

# ANTI-CORRUPTION POLICY

WE VALUE  
DOING THINGS RIGHT





# **KENYA PORTS AUTHORITY**

## **ANTI-CORRUPTION POLICY**

*We Value Doing Things Right*

(UNCONTROLLED DOCUMENT)

## TABLE OF CONTENTS

FOREWORD .....	2
POLICY STATEMENT .....	4
LEGISLATIVE AND ADMINISTRATIVE REQUIREMENTS/CONTEXT .....	4
SCOPE/RELEVANCE .....	4
DEFINITION OF CORRUPTION .....	5
CORRUPTION RISK AREAS AND POTENTIAL CORRUPT PRACTICES IN THE AUTHORITY .....	6
a. PROCUREMENT .....	6
b. OPERATIONS .....	6
c. INTERNAL AUDIT & RISK MANAGEMENT .....	7
d. LITIGATION AND DISPUTES .....	7
e. MEDICAL SERVICES .....	7
STRUCTURES TO FIGHT CORRUPTION .....	8
COMPOSITION OF THE CORPORATE CORRUPTION PREVENTION COMMITTEE ....	12
MANDATE AND OPERATIONS OF THE CORPORATE CORRUPTION PREVENTION COMMITTEE .....	12
INTERNAL AUDIT REVIEWS .....	13
HANDLING OF CORRUPTION CASES .....	13
PROTECTION OF WHISTLE BLOWERS .....	13
DISCIPLINARY MEASURES .....	14
TRAINING OF STAFF .....	14
REVIEW OF THE POLICY .....	14
EFFECTIVE DATE .....	14

## FOREWORD

Corruption has been recognized and classified as a threat to national security by His Excellency the President. It has been noted that corruption negatively affects functions and operations of the Authority by increasing cost of doing business, aggravating poor service delivery, loss of business, and cause the Authority to suffer adverse reputation and negatively affect the Authority's contribution towards the realization of its Vision.

The Authority acknowledges that the vice of corruption may occur and be practiced within the organization by employees, members of the Board of Directors, Port users, suppliers and the wider stakeholders. It is for this reason that the Authority has taken initiative to implement measures to fight and mitigate inherent risks.

The measures employed by the Authority in fighting corruption include the development and periodic review of an Ethics and Anti-Corruption Policy which is to inform and work hand in hand with the whistle-blowing policy and Code of Conduct and Ethics, the Human Resource Handbook and Disciplinary Handbook. The Authority has also established Corruption Prevention Committees at various levels within the Authority.

**The Anti-Corruption Policy is aimed at assisting the Authority in the prevention, detection and investigation of all corrupt and fraudulent activities within the Authority.**

**The Authority is committed to ensuring full implementation of this Policy in the fight against corruption.**

Signed \_\_\_\_\_

**Dr. Arch. Daniel O. Manduku**

**MANAGING DIRECTOR**

*Kenya Ports Authority, Anti-corruption Policy 2018*

## **POLICY STATEMENT**

Kenya Ports Authority is committed to upholding integrity and ethics in the conduct of its business operations in a bid to promote good governance and attain a corruption free environment

- The policy aims at promoting and strengthening measures to prevent and combat corruption and unethical conduct within the Authority's business operations with a view to enhancing efficiency and effective service delivery.
- The policy seeks to maintain integrity and promote positive organizational culture in pursuit of zero tolerance to corruption. It seeks to constantly monitor and evaluate corruption risk areas with a view to improving operations through enhanced system controls, procedures and practices in order to seal corruption loopholes.

The management is committed to full implementation of this Anti-Corruption policy.

## **LEGISLATIVE AND ADMINISTRATIVE REQUIREMENTS/CONTEXT**

- This policy is informed by and has borrowed from a number of legislative and administrative and related materials which include; Public Officers Ethics Act, Leadership and integrity Act, Anti-Corruption and Economic Crimes Act, Public Procurement and Asset Disposal Act, Government Financial Management Act, Kenya Ports Authority Act, Kenya Ports Authority Human Resource Manual and Kenya Ports Authority Disciplinary Handbook.

## SCOPE/RELEVANCE

This policy is applicable to all employees (both management and unionisable), as well as members of the Board. It offers a guide on how employees should relate among themselves and with stakeholders. It is meant to ensure that their conduct and undertakings are in conformity with ethical requirements and are devoid of corruption. Whereas the wider stakeholders are not covered by this policy, their interaction with the Authority through its staff and Board is within the scope of this policy.

## DEFINATION OF CORRUPTION

**"Corruption"** means an offence under any of the provisions of sections 39 to 44, 46 and 47; of the - Anti-Corruption and Economic Crimes Act Chapter 3 of 2003 of the Laws of Kenya. Examples of corruption are:-

- a. Bribery; e.g. inducement for service delivery
- b. Fraud; e.g. Revenue leakages like unsecured port charges
- c. Embezzlement or misappropriation of public funds e.g. un-accounted cash imprest
- d. Abuse of office e.g. Favouritism
- e. Breach of trust e.g. bad governance
- f. An offence involving dishonesty in
  - i. Connection with any tax, rate or impost levied under any Act; or
  - ii. Under any written law relating to the elections of persons to public office;
  - iii. Any action that includes the offering, giving, soliciting or acceptance of an inducement or reward that may influence the action of a staff of the Authority is corruption.
- g. *Financial or Beneficial Interest'* is defined to include: -
  - a) A creditor, debtor or ownership interest
  - b) Any employee, consultant or partnership arrangement
  - c) Any option to purchase real or personal property

## **CORRUPTION RISK AREAS AND POTENTIAL CORRUPT PRACTICES IN THE AUTHORITY**

### **a. FINANCE-**

- Creditors ledger - e.g. inducement for payment
- Customer care – e.g. under charge or failure to bill
- Claims and waivers - e.g. unmerited waivers and refunds
- Imprest management - e.g. unaccounted imprest , delay in accounting and false accounting
- Revenue collection - e.g. Non-remittance of collected revenue
- Computerized financial management information system-
- Manipulated System failure
- Gate collections – e.g. failure to remit the cash collections

### **b. PROCUREMENT**

- Tender opening process- e.g. Tempering with tender documents, late submission of tenders.
- Tender evaluation process .e.g. conflict of interest
- Local Purchase process- e.g. over pricing,
- Direct purchase process- e.g. Compromised single sourcing
- Quotation management-e.g. variation of prices.

### **c. HUMAN RESOURCES**

- Recruitment process – e.g. Nepotism, inducement
- Promotion process - e.g. Nepotism, inducement, selective application of the scheme of service.
- Discipline mechanism-e.g. interference
- Training management- e.g. Nepotism, inducement

### **d. INFORMATION TECHNOLOGY**

- Manipulation of data
- Planned Systems failure
- Misuse of passwords

**e. OPERATIONS**

- Manipulation of data
- Extension of through dates
- Selective CFS nomination process
- Misallocation of resources
- Discriminative service delivery
- Claims and waivers arising from Manual operation; i.e. when the system is down
- Billing Processes: under charge or failure to charge Stevedoring,
- Shore-handling, Statement of Services Rendered (SSR) pilotage, Mooring, Tug services and navigational aid.

**f. INTERNAL AUDIT & RISK MANAGEMENT**

- Compromised Audit reports
- Selective auditing
- Colluding with forwarders to steal cargo
- Compromised investigation reports

**g. SECURITY SERVICES**

- Selective use of ISS system
- Selective use of ISS system
- Colluding to allow unauthorized personnel or vehicles into the premises

**h. LITIGATION AND DISPUTES**

- Compromised legal representation
- Collusion with external lawyers
- Failure to collect debts.
- Collusion with persons suing the Authority



**i. CONTRACTS AND CONVEYANCING**

- Delay in drafting of contracts
- Drafting lop sided contracts
- Preferential service delivery

**j. MEDICAL SERVICES**

- Inflation of medical bills in collusion with external service providers.
- Unnecessary referral with a view to share payments between the Service Providers and Medical services
- Collusion with external medical service providers to overcharge the Authority for services not rendered or services rendered but not necessary.

## STRUCTURES TO FIGHT CORRUPTION

### Corruption Prevention

#### The Role of Management in Corruption Prevention

- Each Divisional/Departmental Head is responsible for the successful implementation of controls to prevent and/or detect Corruption and fraud within their service areas. Management at all levels is responsible for ensuring that their staff are aware of the Authority's anti-corruption policy. They should also ensure that the staff members under them are aware of their responsibility in relation to corruption prevention, reporting suspects and irregularities and safeguarding the resources for which they are responsible.
- Managers to ensure adequate and appropriate training is provided for staff members on ethics and integrity to understand procedures and inculcate ethical conduct amongst them to prevent corruption.

#### Establishment of the Ethics and Integrity Department

- The Authority has established the Ethics and Integrity Department as the main functional unit to coordinate corruption prevention activities in the Authority. However, the entire responsibility of corruption prevention in the respective functional units of the Authority lies with the respective line managers who have to ensure that corruption prevention programs, strategies and initiatives are well implemented in the relevant functional units.

### Establishment of Corruption Prevent Committees

- These committees are meant to spearhead anti-corruption strategies and initiatives in the Authority. The committees exist in three tiers namely; Departmental CPCs, Divisional CPCs and Corporate CPC-APEX at the highest level. They are mandated to mainstream anti-corruption measures in the organization's system and structures with a view to eradicating corruption.
- They are responsible for keeping constant check on Authority's operations and procedures to ensure that there are no opportunities for corruption and unethical conduct.

### Enactment of Policies, Procedures and Manuals

To prevent corruption, a range of instruments have been issued, these include:

- Anti-corruption policy
- Code of Conduct and Ethics
- Human Resources Manual
- Procurement Rules and guidelines
- Customer Service Charter
- Financial Regulations
- The Authority's procedures apply to all staff members and are aimed at preventing corruption.

Staff members are expected to comply with the relevant legislative and administrative instruments and where appropriate, the ethics and standards associated with the professional body to which they may prescribe to, e.g. Engineers, lawyers, accountants, Doctors or medical personnel, Human Resources professionals, Auditors, pilots among others.

### **Recruitment process**

The Authority recognizes that a key preventive measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential staff members in terms of their properties and integrity. To prevent corruption, written references shall be obtained prior to appointing new staff, including those employed on temporary or contract basis. Additionally, copies of stated qualifications shall also be verified and retained.

### **Corruption Detection and Reporting**

Management's attention shall be drawn where staff does not accept to take a transfer, annual leave, in cases where there is break down and/or lapse in system controls. Additionally, external sources of information, such as complaints from customers or other stakeholders will be used to detect possible corruption malpractices. Apart from Management Control Systems including Internal Audit and Enterprise Risk Management, the Authority has also established the following reporting channels after detecting corruption;-

- I) Reporting through the website;  
[stopcorruption@kpa.co.ke](mailto:stopcorruption@kpa.co.ke)
- ii) Reporting to the Managing Director +254 – 41 – 2113497
- iii) Reporting to the Head of Ethics and Integrity +254 – 41 – 2113465
- iv) Reporting anonymously through the anti-corruption report boxes installed in the port
- v) Reporting through external contacts;

Reporting through external contacts;

- Ethics and Anti-corruption Commission (Mombasa Office), ACK Building, Nkrumah Road Telephone Numbers: 254-41-2319081/2 Cell phone numbers: 254-722-633157, 254-734-752594, Fax number: 254-41-2319083, E-mail: [eacc@integrity.go.ke](mailto:eacc@integrity.go.ke)
  
- Ethics and Anti-corruption Commission (Nairobi Office), Integrity Centre, Milimani/Valley Road Junction, Telephone Numbers: 254-020-2718812 /2717318 /2719553/ 2719555, Cell phone numbers: 254-727285663/ 254 733-520641 Hotlines: 254-020-2717468; Fax: 254-020-2717473/2719757

#### **Management to work with other Agencies in Corruption Prevention**

The Authority will strive to facilitate the exchange of information with other Agencies on national and local corruption prevention activities and these include those organizations working within the port and those outside the ports.

#### **Investigating Corruption**

The Head of Ethics & Integrity shall, at the preliminary stage investigate all corruption and fraud related cases reported against the Authority's members of staff, gather evidence and recommend to the Managing Director for further action to be taken against the member(s) implicated. However, such investigations are meant to provide conclusive information for administrative purposes where the investigations involve the Authority's members of staff.

The Internal Audit and Risk Management Department, Security Services, National Police Service and Ethics and Anti-corruption Commission (EACC) may handle further investigations of confirmed cases of theft, fraud and/or corruption depending on the nature of the case after preliminary investigations are completed by the Head of Ethics and Integrity and Management hands over the matter to them appropriately.

### **Punishment**

The Authority recognizes the grievance procedure mechanisms as established in the Disciplinary Handbook. Therefore, the managing director has a maximum of fourteen (14) days to establish a committee of enquiry as provided for by the grievance mechanism to adhere to the disciplinary process or otherwise and recommend appropriately action against the culprit implicated in corruption and unethical conduct in the Authority.

### **COMPOSITION OF THE CORPORATE CORRUPTION PREVENTION COMMITTEE**

The Authority has established corporate corruption prevention committee, referred to as the APEX, which is comprised of the following as members and who are not allowed to delegate responsibilities under this policy;-

- Managing Director-Chairperson
- Heads of divisions /General managers as members
- Head of Ethics & Integrity as the Secretary.

## MANDATE AND OPERATIONS OF THE CORPORATE CORRUPTION COMMITTEE

- Setting priorities in the prevention of corruption within the organization. Planning and coordinating corruption prevention strategies
- Integrating all the corruption initiatives in the organization.
- Receiving and reviewing reports on corruption prevention initiatives and recommend appropriate action.
- Receiving and acting 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 anti-corruption campaigns within the organisation.
- Monitoring and evaluating the impact of corruption initiatives.
- Preparing and submitting quarterly progress reports to the Performance Contract Steering Committee.

## INTERNAL AUDIT REVIEWS

The Management recognises the crucial role played by the Internal Audit Department in prevention and detection of corruption within the Authority. It provides an institutionalised mechanism for supervisory control and review of operational systems within the Authority. It also plays an important role in assessing the nature and extent of any fraud and corruption risk.

## **HANDLING OF CORRUPTION CASES**

The management is committed to ensuring all corruption cases are dealt with fairly, promptly, expeditiously and within the law. Corruption cases are deliberated upon and supported by strong evidence or reasonable suspicion that a corruption offence has occurred or about to occur should be reported to the Ethics and Anti-Corruption Commission and other Law Enforcement agencies for further action.

## **PROTECTION OF WHISTLE BLOWERS**

Management acknowledges the important role played by whistle blowers in the detection and prevention of corruption within the Authority. The Authority is therefore committed to ensuring that information which may identify the whistle blowers is not released.

The Authority is further committed to the protection of whistle blowers against victimisation.

## **DISCIPLINARY MEASURES**

To ensure compliance with this policy and the law in general and to act as a deterrent, the Authority has in place a detailed Human Resource Manual and a Disciplinary Handbook which contain a category of offences (minor and major), the disciplinary procedure and punishment for any breaches.

## **TRAINING OF STAFF**

The management is committed to sensitisation and training of staff on matters of Anti-Corruption, ethics and integrity. The Authority conducts training and awareness with the help of EACC, Transparency International, Public Procurement Oversight Authority, and other entities. Whereas this training focuses on staff, it occasionally includes members of the Board, as well as suppliers and Contractors.



### **REVIEW OF THE POLICY**

This policy will be subjected to periodic reviews approximately after every three years upon the approval of the management.

### **EFFECTIVE DATE**

This policy will come into effect at such a date as will be signed.

Issued this.....10th..... day of .....April..... 2018

Dr. Arch. Daniel O. Manduku

**MANAGING DIRECTOR.**



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