

**GAUTENG PROVINCE**

HUMAN SETTLEMENTS  
REPUBLIC OF SOUTH AFRICA

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**ANTI-FRAUD AND CORRUPTION POLICY AND  
RESPONSE PLAN**

**THREE YEAR**

**Period:**

**2016/2017 – 2018/2019**

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## GLOSSARY OF TERMS

Throughout this document, unless otherwise stated, the words in the first column below have the meanings stated opposite them in the second column (and cognate expressions shall bear corresponding meanings):

"AFCU"	Anti Fraud and Corruption Unit of Gauteng Department of Human Settlements
"Cabinet"	Cabinet of the Republic of South Africa
"CFO"	Chief Financial Officer: Gauteng Department of Human Settlements
"Code"	Code of Conduct for Public Servants
"DPSA"	Department of Public Service and Administration

"Fraud and corruption" Includes, but is not limited to, the following:

(a) The following legal definitions:

- (i) *Fraud*, i.e. the unlawful and intentional making of a misrepresentation resulting in actual or potential prejudice to another;
- (ii) *Theft*, i.e. the unlawful and intentional misappropriation of another's property or property which is in his/her lawful possession, with the intention to deprive the owner of its rights permanently;
- (iii) Offences in respect of *corrupt activities* as defined in the Prevention and Combating of Corrupt Activities Act, 2004, i.e.:
  - The general offence of *corruption* which could be summarised as directly or indirectly accepting or agreeing to accept any gratification from another person; giving or agreeing to give any other person any gratification in order to

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influence that person directly or indirectly to exercise his powers, duties or legal obligations in a manner which is/amounts to:

- Illegal, dishonest, unauthorised, incomplete, or biased;
  - Misuse or selling of information or material acquired;
  - Abuse of position of authority;
  - Breach of trust;
  - Violation of a legal duty or set of rules;
  - Designed to achieve an unjustified result; and
  - Any other unauthorised or improper inducement to do or not to do anything.
- Corrupt activities in relation to:
    - Public officials;
    - Foreign public officials;
    - Agents;
    - Judicial officers;
    - Members of the prosecuting authority;
    - Unauthorised gratification received or offered by or to a party in an employment relationship;
    - Witnesses and evidential material during certain proceedings;
    - Contracts;
    - Procuring and withdrawal of tenders;
    - Auctions;

- Sporting events; and
- Gambling games or games of chance.
- Conflicts of interests and other unacceptable conduct, e.g.:
  - Acquisition of private interests in contract, agreement in or investment in public body;
  - Unacceptable conduct relating to witnesses; and
  - Intentional interference with, hindering or obstruction of investigation of offence.
- Other offences relating to corrupt activities, viz:
  - Accessory to or after an offence;
  - Attempt, conspiracy and inducing another person to commit offence; and
- Failure to report corrupt transactions.

(b) Fraudulent and corrupt acts may include:

*Systems issues:* where a process/system exists which is prone to abuse by employees, the public or other stakeholders, e.g.:

- Irregular collusion in the awarding of building contracts or orders for goods and/or services or tenders;
- Deliberate non-compliance with tender and procurement policy and procedures;
- Inadequate verification of supplier credentials;

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- Deliberate non-compliance to recruitment policy and procedures;
  - Deliberate or non-compliance with Housing Subsidy policy or procedures;
  - Falsification or forging of documents to register for low cost houses by employees of the Department;
  - Houses allocated to non South African citizens and/or citizens below the age of 21;
  - Ghost employees.

*Financial issues:* i.e. where individuals or companies have fraudulently obtained money from the Department, e.g.:

- Unauthorised sale of assets;
- Theft of funds;
- Rent collected from Affordable-Rental Housing not being paid to Treasury;
- Fraudulent mileage and subsistence claims; and
- Payments made to contractors for work not carried out.

*Equipment and resource issues:* i.e. where the Department's equipment is utilised for personal benefit or stolen, e.g.:

- Abuse of time management systems;
- Destruction of equipment in the office or other sites (Regional offices);
- Theft of assets, e.g. IT equipment, Office furniture, etc;

- Personal use of resources, e.g. telephones, internet, e-mail;
- Irregular destruction, removal, or abuse of records; and
- Disclosing confidential or proprietary information to outside parties.

*Other issues:* i.e. activities undertaken by employees of the Department, which may be against policies or fall below established ethical standards, e.g.:

- Soliciting gifts or favours from applicants for housing, building contractors, consultants or other suppliers of goods and/or services, e.g. acceptance of "kick-backs";
- Pursuing private business interests without permission;
- Illegal receipt and sale of low cost houses by Department officials;
- Non-disclosure of personal interests;
- Nepotism; and
- Favouritism.

**"Fraud Policy"**

Anti-Fraud and Corruption Policy and Response Plan

**"HOD"**

Head of Department: Gauteng Department of Human Settlements

**"MEC"**

Member of the Executive Council: Gauteng Department of Co-operative Governance and Traditional Affairs and Human Settlements.

**"NPA"**

National Prosecution Authority

**"PFMA"**

Public Finance Management Act, Act No. 1 of 1999

<b>"FPP"</b>	Fraud Prevention Plan
<b>"Province"</b>	The Province of Gauteng
<b>"SAPS"</b>	South African Police Services
<b>"SIU"</b>	Special Investigation Unit
<b>"The Department"</b>	Gauteng Department of Human Settlements



## 1. BACKGROUND

- 1.1 This policy is established to facilitate the development of controls to assist in the reinforcement of existing systems, policies and procedures of the Department, aimed at deterring, preventing, detecting, reacting to and investigate on the impact of fraud and corruption against the Department.
- 1.2 Furthermore, the purpose of this document is to confirm that the Department supports and fosters a culture of **zero tolerance** to fraud and corruption in all its activities.

## 2. SCOPE OF THE POLICY

- 2.1 This policy applies to all allegations, attempts and incidents of fraud and corruption impacting or having the potential to impact the Department.
- 2.2 The policy also applies to any irregularity, or suspected irregularity involving employees, managers as well as, stakeholders, contractors, vendors, service providers and agencies doing business with or on behalf of the Department or any other parties with a business relationship with the Department.
- 2.3 All employees and management of the Department must comply with this Policy and uphold the spirit with which the Policy is intended.

## 3. THE POLICY

- 3.1 The policy stance of the Department is **zero tolerance** to fraud and corruption. The Department will also put in place and implement appropriate prevention and detection controls. These prevention

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- controls include the existing financial and other controls and checking mechanisms as prescribed in the systems, policies and procedures of the Department.
- 3.2 All allegations of fraud and corruption, maladministration, financial misconduct will be investigated by the AFCU without regard to the suspected person's length of service, position or title or relationship to the Department.
  - 3.3 In addition, all fraud and corruption investigated will be followed by the application of all punitive measures and or remedies available within the full extent of the law.
  - 3.4 The efficient application of Treasury Regulations issued in terms of the PFMA instructions contained in the policies and procedures of the Department, is one of the most important duties to be applied by every employee in the execution of their daily tasks.
  - 3.5 Management is responsible for the detection and prevention of fraud, misappropriation, and all other irregularities.
  - 3.6 Management further has a responsibility to ensure that proper internal controls are in place in their respective business units to ensure timeous prevention and detection of fraud and corruption.
  - 3.7 Management will ensure that they are familiar with the types of improprieties that might occur within his/her area of responsibility, and be alert for any indication of irregularity.
  - 3.8 Any irregularity that is detected or suspected must be reported immediately to the Director Anti Fraud and Corruption Unit, who coordinates all investigations with the HOD on all affected areas, both internal and external.

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#### 4. FRAUD AND CORRUPTION

- 4.1 **WHAT CONSTITUTE FRAUD?** : The unlawful and intentional making of a misrepresentation resulting in actual or potential prejudice to another.
- 4.2 **WHAT CONSTITUTE CORRUPTION?** : Offences in respect of *corrupt activities* as defined in the Prevention and Combating of Corrupt Activities Act, 2004.
- 4.3 Fraudulent, corrupt activities and financial irregularities refer to, but are not limited to:

Fraudulent and corrupt acts may include:

*Systems issues*: where a process/system exists which is prone to abuse by employees, the public or other stakeholders, e.g.:

- Irregular collusion in the awarding of building contracts or orders for goods and/or services or tenders;
- Deliberate non-compliance with tender and procurement policy and procedures;
- Deliberate non-compliance to recruitment policy and procedures;
- Deliberate or non-compliance with National Housing Code policy or procedures;
- Falsification or forging of documents to register for low cost houses by any person;
- Houses allocated to non South African citizens and/or citizens below the age of 18;

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*Financial issues:* i.e. where individuals or companies have fraudulently obtained money from the Department, e.g.:

- Unauthorised sale of assets;
- Theft of funds;
- Fraudulent travel and subsistence claims; and
- Payments made to contractors for work not carried out.

*Equipment and resource issues:* i.e. where the Department's equipment is utilised for personal benefit or stolen, e.g.:

- Abuse of time management systems;
- Destruction of equipment in the office or other sites (Regional offices);
- Theft of assets, e.g. ICT equipment, Office furniture, etc;
- Personal use of resources, e.g. telephones, internet, e-mail;
- Irregular destruction, removal, or abuse of records; and
- Disclosing confidential or proprietary information to outside parties.

*Other issues:* i.e. activities undertaken by employees of the Department, which may be against policies or fall below established ethical standards, e.g.:

- Soliciting gifts or favours from applicants for housing, building contractors, consultants or

- other suppliers of goods and/or services, e.g. acceptance of "kick-backs";
- Pursuing private business interests without permission;
- Illegal receipt and sale of low cost houses by Department officials;
- Non-disclosure of personal interests;
- Nepotism; and
- Favouritism.

## **5. OTHER IRREGULARITIES**

Irregularities (misconduct) concerning employees' behavioural conduct should be resolved by Department's Management with assistance of Human Capital Management: Labour Relations Unit and will not be dealt with by AFCU.

Such irregularities being referred to above can as an example be the following:

- 5.1 Sexual Harassment
- 5.2 Absenteeism
- 5.3 Any transgression in terms of Labour Policies, Code of Conduct etc.

## **6. AUTHORITY TO INVESTIGATE SUSPECTED FRAUD AND CORRUPTION:**

Members of the AFCU in executing on their mandate shall have:

- 6.1 Free and unrestricted access to premises owned/rented by the Department.
- 6.2 Authority to examine, copy and remove all or any portion of contents of files, desks, cabinets, computer and all other storage facilities without

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prior knowledge or consent of any individual who might use or have custody of such items or facilities when it is within the scope of the investigation.

## **7. INVESTIGATION RESPONSIBILITY**

- 7.1 The AFCU as delegated by the HOD, has the mandate to investigate all allegations of fraud, corruption, maladministration and other irregularities as defined in this policy.
- 7.2 Whereof investigation findings in relation to procurement are that of criminal nature, the HOD with the assistance of AFCU must report the matter to the Provincial Treasury and report the matter to SAPS as per the National Treasury SCM Instruction Note 3 of 2016/2017, Prevention and Combating of Abuse in Supply Chain Management System.
- 7.3 The AFCU will at all times in its investigation endeavour to work in conjunction with the Legal Advisory Services Directorate of the Department to assist in legal matters and to seek legal opinion in relation to the investigation, including as well in the civil recovery of losses that the Department might have suffered as a result of fraudulent corrupt activity.
- 7.4 If an investigation results in the recommendation to suspend and or institute disciplinary action or terminate the employment of any individual employee, the recommendations will be sent to the HOD for approval. Depending on the decision of the HOD, the investigation report will be sent to Human Capital Services Directorate to implement the recommendations thereof.

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7.5 The AFCU does not have a mandate to undertake any suspension, institute disciplinary action or terminate employment of an employee as a result of transgression within this policy. The decision to suspend, institute disciplinary action or terminate employment rests with the HOD, employee's Management and Human Capital Services Directorate.

7.6 The AFCU will issue Monthly and Quarterly reports to the HOD and MEC on all matters relating to fraud and corruption investigations.

## **8. REPORTING PROCEDURES AND RESOLUTION OF REPORTED INCIDENTS**

**8.1 What should an employee do if he/she suspects fraud and corruption?**

8.1.1 It is the responsibility of all employees to immediately report all allegations or incidents of fraud and corruption to their immediate manager or supervisor, who should then forward it to the AFCU for investigation.

8.1.2 All managers have a responsibility for the detection, prevention of fraud and corruption and must report all suspected incidents and allegations of fraud and corruption to the AFCU and to HOD.

8.1.3 In an instance whereof the employee suspects the manager or for whatever other reasons that they are not comfortable to report to them, the employee must immediately report the matter to the AFCU and or the HOD.

8.1.4 Should employees wish to report allegations of fraud and corruption anonymously, they can contact the National Anti Corruption Hotline that is administered through the Office of the Public Service Commission on 0800 701 701. Alternatively, they can contact any member of management, the HOD, the MEC or the Chairperson of the Ethics Committee for the Department.

**8.2 What should a member of the public or providers of goods and/or services do if they suspect fraud and corruption?**

8.2.1 The Department encourages members of the public, stakeholders, service providers and person(s) who have a relationship with the Department, who suspect incidents of fraud and corruption to contact the AFCU, or the National Anti Corruption Hotline on 0800 701 701 that is administered through the Office of the Public Service Commission, the HOD or the MEC.

## **9. ACTING IN GOOD FAITH**

9.1 Any person who report suspected incidents of fraud and corruption must do so in good faith without any malicious intent to damage the reputation of another or that of the Department.

9.2 Whereof if is discovered that the allegations were made with malicious intent against an employee of the Department or the Department itself, the matter will be dealt with in terms of the Department's Labour Relations Policies and Code of Conduct and the employee would be held accountable for malicious intent against another employee or the Department.



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**10. How will allegations of fraud and corruption be dealt with by the Department?**

For all reported suspected incidents of fraud and corruption reported by employees, members of the public, stakeholders, service providers, etc. will be investigated to:

- 10.1 Determine the truthfulness of such allegations
- 10.2 Determine whether such allegations amount to fraud and corruption and
- 10.3 Determine whether such acts fall within the mandate of the AFCU and applicable to this policy
- 10.4 Whereof allegations fall outside the mandate of AFCU or this policy such matter will be referred to the appropriate business unit and the complainant will be notified of same.

The action taken by the Department to investigate the matter further will depend on the nature of the concern, and the outcome of the preliminary investigation. The AFCU will, after having screened and evaluated the outcome of the preliminary investigation, and has established a *prima facie* case of fraud or corruption, or that the finding of preliminary investigation has substance, subsequently:

- 10.5 Be fully investigated internally; or
- 10.6 Be referred to the Provincial Treasury for investigation, if the matter or allegations implicate the HOD; and
- 10.6 Be referred to law enforcement agency for further investigation.

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## 11. OFFENCES AND PUNITIVE MEASURES

- 11.1 Taking disciplinary action within a reasonable period of time after the incident;
- 11.2 Instituting civil action to recover losses;
- 11.3 Initiating criminal prosecution by reporting the matter to the SAPS or any other relevant law enforcement agency; and
- 11.4 Any other appropriate legal remedy available.
- 11.5 Whereof the employee, service providers, stakeholders and any other persons that the Department has business relationship with has been found to have
  - 11.5.1 Contravened the provisions of this policy or the National Treasury SCM Instruction Note 3 of 2016/2017, Prevention and Combating of Abuse in Supply Chain Management System;
  - 11.5.2 Fails to comply with the duty imposed by the provisions of this policy;
  - 11.5.3 Makes, permits or instructs another person to conceal any act contravening provisions of this policy.
  - 11.5.4 Conceals information or provides incorrect or misleading information or documentation which in terms of this policy must be submitted to AFCU for purposes of investigation.
- 11.6 Shall have committed on act of gross misconduct, the Department will take appropriate steps to the full extent of the law, including consideration of but not limited to:
  - 11.6.1 Whereof she/he would have knowledge or reasonably have known, fails to take all reasonable steps to prevent fraudulent and corruptive practices and report on such practices.

11.6.2 Managers are required to ensure that losses or damages suffered by the Department as a result of all reported acts committed by an employee or any other person are recovered from such an employee or other person if he or she is found to be liable for such losses.

11.6.3 The manner of dealing with procurement irregularities or abuse as prescribed in the National Treasury SCM Instruction Note 3 of 2016/2017, Prevention and Combating of Abuse in Supply Chain Management System.

## **12. ACKNOWLEDGEMENT OF COMPLAINTS/ALLEGATIONS**

12.1 The AFCU, HOD and/or MEC will, upon receiving a report of fraud from an external person, write to the person making the report:

12.1.1 Acknowledging that the concern has been received;

12.1.2 Indicating how he proposes to deal with the matter and whether any initial enquiries have been made;

12.1.3 Giving an indication of how long it will take to provide a final response; and

12.1.4 Informing them whether any further investigations will take place, and if not, why not.

12.2 The Department accepts that, people including employees, who reported the alleged fraud need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, information about outcomes of any investigation will be disseminated on a "need to know" basis and to person who have legitimate need to know.

### **13. CASE MANAGEMENT SYSTEM**

13.2 The Department will ensure that a fraud and corruption information system is procured for the following purposes:

13.2.1 Establish a system that encourages and allows employees and citizens to report allegations of corruption and other unethical conduct, and such system shall provide for—

- (i) confidentiality of reporting; and
- (ii) the recording of all allegations of corruption and unethical conduct received through the system or systems;

13.2.2 Establish an information system that—

- (i) records all allegations of corruption and unethical conduct;
- (ii) monitors the management of the allegations of corruption and unethical conduct;
- (iii) identifies any systemic weaknesses and recurring risks; and
- (iv) maintains records of the outcomes of the allegations of corruption and unethical conduct;

### **14. REPORTING TO MANAGEMENT AND STAKEHOLDERS**

14.1 The AFCU will provide the HOD, MEC and all internal business units tasked with reporting such Performance Information Management & Reporting, Monitoring & Evaluation Directorates with:

14.1.1 Monthly and quarterly reports

14.1.2 Annual report encompassing all the activities of AFCU in the Department.

14.1.3 However such reports will not contain any sensitive information that may harm or jeopardise the investigation. Such sensitive and confidential information will only be disclosed to person

who has a legitimate need to know the outcome of such an investigation.

Such report will provide the MEC, HOD and Management with the following minimum information:

14.2 In line with Cabinet instructions and Treasury Regulations and Instructions, the Department will provide the DPSA and PSC, through the Office of the Premier with the following minimum information at the end of each financial year:

14.2.1 Number of allegations of corruption received and corruption cases detected per defined categories as defined in the Prevention and Combating of Corrupt Activities Act, 2004 and service delivery areas;

14.2.2 Number of allegations and cases referred to in (14.2.1) above:

- (i) Handled in terms of disciplinary procedure;
- (ii) Referred to law enforcement agency or other body and progress and outcome thereof.
- (iii) Not investigated for disciplinary purposes or not referred;
- (iv) Description of corruption risk areas; and
- (v) Report on the performance of the minimum anti-corruption capacity as part of its annual report.
- (vi) Treasury Instructions on Prevention and Combating of Abuse in Supply Chain Management System.

## 15. ACTION PLAN

15.1 The AFCU will on finalisation of the investigation and in terms of the findings and recommendations of the investigation report:

15.1.1 Develop an action plan for the responsible business unit to implement the recommendation that has been outlined in the report.

15.1.2 Periodically monitor to ensure that the control measures are put in place with regard to the area where fraud risks have been identified and a gap exist in terms of control measure identified to prevent fraud and corruption from reoccurring to investigate in instances where fraud has occurred.

15.1.3 Report to HOD and MEC with regard to the progress made in implementation of such action plan.

## 16. CONFIDENTIALITY

16.1 All information relating to fraud and corruption that is received and investigated will be treated confidentially. The progress of investigations and results thereof will be handled in a confidential manner and will not be disclosed or discussed with any person(s) other than those who have a legitimate right to such information. This is important in order to avoid harming the reputations of suspected persons who are subsequently found innocent of wrongful conduct and to protect the Department from possible civil liability.

16.2 No person is authorised to supply any information with regard to allegations or incidents of fraud and corruption to the media or any external party without the express permission of the HOD.

16.3 The AFCU has the sole mandate in the Department to conduct investigations on matters relating to this policy and no other person who suspects wrong doing should attempt to conduct investigation and or interrogations on any suspected fraud and corruption activity.

## **17. PUBLICATION OF SANCTIONS**

17.1 The HOD will decide whether any information relating to corrective actions taken or sanctions imposed, regarding incidents of fraud and corruption should be brought to the direct attention of any person or made public through any other means.

## **18. PROTECTION OF WHISTLE BLOWERS**

18.1 An employee can report suspected fraud and corruption within the confines of the Whistle Blowing Policy, and such report will be treated, dealt with within the confines of the provision of the policy.

18.2 An employee who reports suspected fraud and corruption may remain anonymous should he/she so desire.

18.3 No person will suffer any penalty or retribution for reporting in good faith any suspected or actual incident of fraud and corruption which occurred within the Department.

18.4 All managers should discourage employees or other persons from making allegations, which are false and made with malicious intentions. Where such allegations are discovered, the person who made the allegations must be subjected to firm disciplinary, or other appropriate action.

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## **19. APPLICATION OF PREVENTION CONTROLS AND DETECTION MECHANISMS**

- 19.1 In respect of all reported incidents of fraud and corruption, management is required to immediately review, and where possible, improve the effectiveness of the internal control measures, which have been breached in order to prevent similar irregularities from taking place in future.
- 19.2 As per National Treasury SCM Instruction Note 3 of 2016/2017, Prevention and Combating of Abuse in Supply Chain Management Systems, the AFCU will facilitate and ensure compliance to the Instruction in terms of register of complaints, investigate complaints, implement remedial action, report outcomes, restriction of suppliers and deviation from national bidding processes.
- 19.3 AFCU will endeavour to conduct periodic detection reviews in business units or processes exposed to high risk of fraud to detect any fraudulent or corrupt activities.

## **20. CREATING AWARENESS**

- 20.1 The AFCU has responsibility to ensure that all employees of the Department receive appropriate training and education with regard to this policy by:
- 20.1.1 Conducting at least annually, training, education and awareness to employees.



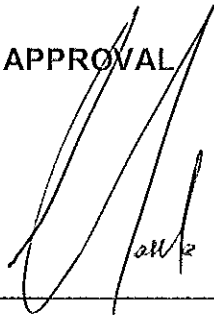
- 20.1.2 Periodically implement the provisions of the communication strategy i.e. Newsletters, brochures, etc.
- 20.2 The Legal Advisory Service Directorate to ensure that all contracts signed with the Department with any person having a business dealing/relationship contain the provisions of this policy or this policy is distributed with the contract as part of information sharing to stakeholders.
- 20.3 The AFCU is also responsible to ensure that stakeholders, communities and service providers and all other persons who have a legitimate relationship with the Department are educated and informed on the provision of this policy.
- 20.4 It is the overall responsibility of all Managers to ensure that all employees are made aware of, and receive appropriate training and education with regard to this policy.

**21. ADMINISTRATION**

21.1 The custodian of this policy is the HOD and is supported in its implementation by all managers of the Department.

21.2 The Director of Anti Fraud and Corruption Unit as delegated by the HOD, is responsible for the administration, revision and interpretation of this policy. This policy will be reviewed on three year period and appropriate changes applied should these be required by development in legislation, Treasury Instructions, DPSA Directorate and Case law.

**22. APPROVAL**



Ms. Matilda Gasela

Head of Department: Department of Human Settlements:

Date: 03 FEBRUARY 2017

Approved	<input checked="" type="checkbox"/>	Not Approved	<input type="checkbox"/>
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