

NAIROBI CITY COUNTY



CORRUPTION PREVENTION POLICY

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FOREWORD

I appreciate the Government's Initiative of the Public Sector Integrity Program (PSIP) that focus majorly on Public Sector Management and Reform. With the prevailing challenges posed by the mutation in corruption in the Nairobi City County, the guiding principle of the above initiative of resting integrity and good governance by eliminating corruption to enhance accountability and transparency is my desire.

As the Nairobi City County strives on to achieve Vision 2030 goals, emphasis will be given to the conduct of the members of the County governments and the entire staff. This means that the discipline and the integrity required of those who serve the public as elected representatives or appointed administrators should be higher, as expected by the Nairobi residents.

On the other hand, the obligation of our staff needs not only honest, ingenuous accounting but also commitment and responsibility to serve the public with maximum diligence.

This requires a strong sense of responsibility to act with efficiency and competence by disciplining our desires to the standards of law and moral expectation. There is need to frame our judgment within the context of our constitutional values and be shaped confirm to the legitimate public demands on following a clear path in our day to day activities.

I therefore welcome you to our inaugural policy designed to confront corruption by taking in-depth approaches that compel the County government to be proactively in managing corruption risks.

This policy also provides a road map for implementing effective anti-corruption strategies, with the main assumption that; the increased focus on both public and private sector's roles in mitigating corruption has to be recognized as the core to solving the problem of corruption.

The ideology of PPPP (Public, Private and People Partnerships) which aims at getting the public to respond to our effort of mitigating corruption, this will start by establishing a mechanism, the Corruption Prevention Committees (CPC) which should address the issues of corruption directly.

This policy reaffirms the County Governments commitment to play an important role that complements other government institutions towards Zero Tolerance to corruption society.

H.E. MIKE MBUVI SONKO
GOVERNOR - NAIROBI CITY COUNTY

1 POLICY STATEMENT

- 1.1 The Nairobi City County appreciates existence of Corruption within the Institution. However, the county is committed to highest possible standards of openness, probity and accountability. This is reflected in the County's government values which include working with integrity, openness and honesty on the principles of conduct, based on trust, respect, fairness, sincerity and equality.

The County Government recognizes that the citizens of Nairobi need to have confidence in those that are responsible for the delivery of services. Fraudulent or corrupt acts of the staff will impact on public confidence in the County government which would damage both its reputation and image.

The responsibility of the management, the members of the County Assembly and all stakeholders.

- 1.2 The Nairobi City County as an integral component of the Republic of Kenya is fully committed to the values and policies of National Development. The County government endeavors to partake of the implementation of the national development strategies that will only be achieved in a corrupt free state to which this policy is addressed. The County government aims at getting rid of corrupt staff as most other government and public institutions make positive efforts to mitigate corruption.
- 1.3 The Nairobi City County is committed to protecting public resources entrusted to it. The minimization of losses to fraud and corruption is essential for ensuring that the Public resources are used for their intended purpose of providing services to its customers.
- 1.4 The public is entitled to expect the County government to conduct its affairs with integrity, honesty, and openness/fairness and demand the highest standards of conduct from those working for it. This Corruption Prevention Policy outlines the County government commitment to creating anti-corruption culture and maintaining high ethical standards in its administration of public resources.

The Policy is based on a series of comprehensive and inter-related procedures, designed to detect prevent and deter corruption. The Policy also satisfies the legislative requirements of having effective arrangements for tackling corruption and conforms to professional guidance laid down in the Anti-Corruption and Economic Crimes Act 2003 and the Public Officer's Ethics Act. (2003)

AUTHORITY/LEGISLATIVE AND ADMINISTRATIVE REQUIREMENTS.

This policy derives its authority from: -

- a. The Constitution of Kenya (2010)
- b. Local Government Act CAP 265
- c. The Public Officers Ethics Act, 2003
- d. The Anti-Corruption and Economics Crimes Act, 2003
- e. The Public Procurement and Disposal Act, 2004
- f. The Witness Protection Act, 2006
- g. The Public Audit Act, 2003
- h. Criminal Procedures Act, CAP 75
- i. The Government Financial Management Act, 2004
- j. Evidence Act, CAP 80
- k. Penal Code, CAP 63
- l. Public Service Integrity Program Source Book, 2003
- m. The Urban Areas and Cities Act 2012
- n. The County Governments Act 2012
- o. The Public Finance Management Act 2012

ABBREVIATIONS

- | | | |
|---------|---|---------------------------------|
| 1. CEO | - | Chief Executive Officer |
| 2. CPP | - | Corruption Prevention Policy |
| 3. CPC | - | Corruption Prevention Committee |
| 4. HOD | - | Head of Department |
| 5. CM | - | City Manager |
| 6. IAOs | - | Integrity Assurance Officers |
| 7. CEM | - | County Executive Member |
| 8. CR | - | County Representative |

2.0 INTRODUCTION

- 2.1 The Nairobi City County has an obligation to deliver efficient services using public funds. It is therefore imperative that effective internal control measures are put in place to eradicate chances of corruption in conformity with the Government policy of Zero tolerance to corruption.

2.2 DEFINITIONS OF TERMS.

Corruption -In this policy, the term Corruption means and is not limited to the following:

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- i. Evil, immoral or wicked behaviour
 - ii. Unlawful personal accusation of Public Property at the expense of the Public.
 - iii. Misuse of office or authority for the benefit of the an individual or a group through coercion, undue influence, misrepresentation, falsification, dishonesty or any other improper acts or means in breach of laws, regulations and the rules in force.
- Bribery – ask for, receive or promise to give an inducement in order to do something
 - Corrupt conduct – any conduct of any person that adversely affects, directly or indirectly, the exercise of official functions.
 - Detection of corruption – reporting, protection of disclosure, maintenance of database to analyze trends and investigation of corruption.
 - Prevention of corruption – adoption of internal controls, adherence to code of conduct, imposing of sanctions, publicizing outcomes of corruption investigations and education/awareness programs.
 - Fraud – cheating using the mouth or misuse of position
 - Embezzlement – direct stealing of Public money
 - Misappropriation of public funds – use of public funds for purposes not intended
 - Abuse of office – the use of power for a wrongful purpose e.g. using the power for other purpose other than the carrying out of his or her duties.
 - Ethics – Rules governing external relations with other entities.
 - Breach of trust – failing to fulfill promises connected to something or someone entrusted to him/her.
 - Discrimination – the treatment taken toward or against a person of a certain group in consideration based solely on class or category
 - Favoritism – discrimination of others in favour of a person or people not closely related to him/her.
 - Conflict of interest – arises in a case where a person’s private interest can be affected by the discharge of his/her public duties.

- Bid rigging – a form of fraud in which a commercial contract is promised to one party even though for the sake of appearance several other parties also present a bid
- Undue influence – It is the pressure, coercion or influence exerted by some person on other person, with an intention to influence his presence of mind for drawing undue benefits from him, which he/she would not have granted in the normal course.
- Profiteering – making an illegal gain from the sale of goods and services.
- Nepotism – granting of favors to one’s relatives.

2.2 The purpose of this Policy is to outline the County Government approach, as well as defining roles and responsibilities, for dealing with the threat of corruption and fraud both internally and externally. This policy applies to: -

- County Executive Members
- County Representatives
- Employees
- Contractors
- Consultants
- Suppliers
- Service users

In addition to the above, the County Government also expects its Customers to be honest in their dealings with the County Government.

2.3 The Policy sets out the County Government commitment to tackling corruption. This makes it clear to all concerned that appropriate and decisive action will be taken against those found engaging in corrupt activities.

3.0 INSTITUTIONAL FRAMEWORK AND CULTURE

3.1 The County Government shall at all times put in place and implement a range of inter-related systems, policies and procedures that provide institutional framework to counter corrupt activities. These shall be formulated in line with appropriate legislative requirements and shall include: -

- Codes of conduct for county representative’s members and officers
- Financial regulations
- Accounting procedures and records
- Internal control systems
- Recruitment and selection procedures

- Disciplinary procedures
- Statutory legislations
- Investigations of complaints
- Training

3.2 The County Government believes that the maintenance of a culture of honesty and openness is a key element in tackling corruption. The codes of conduct for county representatives and staff are based on Public Officer’s Ethics Act 2003. Failure to uphold these codes will be considered as detrimental to the achievement of institutional goals and will lead to appropriate action being taken against those concerned.

4.0 PREVENTION STRUCTURE.

The County Government recognizes that corruption is costly both in terms of reputational risk, material and financial losses. Prevention of corruption is therefore a key objective of the County Government. Respective roles and responsibilities of various stakeholders in preventing corruption are outlined below: -

4.1 FORMATION OF PREVENTION STRUCTURE.

4.1.1 CORRUPTION PREVENTION COMMITTEES

The County Government shall put in place and operationlize corruption prevention structures as guided by the Public Sector Integrity Programme (PSIP) resource book. The structures will be set as follows: -

1) HEADQUARTERS CORRUPTION PREVENTION COMMITTEE (CPC)

Membership

- | | | |
|-------------|---|--|
| Chairperson | - | The Governor |
| Secretary | - | Chairpersons of Integrity Assurance Officers Committee |
| Members | - | All Head of Departments |
| | - | 1 representative of Religious Organization |
| | - | 1 representative of Civil Societies |
| | - | 1 representative of Business Society |

2) DEPARTMENTAL CORRUPTION PREVENTION COMMITTEES

Membership

- | | | |
|-------------|---|--------------------|
| Chairperson | - | Head of Department |
|-------------|---|--------------------|

- Secretary - Trained Integrity Assurance Officers (IAO)
- Members - All Section Heads and above
- Head of Key Units of the Departments

3) DIVISIONAL CORRUPTION PREVENTION COMMITTEE

Membership

- Chairperson - Sub-County Administrator
- Secretary - Trained Integrity Assurance Officers (IAO)
- Members - 1 representative for each Department in the Divisional Level.

4) WARD CORRUPTION PREVENTION COMMITTEE

Membership

- Chairperson - Ward Administrator
- Secretary - Trained Integrity Assurance Officer
- Members - Head of each Decentralized Department/Unit
- Civic Leader

4.1.2 INTEGRITY ASSURANCE OFFICERS COMMITTEE

Membership.

- Chairperson - Should be elected by the trained Integrity Assurance Officers from all the Departments Sections and Units of the County Government.
- Members - At least two (2) from each department.

4.1.3 DUTIES AND RESPONSIBILITIES OF CORRUPTION / INTEGRITY ASSURANCE COMMITTEES.

a) Corruption Prevention Committees (CPCs)

The corruption prevention committee’s responsibilities will be to keep a constant check on organizational operations and procedures and ensure that they are no opportunities corruption in their organization.

The corruption prevention committee will have the responsibilities that will include the following areas of: -

- Prioritizing activities in the implementation of corruption prevention programmes.
- Ensuring that all corruption prevention initiatives are integrated in their respective organizations.
- Receiving and reviewing reports on corruption prevention initiative and take or recommend appropriate action.
- Coordinating corruption prevention strategies in their respective organization.
- Considering and approving training on the Public service integrity programme for staff in their organizations.
- Ensuring that all decisions and guidelines on corruption prevention are communicated effectively to staff and all interested parties.
- Receiving complaints and information on alleged corrupt activities within their areas of jurisdiction and there after evaluate, analyse and recommend appropriate alter.
- Monitoring the impact of corruption prevention initiative and other recommended action.
- Preparing and submitting to Ethics and Anti-Corruption Commission regular progress reports on implementation programmes.

B) INTEGRITY ASSURANCE OFFICERS (IAOS)

IAO's will be officers selected, trained and assigned duties to offer technical expertise to their organizations on the implementation of corruption prevention activities.

The officers shall have the responsibilities of assisting the Governor/Chief Executive Officer and the corruption prevention committee to:-

- Carry out corruption risk assessments
- Initiate actions in response to corruption risk assessments.
- Prepare corruption prevention plans.
- Establish timetables for implementing corruption prevention plans.
- Develop and implement organizational codes of conduct and ethics.
- Co-ordinate and facilitate implementation of corruption prevention programs.
- Monitor, evaluate and review the implementation of PISP activities.
- Compile progress reports and present the reports to the CEO.
- Implement Anti-Corruption education and awareness programs.

4.1.3 STAFF OF THE NAIROBI CITY COUNTY

- 4.1.1 A key preventive measure the management shall undertake in the fight against corruption is to take effective steps at the recruitment and promotion stages. These will be to establish as far as possible, the previous record of potential staff, in terms of their propriety and integrity. In this regard temporary staff shall be treated in the same manner as permanent officers. The management shall ensure that the Corruption Prevention Committees (CPCs) are adequately facilitated to fight corruption.
- 4.1.2 Staff recruitment shall be undertaken in accordance with the County Government policies for Recruitment and Selection. Whenever possible, written references should be obtained regarding the known honesty and integrity of potential members of staff, before being formally employed.
- 4.1.3 The County Government shall undertake checks on all potential new employees, to ascertain whether they are/have been previously convicted for engaging in corrupt activities.
- 4.1.4 All staff shall abide by the County Government Code of Conduct for Employees, which sets out requirements on personal conduct. All technical staff shall be expected to follow the codes of conduct laid down by their respective professional institutions.
- 4.1.5 The County Government recognizes that staff are often the first line of defense in preventing corruption. Financial Regulations places responsibility for corruption prevention on all employees. Staff should therefore be alert to the possibility of corruption and report any concerns.
- 4.1.6 The County Government shall put in place disciplinary procedures for all employees. Those found to have committed any acts of impropriety shall be dealt with in accordance with the law and these procedures. Where criminal activity is suspected or found, the matter shall be referred to the Director of Investigation & Information Analysis to liaise with the police for further investigation and possible prosecution in accordance with the Criminal Procedure Act. In addition, restitution shall be sought from those who are found to have perpetrated fraudulent acts.
- 4.1.7 The County Government shall put in place a Policy on remuneration of its staff members in accordance with their level of education, qualifications, experience and output.

4.1.8 Under the County Government Standing Orders, staff shall operate within Section 137 of the Local Government Act – Cap. 265 of the Laws of Kenya, or any other that shall come in force regarding the disclosure of pecuniary interests in contracts relating to the, County Government or the non-acceptance of any fees, gifts, hospitality or any other rewards, other than their proper remuneration. These requirements are set out in the County Government Codes of Conduct for both the members of the County Assembly and the employees.

4.2 MEMBERS OF THE COUNTY ASSEMBLY

4.2.1 County Representatives shall be required to operate within the standing orders as stipulated in the second schedule of the Local Government Act – Cap. 265 of the Laws of Kenya or in any other law that may be enacted.

4.2.2 These matters and other guidance shall be brought to the attention of County representatives at every induction course for County representatives and are in each County representative’s handbook. They include rules on the declaration of interest and registering it with the Chief Executive officer.

4.2.3 After approving the Corruption Prevention Policy (CPP), the County representatives shall be expected to play an important role through leading by example and being fully supportive on its total implementation.

4.2.4 The County government shall put in place an Overview and Scrutiny process whose authority shall include the review of decisions and actions undertaken by the County government. Any matter arising from this process, in which Corruption is suspected, shall be referred to County Governments Investigation and Information Analysis and Audit departments for investigation and further necessary action as per the prevailing laws of the land in force.

4.2.5 County representatives shall give a written undertaking to comply with the Code of Conduct. Consequently, every beginning of term in office, each County representative of the Nairobi City County shall be expected to sign up a commitment form with the Chief Executive Officer of the County Government.

4.3 INTERNAL CONTROL SYSTEMS

4.3.1 The County Assembly shall have Standing Orders, Financial Regulations, Accounting and ISO procedures, Codes of Conduct and various rules put in place and shall be reviewed regularly. Every member of the County Assembly shall be required to comply with all the legally and procedurally approved organizational practice when dealing with County Government affairs.

4.3.2 The County Treasury shall have a statutory responsibility, under Section 104 of the Public Finance Management Act Cap 2012 Laws of Kenya, to ensure proper management of the County Government financial affairs.

- 4.3.3 The County Government shall continually have in place sound financial management and procedures, which incorporate efficient and effective internal controls. The County Government ISO procedures shall be considered as a fundamental control in all financial transactions Chief Officers shall be responsible for maintaining effective internal controls including the detection and prevention of fraud or other illegal acts. All levels of Corruption Prevention Committee (CPCs) shall have the responsibility of monitoring and reporting on the progress of these controls.
- 4.3.4 The County Assembly shall put in place responsive policies to govern the Human Resource and Human Capital formation of the County Government and shall abide by them.
- 4.3.5 The County Assembly shall put in place policies on all other areas within her jurisdiction of service delivery and shall keep monitoring their implementation regularly.

4.4 COLLABORATING WITH OTHER INSTITUTIONS IN FIGHTING CORRUPTION

- 4.4.1 The County Government shall put in place a variety of arrangements, which shall facilitate the regular exchange of information between the County Government and other law enforcement agencies, for the purpose of detecting and preventing corruption.
- 4.4.2 There shall be too an intelligence gathering, collation and dissemination service on corruption within the County Government.
- 4.4.3 The County Government will conduct research on levels of corruption prone areas effectiveness of prevention structures and programmes and the impact on all sectors of service provision. Example of good practices will be highlighted and replicated within the County government.
Any external research institution engaged to carry out research in corruption in prone areas within County Government will be mandated to undertake research and provide a rest of its findings.
- 4.4.4 The County Government shall also introduce and maintain a telephone Hotline and County Government’s website to allow members of the public to report suspected corruption and other malpractices.

4.5 CONFIDENTIALITY

- a. The Integrity Committee shall strive to protect, to the greatest extent possible, the confidentiality of persons reporting corruption and those accused of corrupt practices and unethical behaviour.

- b. The Integrity Committee shall to the extent permitted by law keep confidential all records of complaints, responses and investigations.
- c. The records maintained by the Integrity Committee shall be available only to the Chief Executive and Head of Departments and to the extent necessary to administrators and supervisors charged with responding to allegations of corruption.
- d. Any records maintained by the Integrity Committee concerning an allegation about which an accused person was not given reasonable notice and an opportunity to respond shall not be used to justify a sanction other than an oral or written warning.

4.6 PROTECTION OF WHISTLE BLOWER

- a. The supervisors will ensure the legal rights and due protection of whistle blowers and the accused, before, during and after investigations.
- b. In accordance with the Witness Protection Act 2006, the County Government will ensure protection of the identity and safety of persons making corruption disclosure.
- c. It should be noted that protection is not available if the disclosure is made:
 -
 - Frivolously or vexatiously.
 - Primarily questions the merits of government policy.
 - Is made in an attempt to avoid dismissal or disciplinary action.

It is an offence to willfully make false statements to mislead or attempt to mislead and it is punishable by law.

5.0 DETECTION AND INVESTIGATION

- 5.1 It shall be the responsibility of all Chief Officers and managers to create and maintain good control systems and ensure that all staff comply with them.
- 5.2 In cases where corruption incidences are detected or suspected, the County Government, County representative or any other stakeholder are encouraged to report them to:-
 - Chief Executive
 - Corruption Prevention Committee (CPCs)
 - Relevant departments

- Any other known law enforcement agencies
- 5.3 The County Government shall review the operations and functions of the Corruption Prevention Committees (CPC) to keep constant check on organizational operations and procedures and ensure that there are no opportunities for corruption in the County Government.
- 5.4 The County Government's disciplinary procedures shall be used to their fullest extent where a disciplinary panel finds that corruption has taken place.
- 5.5 A corruption risk assessment of the behaviors of officers with corruption tendencies recently revealed the following

Early Warning Signals of Corruption practices: -

- a. Refusal or reluctance to accept a posting/transfer, even with promotion.
- b. Refusal/reluctance to take leave.
- c. Regularly staying late in the office when few other people are around.
- d. Frequent and repeated purchases of small amount of materials from the same suppliers(s).
- e. Paying with cash – exceptionally fast or slow payments.
- f. Frequent reports of loss of merchandise, or in the writing off of stock or bad debts.
- g. Excessive purchase/heavy expenditure at discount or staff prices.
- h. Excessive credit facilities.
- i. Over-willingness to work overtime/during lunchtime or take on particular responsibility.
- j. Over-friendliness with certain subordinates/clients or their staff.
- k. Inconsistency in productivity.
- l. Irregular involvement in the affairs of other departments.
- m. Long, inexplicable, hushed telephone calls.
- n. Late reports and management information/documents presented for authorization in large, unrelated batches at busy times.

- o. Lost documents presented in unusual format/photocopies instead of originals submitted.

6.0 TRAINING

The following are early warning signs of corruption detection: -

- 6.1 The County Government recognizes that the successes and credibility of its corruption Prevention Policy largely depends on how effectively it is communicated both external and internal stakeholders throughout the organization and beyond. The policy will be provided to all members and staff and be included on induction programmes. The Policy will also be posted on the County Government's website.
- 6.2 The County Government shall develop training regulation to support the concept of induction training, particularly for officers involved in internal control system and investigation. This will ensure that their responsibilities and duties in this disciplinary action against officers who ignore such training and guidance shall be incorporated in the regulations.
- 6.3 The officers involved in the review of internal control systems and investigative work shall be properly and regularly trained. The training plans of the County Government shall reflect this requirement.
- 6.4.1 It shall be the responsibility of Chief Officers to communicate the corruption prevention Policy to their staff and to promote a greater awareness corruption within their departments.

7.0 DETERRENCE

- 7.1 There shall be several ways to deter potential internal and/or external fraudsters from committing fraudulent or corrupt acts, these ways will include: -
- 7.2 Publicizing the County Government's firmness in the fight against corruption by stating this at every appropriate opportunity, e.g. putting deterrent Statements in contracts, on claim forms, and in publicity literature;
- 7.3 Acting robustly and decisively when corruption is suspected and proven, e.g. through the termination of contracts, the dismissal of staff and/or prosecution of offenders;
- 7.4 Taking action to effect the maximum recoveries for the County Government, e.g. through agreement, court action, penalties, insurance, etc;

- 7.5 Having sound internal control systems, that still allow room for innovations and calculated risk, but at the same time minimizing the opportunity for corruption;
- 7.6 Publicizing convicted corruption offenders in the Public Mass Media and blacklisting them.

7.0 CONCLUSIONS

- 7.1 The County Government shall at all times put in place a robust network of systems and procedures to assist in the fight against fraud and corruption. It shall be determined that the set arrangements shall keep pace with any future developments, in both prevention and detection techniques regarding fraudulent corrupt activities that may affect its operations or related responsibilities. To this end, the County Government shall maintain a continuous overview of such arrangements.
- 7.2 This Corruption Prevention Policy shall provide a comprehensive framework for tackling fraudulent and corrupt activities. The approval of the Policy by the County Assembly demonstrates its commitment to protecting public funds and minimizing losses to fraud and corruption. This shall enhance resources, service delivery and public confidence.
- 7.3 The County Government commits itself to periodically review this policy as and when need arises and also conform to requirements arising out of new legislation being enacted.

Having made this commitment, it is imperative that Chief Officers shall put in place arrangements for disseminating this Corruption Prevention Policy and promoting anti-fraud and anti-corruption campaign awareness through their departments.