistleblower Protection Procedures*.

“**Public Body**” means a member of the public who conducts or has a relationship with AFSC, government departments, as well as agencies, boards, commissions, corporations, offices and other bodies.

“**Public Entity**” means any Alberta agency, board commission, or Crown corporation.

“**Public Interest Commissioner**” means the individual appointed by the Alberta Lieutenant Governor in Council. The Commissioner is an officer of the Legislature and carries out the duties, responsibilities, and functions set out in PIDA. The responsibilities of the Public Interest Commissioner include, but are not limited to:

- Carrying out the purposes of PIDA;
- Acknowledging receipt of the Disclosure or complaint of Reprisal;
- Reviewing and investigating Disclosures of Wrongdoings and complaints of Reprisals made under PIDA;
- Monitoring the implementation of corrective measures by the entity based on the results of the investigation conducted by the Commissioner;
- Advise or inform the Report of the Disclosure of the outcome of an investigation conducted by the Commissioner; and
- Performing any other functions that are set out in PIDA.

“**Reporter**” means an employee who makes a Disclosure.

“**Reprisal**” means measures taken or directed against an employee, or any measure that adversely affects the working conditions of an employee, including but not limited to:

- A dismissal, layoff, suspension, demotion or transfer, discontinuation, or elimination of a job, change of job location, reduction in wages, change in hours of work or reprimand;
- Any measure that adversely affects the employee, manager, or staff member’s employment or working conditions; and
- A threat to take any measures mentioned above.

“**Staff Member**” means an individual seconded to AFSC to carry out its business affairs and who is employed by, or an individual who has suffered a Reprisal and has been terminated by a Department, or a Public Entity.

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“**Wrongdoings**” has the same meaning set out in PIDA and means:

- A contravention of an Act, a regulation made pursuant to an Act, an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada;
- An act or omission that creates
  - (i) a substantial and specific danger to the life, health or safety of individuals other than a danger that is inherent in the performance of the duties or functions of an employee, or
  - (ii) a substantial and specific danger to the environment;
- Gross mismanagement including an act or omission that is deliberate and that shows a reckless or willful disregard for the proper management of;
  - (i) public funds or a public asset,
  - (ii) the delivery of a public service, including the management or performance of
    - (A) a contract or arrangement identified or described in the regulations, including the duties resulting from the contract or arrangement or any funds administered or provided under the contract or arrangement, and
    - (B) the duties and powers resulting from an enactment identified or described in the regulations or any funds administered or provided as a result of the enactment,
  - (iii) employees, by a pattern of behavior or conduct of a systemic nature that indicates a problem in the culture of the organization relating to bullying, harassment or intimidation.
- A Wrongdoing prescribed in the regulations;
- Knowingly directing or counselling an individual to commit a Wrongdoing mentioned above.

## Policy Statement

AFSC is committed to maintaining a positive working environment within the organization and upholding the integrity of its operations. AFSC will take action in an objective manner to address reports of improper activities within AFSC without retribution to AFSC employees, managers, staff members and members of the public.

### a) **Duty to Disclosure:**

Any employee, manager or staff member who has a reasonable basis to believe that wrongdoing has occurred or is occurring with AFSC is required to Disclosure the information on which the belief is based.

AFSC’s Whistleblower Protection Program also provides a mechanism for the employee, manager, staff member or member of the public who report their concerns to do so and receive a response to their issue while maintaining anonymity.

### b) **Protection from Reprisal:**

The identity of individuals involved in the Disclosure of Wrongdoings, including the employee, manager, staff member or member of the public making the Disclosure and the individuals alleged to have committed the Wrongdoings, shall be kept confidential during the investigation of Disclosures except where a Disclosure is determined to be an imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the environment; or except where the identity of an individual must be revealed by law.

AFSC will not take or condone any adverse action (including demotion, suspension, termination, harassment or denial of service or benefits) against any employee, manager, staff member or other individual who:

- (i) Is the purported perpetrator of the Wrongdoing, in the absence of reasonable evidence; or
- (ii) In good faith and without malice or desire for personal benefit, reports Wrongdoing in accordance with this Policy.

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**Accessibility**

AFSC has retained ClearView Connects™ to support the Disclosure process. ClearView Connects™ has built a program to provide for complete anonymity to those who disclose concerns or make a Disclosure of Wrongdoing under this program that includes a telephone hotline (1-877-685-9317) or online by visiting [www.clearviewconnects.com](http://www.clearviewconnects.com). If an employee, manager, staff member or member of the public utilizes the telephone hotline (1-877-685-9317), ClearView Connects™ will answer the hotline twenty-four hours a day, seven days a week, 365 days per year. ClearView Connects™ will produce a written report from this conversation to enhance the communication process. When you submit a report via the web visiting [www.clearviewconnects.com](http://www.clearviewconnects.com), or by speaking to a Clearview hotline agent, you receive a secure ID and password that will allow you to check the status of your report, or provide additional information, while maintaining anonymity. Your report will be distributed to the Chief Officer, Designated Officer and General Counsel for assessment.

When a report is filed with ClearView Connects™, an email notification that a report has been filed will be sent to the AFSC’s Chief Officer and Designated Officer. As both the Chief Officer, the Designated Officer and General Counsel have a direct reporting relationship with the Board of Directors the oversight and full Disclosure of all reported instances of Wrongdoing as required by PIDA is assured. If either of these individuals is named in the report, the Chair of the Board and Chair of the Audit Committee will be notified of the Disclosure as part of the intake process.

The ClearView Connects™ hotline provides a mechanism for anyone who files a report to learn what resulting action was taken in an anonymous manner. If the Chief Officer or Designated Officer handling the complaint deems it appropriate, a response can be filed with ClearView Connects™ that is accessible only to the individual who filed the report.

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## Policy Requirements

### a) Request for Information

An employee, manager, staff member or member of the public who is considering making a Disclosure may request information or advice from the Designated Officer, Chief Officer, their supervisor, or from the Public Interest Commissioner.

### b) Disclosure Process

#### I. **Disclosure to the Designated Officer**

If an employee, manager, staff member becomes aware of a Wrongdoing, the individual shall disclose such behaviors and conduct to the Designated Officer.

The employee, manager, staff member or member of the public making the Disclosure above may also contact the Public Interest Commissioner and advise the Public Interest Commissioner that the Disclosure has been made to the Designated Officer for the purposes of commencing an investigation.

#### II. **Disclosures by Members of the Public**

Members of the Public may report Disclosures of Wrongdoing through the independently managed external confidential reporting and Disclosures ClearView Connects™ hotline maintained by AFSC, and such Disclosures are subject to the applicable provisions of this policy. The information contained in the Disclosure will be provided to the Designated Officer for follow-up and/or investigation. The Service Provider is ClearView Connects™ and can be contacted by dialing 1-877-685-9317.

#### III. **Direct Disclosure to the Public Interest Commissioner**

An employee, manager, staff member or member of the public has the option of reporting Disclosures to directly to the Public Interest Commissioner in the first instance.

The Public Interest Commissioner has the discretion to refer a disclosure to a Designated Officer for investigation if the Commissioner considers it appropriate. An employee, manager or staff member may make a Disclosure of Wrongdoing anonymously to the Public Interest Commissioner. Employees may make disclosure of wrongdoings directly to the Commissioner by phone at 1-855-641-8659, or by using the online web-form available at [www.yourvoiceprotected.ca](http://www.yourvoiceprotected.ca).

The Public Interest Commissioner has exclusive jurisdiction to receive and investigate complaints of reprisal. A "Complaint of Reprisal" must be submitted in the prescribed form and is available on the Public Interest Commissioner's website at [www.yourvoiceprotected.ca](http://www.yourvoiceprotected.ca).

Employees can obtain financial remedies in cases where the Commissioner finds a reprisal occurred. If, following an investigation, the Commissioner finds that a reprisal occurred; the Commissioner is obligated to refer the decision to the Labour Relations Board for determination as to the appropriate remedy.

#### IV. **Disclosure to a Department, Another Public Entity or the Public Interest Commissioner**

The Designated Officer may refer a Disclosure of Wrongdoing to a Department or another Public Entity if the Disclosure would, in the opinion of the Designated Officer, be more appropriately dealt with there.

#### V. **Disclosure of Matters of Imminent Risks**

Matters require immediate attention if they could pose an imminent risk of a substantial or specific danger to a person's health or safety or the environment.

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The Chief Officer or Designated Officers must report matters of imminent risk to the life, health or safety of individuals or the environment, to:

1. an appropriate law enforcement agency;
2. in the case of a health-related matter, to the Chief Medical Officer of Health;
3. to the department, public entity or office responsible for managing, controlling or containing the risk, if any; and
4. to a person identified in the procedures created by the Chief Officer.

An example of a matter which would constitute an imminent risk is a health-related outbreak (e.g. meningitis).

**VI. Disclosure of Matters of Criminal Offences**

In circumstances where the Chief Officer or Designated Officer has reason to believe that an offence has been committed under a statute or regulation, the Act requires the offence be reported to a law enforcement agency and to the Minister of Justice and Solicitor General as soon as reasonably practicable.

An investigation into the matter shall be suspended until it has been finally disposed of by a law enforcement agency or the Minister of Justice and Solicitor General.

**c) Confidentiality**

Maintaining confidentiality is paramount to the success of the process. Accordingly, the risk of confidentiality will be strictly managed from the outset of a Disclosure being received through to the end of the investigation and report release. In order to enhance confidentiality, as few people as are required will handle Disclosures. Employees and managers must not share information or evidence regarding Disclosures or Wrongdoing with fellow employees who do not have a need to know such information and who are not authorized to address Disclosures.

All participants in an investigation shall keep confidential:

- The identity of individuals involved in the Disclosure process;
- The identity of individuals alleged to have committed the Wrongdoings;
- The identity of witnesses;
- The information collected in relation to a Disclosure;
- The details and results of the investigation provided; however, such confidentiality may not be maintained for matters which pose an imminent risk of a substantial and specific danger to life, health or safety of individuals, or to the environment;
- Applicants under the Freedom of Information and Protection of Privacy Act (Alberta) do not have the right of access to records that would reveal the identity of a Whistleblower, unless the identity of the Whistleblower can be severed from the record. Chief Officers need to ensure internal privacy officers are aware of access to information limitations as it applies to the Act; and
- Personal information must only be disclosed in accordance with section 40(1) of the *Freedom of Information and Protection of Privacy (FOIP) Act*.

The details and results of investigations will not be disclosed or discussed with any persons other than those AFSC employees, managers or staff members who have a legitimate need to know such results in order to perform their duties and responsibilities. However, the Chief Officer and the Designated Officer may at any time disclose information in relation to any Disclosure, investigation or investigation outcome with Executive Leadership, AFSC General Counsel, the Board of Directors Audit Committee, the Board of Directors and/or law enforcement agencies as deemed appropriate.

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#### d) Investigation

Upon receiving a Disclosure, the Designated Officer shall determine whether or not an investigation is warranted. An investigation may involve both internal and external sources to assist in determining whether an improper activity has occurred and what corrective action may be appropriate.

Where a Disclosure received by the Designated Officer would, in the view of the Designated Officer, be more appropriately dealt with by the Commissioner or by another department, public entity or office of the Legislature, the designated officer shall refer such Disclosure to the Commissioner or the Chief Officer or Designated Officer of such department, entity or office within fifteen (15) business days of receipt. The employee or other person making the Disclosure will be advised by the Designated Officer about the referral.

The Designated Officer may request advice from the Public Interest Commissioner with respect to the management and investigation of a Disclosure of Wrongdoing.

##### Timelines

The Designated Officer shall acknowledge in writing a Disclosure of Wrongdoing within five (5) business days from the date on which the Disclosure of Wrongdoing or complaint of Reprisal is received by the Designated Officer.

Within twenty (20) business days from the date on which the Disclosure of Wrongdoing is received, the Designated Officer shall make a decision as to whether to investigate the Disclosure of Wrongdoing and or will forward complaint of Reprisal to the Public Interest Commissioner.

The Designated Officer shall complete an investigation of a Disclosure of Wrongdoing within one hundred-twenty (120) business days from the date on which the Disclosure of Wrongdoing was received by the Designated Officer. The Chief Officer may extend the time period for investigation and provision of an investigation report up to thirty (30) business days.

The Designated Officer shall advise the individual who has made a Disclosure of the progress of an investigation and will advise that individual of any actions taken.

#### e) Reporting

##### I. Report to the AFSC Chair

On a semi-annual basis the Designated Officer shall report to the chair of AFSC's Audit Committee all Disclosures of Wrongdoing that have been brought to his or her attention.

##### II. Report of the Chief Officer

The Chief Officer shall prepare an annual report on all Disclosures of Wrongdoing made or referred to the Designated Officer including disclosures referred to the Designated Officer by the Public Interest Commissioner. The annual report shall include:

1. the number of disclosures received or referred to the Designated Officer;
2. the number of disclosures acted on;
3. the number of disclosures not acted on;
4. the number of investigations commenced by the Designated Officer;
5. in cases where Wrongdoing is found, a description of the Wrongdoing and any recommendations or corrective measures taken, or the reasons why no corrective measures were taken.

The Chief Officer's report must be publicly available. Chief Officers are restricted from publically identifying, in their annual report, an employee who sought advice, made a disclosure, or made a complaint of reprisal and from disclosing individually identifying health information.



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## Related Procedures and Guidelines

- AFSC's Whistleblower Protection Procedures will be posted internally.

## Applicable Laws and Regulations / Legislation

- The Public Interest Disclosure (Whistleblower Protection) Act (PIDA) came into effect on June 1, 2013
- Bill 11: Public Interest Disclosure (Whistleblower Protection) Amendment Act effective March 1, 2018
- Freedom of Information and Protection of Privacy Act (FOIP)
- Alberta Human Rights Act
- Alberta Public Agencies Governance Act

## Exceptions

None.

## Non-Compliance

Compliance with this Policy is a condition of your employment. Failure to comply with this Policy may result in disciplinary action, up to and including termination of employment and prosecution if appropriate. Policy violations may result in civil and criminal penalties.

## Related Policies

- Code of Conduct <http://infonet/doc.aspx?id=7618>
- Fraud Prevention Policy <http://infonet/doc.aspx?id=7696>
- Respectful Workplace Policy

## Monitoring / Management's Responsibility

All AFSC policies will be monitored according to a prescribed work plan by Audit and Compliance to ensure programs and activities are well managed / understood and that suitable management practices and controls are in place and working.

**Management must actively monitor practices and controls within their respective departments and take early and effective remedial action in areas where significant deficiencies are encountered or improvements are needed and inform management / policy coordinator of any significant concerns in a timely manner.**

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## Approval

This policy must be signed by the appropriate officer before it is considered approved and put into force.

Darryl Kay, Interim Chief Executive Officer

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Approver

(signed original in file)

ELT Meeting date (March 14/18) Signed March 29, 2018

\_\_\_\_\_  
 Officer's Signature

\_\_\_\_\_  
 Date

This [section](#) required for employee signed policies (i.e. code of conduct and ethics)

## Agreement

I have read and understand the [name of policy]. I understand that if I violate the rules explained herein, I may face legal or disciplinary action according to applicable laws or AFSC policy.

\_\_\_\_\_  
 Employee Name

\_\_\_\_\_  
 Employee Signature

\_\_\_\_\_  
 Date

## Revision History

Version / Revision Date	Change	Author	Summary of Revision