### 1. Which entities are required to comply with the Treasurer’s Direction – Fraud control?

All agencies listed in Schedule 1 of the Administrative Arrangements Order, and government business divisions identified in the Treasurer’s Determination, must comply with all Treasurer’s Directions (TDs), including the TD – Fraud control.

### 2. The TD is mainly directed at the accountable officer. Can the accountable officer delegate his or her responsibilities?

Yes. In order to meet the mandatory obligations set by TDs, the accountable officer can delegate certain responsibilities and functions to agency staff. This can be done through a variety of mechanisms, including policies, procedures, and agency delegations.

### 3. Can the definition of fraud be expanded to include non-financial benefits and losses?

No. The definition has been deliberately restricted to financial benefits and financial losses to fit within the mandate of the *Financial Management Act 1995* (FMA), which deals with the administration of the Northern Territory (NT) Government financial affairs only.

While fraud which does not result or attempt to result in a financial benefit or loss, is not covered by the TD – Fraud control, agencies are still responsible for managing these fraud risks and report to ICAC.

### 4. What does zero tolerance of fraud mean? Does it mean immediate dismissal or criminal prosecution?

The NT Government has a zero tolerance of fraud. This means an allegation, suspicion, or incident of fraud cannot be ignored. An agency must respond appropriately to all suspicions, allegations or detected incidences of fraud in accordance with the requirements and timeframes outlined in relevant legislation, the Treasurer’s Directions, NT whole of government, and agency specific policies and procedures.

Zero tolerance does not mean an immediate dismissal or criminal prosecution. Appropriate actions to be taken in relation to fraud must first be assessed on the balance of facts, materiality, scope, and any other mitigating factors.

Criminal prosecution is a matter for the NT Police Force and Director of Public Prosecutions only. An undertaking to prosecute (or not) cannot be given by the accountable officer or any other employee of the agency.

### 5. The TD states employees responsible for fraud control activities must possess or attain relevant qualifications, training, or experience, to carry out their duties effectively. What is meant by relevant qualifications, training, or experience? Is there a specific qualification that employees must have?

Determining what qualifications, training, or experience is considered relevant is at the discretion of each individual agency and will be dependent on a number of factors including the agency’s size, role, and complexity of risks. For this reason, the TD does not identify specific qualifications.

### 6. What qualifications or training is available in relation to fraud controls?

Each agency is responsible for determining and organising training requirements for their employees.

Agencies may enquire about fraud information sessions with the NT Police Force’s Major Fraud Unit. The Office of the NT Ombudsman offers nationally accredited training in a Certificate IV in Government Investigations. Other nationally accredited qualifications, which can be sourced online and or through a number of training providers, include a Certificate IV in Government (Fraud Control) and a Diploma of Fraud Control.

In addition, the Office of the Independent Commissioner against Corruption (ICAC) provides courses designed to assist public sector employees to understand their reporting obligations under the ICAC Act. Agencies can also contact the Office of ICAC to organise tailored group training sessions for public sector employees.

### 7. Are NT Government contractors and external providers subject to the TD?

If fraud allegations are made in relation to contractors and external providers, the agency needs to determine whether the fraud matter relates to fraud committed against the NT Government. If the answer is yes, the matter will fall under the requirements of this TD.

If, however, a contractor or external provider experiences internal fraud, this does not necessarily constitute fraud against the NT Government, and the contractor or external provider will need to seek remedies under other relevant legislative or regulatory frameworks.

The NT Government relies heavily on contractors and external providers, including non-government organisations, the private sector, and other levels of government, to undertake work on its behalf. Agencies are encouraged to ensure contractors and external providers are aware of the agency’s position on fraud, and put measures in place to require them to meet a high standard of accountability.

### 8. Is the fraud incident register subject to freedom of information (FOI) requests, and if so what are the implications?

Yes, the fraud incident register may be subject to FOI. The *Information Act* provides that every person has a right to access government information. The fraud incident register contains government information and therefore is susceptible to disclosure on FOI. However, each FOI application must be assessed according to the individual circumstances. While it is possible that personal information must be disclosed on FOI, prior to releasing information, the agency is required to seek the views of any affected (i.e. identified) person and follow the consultation process set out in section 30 of the Act. There are also other exemptions under the Act which may apply.

### 9. Related party disclosures include information that could be useful in providing warning signs that fraud may be occurring. Why aren’t related party disclosures mentioned in the TD or guidance document?

The NT Government’s ‘Related Party Disclosures Policy’ mandates that personal information collected from key management personnel must only be used for reporting related party transactions in annual reports in order to comply with the FMA, the *Fiscal Integrity and Transparency Act*, and the Australian Accounting Standard AASB 124 Related party disclosures. As a consequence, related party disclosures cannot be used for any other purpose.

### 10. The TD mentions reporting to other regulatory or statutory bodies? Can you provide a list of these regulatory and statutory bodies?

Each agency is unique and subject to different legislation and regulations, and therefore a list of all regulatory or statutory bodies has not been listed. The guidance document provides some examples, such as the ICAC, the Commissioner for Public Employment, and the Commissioner for Health and Community Services Complaints. These examples are not exhaustive and each agency is responsible for determining their own external reporting obligations.

### 12. Is there a threshold in which fraud matters must be notified to the NT Police Force, the ICAC, the Auditor-General, and the Under Treasurer?

No except for reporting of fraud matters to the Auditor-General which is subject to the reporting requirements and threshold outlined in TD – Losses. However, for all others, all suspected fraud matters must be reported regardless of the financial value of the benefit or loss.

Reporting all fraud matters to the NT Police Force allows criminal matters to be appropriately assessed and investigated (where appropriate). At a minimum, it also ensures fraud matters are recorded in a database which can be used by police in identifying fraud trends, including fraud committed by the same individuals or third parties across time and locations.

Agencies should be aware that there are additional reporting requirements under the ICAC Act, which are beyond the scope of the TD. Under the ICAC Act, agencies may be required to report conduct which may result from carelessness or error, to allow the ICAC to determine if a matter meets the definition of improper conduct under section 9 of the ICAC Act. Although a matter may not meet the definition of fraud under the TD – Fraud control it may have resulted in substantial mismanagement or misuse of NT Government resources and may have implications under the Act.

Reporting of fraud matters to the AG is subject to threshold set in the TD – Losses. Agencies are required to notify suspected fraud to the AG where the suspected fraud results in financial loss that exceeds $2,000 for public property or $500 for cash. Reporting to the AG allows him or her to assess whether the fraud matter is systemic across government, the potential impact on the NT Government’s financial statements and the risks posed to NT Government when the fraud matter has arisen and after measures have been implemented to address the issue.

Reporting all fraud matters to the UT allows him or her to assess whether the fraud matter is systemic across government, the potential impact on the NT Government’s financial statements, and if financial policy changes are required (such as changes to the Treasurer’s Directions).

### 13. There are numerous definitions of fraud, some with an emphasis on ‘dishonesty’ and some with an emphasis on ‘deception’. Why does the definition in the TD focus on ‘deception’ only?

Commonwealth, state and Territory legislation do not have a specific definition for fraud that is consistent with each other. As a result, the definition in the TD was developed from the *NT Criminal Code Act*, the *Commonwealth Criminal Code Act*, and the Australian Standard 8001-2008 Fraud and Corruption Control, in consultation with the Solicitor for the NT and the NT Police Force.

Dishonesty means dishonest according to the standard of ordinary people; and known to be dishonest according to the standard of ordinary people. Deception, on the other hand, means deceiving a person or thing, whether by words, conduct, or deliberate omission.

Dishonesty can be applied to a broad range of circumstances that result in a financial benefit or loss, which is not limited to fraud. For example, where an individual steals from a cash register, this would be categorised as theft. In contrast, where an individual steals from a cash register but falsifies documentation to hide the theft, this would be categorised as fraud. Both scenarios involve dishonest behaviour which results in a financial loss to government. However, the difference between the two is that the second scenario also involves deception. Accordingly, the definition in the TD has been developed with emphasis on ‘deception’ rather than ‘dishonesty’.

### 14. Is the definition of fraud under the TD the same as the ICAC Act’s definition of improper conduct?

The definition of improper conduct under the ICAC Act includes corrupt conduct, misconduct, unsatisfactory conduct and anti-democratic conduct which is broader than the TD’s definition of fraud. Not all improper conduct satisfies the definition of fraud as per the TD.

The scope of the TD is limited to managing fraud that results in obtaining (or attempting to obtain) a financial benefit, or causing (or attempting to cause) a financial loss.

The ICAC Act aims to address wrongdoing in, or in connection with, public administration by providing a framework for appropriately detecting and dealing with improper conduct.

In addition to detecting instances of fraud, the ICAC Act aims to detect instances of mismanagement or misuse of NT Government resources, in line with the definition of improper conduct under section 9 of the ICAC Act. As a result, agencies must be aware of additional reporting requirements under the ICAC Act which are out of the scope of the TD – Fraud control.