



CORRUPTION PREVENTION POLICY

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

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FOREWARD

One of the basic principles of public sector organizations is the proper use of public funds. It is therefore important that all those who work in the public sector are aware of the risk of and means of enforcing the rules against fraud, corruption and other illegal acts involving dishonesty or loss of or damage to property. This document sets out the Authority's policy and response plan for detected or suspected fraud.

Fraud is an ever present threat to the public resources and hence must be a concern to members of staff and persons employed in a similar capacity. Fraud may occur internally or externally and may be perpetrated by staff, consultants, suppliers, contractors, individually or in collusion with other stakeholders.

The purpose of this policy is to set out staff responsibilities regarding both the prevention of fraud, what to do if staff suspects fraud and the action that will be taken by management. It gives a framework for a response and advice and information on certain key aspects and implications of an investigation.

The Authority requires all staff at all times to act honestly and with integrity and to safeguard the public resources for which the Authority is responsible.

Director General
National Environment Management Authority

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POLICY STATEMENT

This Policy is aimed at protecting public funds and assets of NEMA and help in upholding its integrity and reputation. It outlines the Authority's approach to the prevention, detection and control of fraudulent and/or corrupt activity and summarizes the associated responsibilities of management and staff.

The Authority will not tolerate fraudulent or corrupt activity and is committed to its control and prevention by:

- establishing and maintaining an effective system of internal controls and enforcing compliance with those controls;
- regularly undertaking risk assessments to identify circumstances in which fraud and corruption could potentially occur;
- implementing fraud and corruption prevention and mitigation strategies in its day to day operations;
- establishing formal procedures for the investigation of allegations relating to fraudulent and/or corrupt activity;
- taking appropriate action in response to allegations of fraudulent and/or corrupt activity including, reporting allegations through appropriate channels
- where allegations are substantiated, taking disciplinary action in accordance with the Authority's Human Resource Policies and Procedures manual;
- ensuring all staff are aware of their obligations in regards to the prevention of fraud and corruption within the Authority;

- fostering an ethical environment in which dishonest and fraudulent behavior is actively discouraged; and
- Generating public awareness of the Authority's commitment to the prevention of fraud and corruption.

CHAPTER 1:

1.0 DEFINITION OF FRAUD AND CORRUPTION

Corruption is defined as the “offering, giving, soliciting or acceptance of an inducement or reward which may influence a person to act against the interests of the organization”. The “Anti-corruption and Economic Crimes Act 2003” describes “corruption” as an offence under any of the provisions of sections 39 to 44, 46 to 47 of the same Act, bribery, fraud, embezzlement or misappropriation of public funds, abuse of office, breach of trust or an offence involving dishonesty in connection with any tax, rate or impost levied under any Act or under any written law relating to elections of persons to public office.

Fraud is a term used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment and collusion.

For practical purposes, fraud may be defined as the use of deception with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party. Fraud can be perpetrated by persons outside as well as inside an organization.

Computer fraud is where Information Technology (IT) equipment has been used to manipulate programs or data dishonestly (for example, by altering, substituting or destroying records or creating spurious records or where the use of an IT system was a material factor in the perpetration of fraud, theft or fraudulent use of computer time and resources, including unauthorized personal browsing on the Internet.

Other fraudulent / corrupt practices include fraudulently misappropriating the Authority’s time/pay whilst viewing Internet sites or any other material that might breach the Authority’s Human Resource Policies. It also includes

inappropriate use of the Authority's telephones and mobile phones.

Theft- includes any misappropriation, stealing, malicious damage and actual or attempted break-in.

1.1 Policy scope

This policy applies to the Management and staff of NEMA.

CHAPTER 2

2.0 LEGISLATIVE AND ADMINISTRATIVE REQUIREMENTS

This policy takes cognizance of the existing legal and administrative instruments in the Public Sector that are aimed at preventing fraud and corruption. These are as follows:-

- Constitution of Kenya
- Anti-Corruption and Economic Crimes Act, 2003.
- Public Officers Ethics Act, 2003.
- Public Procurement and Disposal Act 2005, and Public Procurement and Disposal regulations, 2006.
- Government Financial Management Act, 2004
- Employment Act, 2007
- NEMA Human Resource Policies and Procedures Manual
- NEMA Customer Service Charter
- Any other relevant laws and policies

CHAPTER 3

3.0 POTENTIAL CORRUPTION RISK AREAS AND CORRUPT PRACTISES IN NEMA

All functional areas in the Authority are potential corrupt risk areas. The key areas include:-

- Financial and Management Systems and Procedures
- Information Management including ICT systems and records management
- Procurement and Disposal
- Human Resource Management
- Licensing
- Equipment and Assets / Other resources

CHAPTER 4

4.0 STRUCTURES TO FIGHT CORRUPTION

4.1 Board of Management

The Board of Management is in charge of policy setting, budgetary allocation and oversight role through Audit Committee.

4.2 Director General

The Director General is responsible for:

- i. Defining the extent to which powers and duties vested in him/her may be exercised and performed by officers under him/her
- ii. Giving direction to ensure the proper exercise of the powers and performance of the duties.

4.3 Corruption Prevention Committee

The roles of the Corruption Prevention Committee is to ensure that all corruption prevention initiatives are integrated in their department's Balanced Score Card and prioritize activities in the implementation of corruption preventive programme. Other functions of this committee are discussed in Chapter 6.

4.4 Integrity Assurance Officers

The role of IAOs shall be:

- to carry out corruption risk assessments
- to initiate actions in response to corruption risk assessments.
- Prepare corruption prevention plans and implement them in line with NEMA's Integrity Action Plan.
- Co-ordinate and facilitate implementation of Corruption Prevention Programs.

- Implement anti-corruption education and awareness programmes.

4.5 Heads of Departments / Sections / Counties

The Heads of Department oversee the implementation of Departmental activities as specified in the annual work plans and report directly to the Director General. They are therefore expected to detect any fraudulent or corrupt practices within their areas of responsibility and take the appropriate action

They should also take leadership in promoting ethical behavior and implementing the corruption prevention strategies within their departments.

They should ensure that employees within their department receive appropriate fraud and corruption awareness training.

4.6 Employees

- i) They should comply with the requirements of this policy
- ii) Be aware of their individual responsibility under this policy
- iii) Act in a professional manner (with skill, care, diligence, honesty, integrity and impartiality)
- iv) Comply with all the legal requirements and policies of the Authority
- v) Avoid wastage or misuse of Authority resources
- vi) Avoid use of Authority resources for personal gains.
- vii) Maintain confidentiality in handling official information
- vii) Report any corrupt or fraudulent activity coming to their attention

CHAPTER 5

5.0 COMPOSITION OF CORRUPTION PREVENTION COMMITTEE

The Director General – Chair
Director Finance and Administration
Director Environmental planning and research
Director Compliance and enforcement,
Director Environmental Education, Information and Public
Participation
Director Legal Services
Deputy Director Coastal marine and fresh water
Deputy Director HR and Administration
Chief corporate communication manager
Head ICT
Integrity Assurance Officers

CHAPTER 6

6.0 MANDATE AND OPERATIONS OF THE CORRUPTION PREVENTION COMMITTEE

The roles and functions of the Corruption Prevention Committee within the NEMA include;

- Setting priorities in the prevention of corruption within the Authority
- Planning and coordinating corruption prevention strategies
- Integrating all corruption prevention initiative in the Authority
- Receiving and reviewing reports on corruption prevention initiatives and recommend appropriate action
- Receiving and taking action on corruption reports made by staff and other stakeholders. Evidence of concrete measures taken must be made available and any referrals to other agencies well documented.
- Spearheading corruption prevention campaigns within the Authority
- Monitoring and evaluating the impact of corruption prevention initiatives
- Preparing and submitting quarterly progress reports to the **Performance Contract Steering Committee**

CHAPTER 7

7.0 INTERNAL AND EXTERNAL AUDIT REVIEWS

7.1 Internal Audit

The Internal Audit Department plays a major preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud. The department will design appropriate internal control tests for suspected financial irregularities and fraud searching exercises to establish whether irregularities have occurred. They liaise with Head of Departments and Board of management to recommend changes in procedure to prevent further losses to the Authority.

Evaluate and improve the effectiveness of risk management, control systems and governance.

The responsibility for the detection of financial irregularities rests with management. The Internal Audit Department will advise and assist management in fulfilling their responsibility for preventing irregularities by recommending appropriate internal control measures. There may be circumstances of course, where auditors detect fraud as a result of the work that they are undertaking or as a result of specific fraud exercises. For such cases, the department shall co-operate with Human Resource Section in conducting fraud investigations.

7.2 External Audit

Independent External Audit is statutory and is an essential safeguard of the stewardship of public money. The role is delivered through carrying out specific reviews that are designed to test the adequacy of the Authority's financial systems and arrangements for preventing and detecting fraud and corruption. It is not the External Auditor's function to prevent any irregularity, but the integrity of public funds is at all times a matter of general concern.

External Auditors are always alert to the possibility of fraud and irregularity and will act without due delay if grounds for suspicion come to their notice. The External Auditor has a responsibility to review the Authority's arrangements in respect to preventing and detecting fraud and irregularities and arrangements designed to limit the opportunity for corrupt practices.

CHAPTER 8

8.0 HOW TO REPORT CORRUPTION INTERNALLY AND EXTERNALLY

Any member of staff who detects or observes a fraudulent act shall report it either to:-

- Director General
- Head of Department
- Any member of the CPC
- Integrity Assurance Officer

Reporting avenues include:-

- Corruption boxes
- Email linked to the NEMA website
- The Director General's email address
- The NEMA postal address, complain addressed to The Director General
- SMS to any of the CPC members
- Telephone
- Fax

External reporting on corruption can also be channeled through:-

- EACC
- The Kenya Police
- Commissioner of Administrative Justice

8.1 Confidentiality

All the information received by the Authority shall be treated with utmost confidentiality.

Great care shall be taken in the investigations of suspected fraudulent and corrupt behavior to avoid:

Unfounded or incorrect accusations

Unnecessary or prematurely alerting individuals against whom allegations have been made

Making statements that could expose the Authority to legal liability for damages arising from wrongful accusations.

Making malicious and false information contrary to Sections 112A and 129 of the Penal Code Cap 63 of the Laws of Kenya

8.2 HANDLING OF CORRUPTION CASES

Corruption cases will be dealt with fairly, promptly, expeditiously and within the law.

Corruption cases deliberated upon and supported by concrete evidence or reasonable suspicion that a corruption offence has occurred or about to occur should be reported to the EACC and other law enforcement agencies for further action.

8.3 PROTECTION OF WHISTLEBLOWERS

Identity of a whistleblower will be maintained as confidential in all circumstances, unless the whistleblower consents to his/her identity being disclosed. In the event that disclosure is required for a matter to be properly investigated, consent will be sought from the whistleblower for their identity to be revealed.

A whistleblower who may wish to remain anonymous must ensure that the allegation is sufficiently supported by necessary detail and evidence to enable the matter to be properly investigated. Accordingly if an allegation is not supported by sufficient evidence it will not be investigated.

8.4 INVESTIGATION

The Authority will set up a team of relevant officers including IAOs to investigate information received to establish authenticity and compile evidence.

The nature and seriousness of any fraudulent or corrupt activity will determine the nature of the investigation adopted and the level of resources employed and the involvement of collaborating agencies.

The team will keep the Corruption Prevention Committee informed on the progress and development of the investigation until the matter is concluded.

The purpose of the investigation is to:

- collect and collate any further documents, information and evidence appropriate to the matter.
- to interview all relevant personnel to obtain witness statements.
- to establish facts of any malpractice and the need for any management action.
- report to the appropriate person(s) the facts and option for any action and recovery of any loss. A formal record of the investigation will be maintained

8.5 DISCIPLINARY MEASURES

Disciplinary measures taken for breaches of the provisions of this Policy shall be in accordance to:-

- NEMA HR Policies and Procedures Manual
- Anti-Corruption and Economic Crimes Act 2003
- Public Officers Ethics Act, 2003
- Employment Act , 2007
- Any other relevant law

CHAPTER 9

9.0 AWARENESS AND TRAINING

Management is committed to the sensitization and training of staff on matters of ethics and integrity. This shall be through various forums and appropriate Information Education and Communication (IEC) materials. Management is committed to mainstreaming Integrity in its daily operations to create a corruption free culture in the Authority

The Authority recognizes that the continuing success of its Anti-Corruption and Corruption Policy and its general credibility will depend largely on the effectiveness of programmed training and the responsiveness of employees throughout the organization.

To facilitate this, the Authority shall support the concept of training for all members of staff and particularly for employees involved in internal control systems to ensure that their responsibilities and duties in this respect are regularly highlighted and re-enforced. The training plans of the Authority's Human Resource Section staff shall also reflect the requirement for regular and effective training. The Integrity Assurance Officers (IAOs) shall lead other staff members in raising awareness about dangers of corruption and ensuring there is integrity in the Authority.

Staff shall be kept fully informed about the Authority's Anti-Corruption Policy and Corruption and what part they are expected to play in it. This shall be achieved through:

- giving every employee a copy of the organizations code of conduct/Anti-Corruption and corruption policy as part of their contract of employment.
- Informing new staff during induction training.

- establishing a training programme and ensuring all staff attend it.
- making the Anti-Corruption and corruption policy and code of conduct available to all staff via networked computer system
- including fraud matters in a weekly /monthly or quarterly NEMA Newsletter.
- Reporting to staff outcomes of investigations and disciplinary action against employees who perpetrate theft or fraud.

CHAPTER 10

10.1 MANAGEMENT / IMPLEMENTATION AUTHORITY

The Director General will oversee the implementation of this policy through the CPC and respective Heads of Departments

10.2 REVIEW

This policy shall be reviewed every three years or as need arises.