



NATIONAL MUSEUMS OF KENYA

WHERE HERITAGE LIVES ON

Document reference: NMK/ACP/001

NATIONAL MUSEUMS OF KENYA

ANTI CORRUPTION POLICY

April 2010

1910-2010

CELEBRATING A CENTURY OF HERITAGE MANAGEMENT

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National Museums of Kenya Anti Corruption Policy

PREAMBLE

Policy objectives

This Anti-Corruption Policy provides an Institutional framework for efficient and effective prevention and/or detection and combating of corruption at the workplace. Overall, the Policy aims at promoting key good corporate governance values of integrity, accountability and transparency in the management of the NMK's affairs.

In a nutshell, this Policy defines various terms and actors in relation to the fight against the malaise of corruption, manifestations of corruption at the workplace, parties to corruption, areas prone to corruption, consequences, channels for reporting and dealing with corruption cases, strategies for protecting workplace whistleblowers as well as measures and programs for combating corruption at the workplace.

Commitments

This Policy is a statement of NMK's commitment to zero tolerance towards corruption. In this respect, other commitments on the part of NMK, its Directors and Staff are as follows:

1. Commitment to integrity and transparency in the conduct of the Nmk's business.
2. Commitment to the enforcement of anti-corruption programs in pursuit of personal and corporate integrity in all business dealings.
3. The Management is committed to providing the requisite resources for the effective implementation of this Policy and attendant programs and strategies.
4. The Management further commits itself to constantly review and revise the Policy in response to changes in the law, reputational demands and changes in the Business environment.
5. The Management hereby commits itself to take responsibility for the implementation and monitoring of the various anti-corruption programs and strategies.

Scope & applicability

1. This policy shall apply to the National Museums of Kenya, the Board of Directors, Management, staff, suppliers and esteemed customers.
2. The Policy shall be prominently displayed at all premises and made accessible to the members of the public in the course of their interaction with the NMK.
3. An electronic version of the Policy shall be carried on the NMK's website.

Legislative and Administrative Context

This Policy takes into account the provision of various legislative instruments including the Anti Corruption and Economics Crimes Act 2003, Public Officer Ethics Act 2003, The Sexual Offenses Act 2005, Public Procurement and Disposal Act 2005, the Government Financial

Management Act 2004, Code of regulations Act 2006, Employment Act 2007, Labour Relations Act 2007 and various regulations made under the authority of various Acts of Parliament as well as the National Museums of Kenya Terms and Conditions of Service.

Citation

This Policy may be cited as the **National Museums of Kenya Anti –Corruption Policy** and shall come into force on the day of 8th---September--2010.

Definition

“Corruption” means –

- a) An offence under any of the provision of section 39 to 44, 46 and 47 of the Act; which includes Bribing agents, Secret inducement for advice, Deceiving the Principal, Conflict of interest, Improper benefits to trustees for appointments, Bid rigging, Abuse of office and dealing with suspect property;
- b) Bribery;
- c) Fraud
- d) Embezzlement or misappropriation of Public funds.
- e) Abuse of office
- f) Breach of trust
- g) An offence involving dishonesty –
 - i) In connection with any tax, rate or impost levied under any Act; or
 - ii) Under any other written law relating to the elections of persons to public office;

Other Interpretations

“Act” for purpose of this Policy, “Act” means The Anti-Corruption and Economic Crimes Act, 2003 and any amendments thereto.

“Advisory Board” Means the Kenya Anti-Corruption Advisory.

“Benefits” Means any gift, loan, fee, reward, appointment, service, favour, forbearance, promise or other consideration or advantage.

“Commission” Means Kenya Anti-Corruption Commission.

“Economic Crime” Means –

- a) An offence under section 45 of the Act (Protection of public Properties and revenues)
- b) An offence involving dishonesty under any written law providing for the maintenance or protection of the public revenue.

“Investigator” Means a person authorized by the Director of Kenya Anti-Corruption Commission under section 23 to conduct an investigation on behalf of the Commission;

“Minister” – Means Minister responsible for integrity issues;

“Private body” – Means any person or Organization not being a public body and includes a voluntary Organization, Charitable Organization, Nmk, partnership, club and any other body or organization howsoever constituted;

“Public body” – Means

- a) The Government including Cabinet, or any department , service or undertaking of the Government
- b) The National Assembly or the Parliamentary service
- c) A local authority
- d) Any Corporation, Council, board, committee or other body which has power to act under and for the purposes of any written law relating to the local Government, public health or undertaking of public utility or otherwise to administer
- e) A corporation, the whole or a controlling majority of the shares of which are owned by a person or entity that is a public body or by virtue of any of the proceeding paragraphs of the definition.

“Public Officer” - Means a Director, Officer, employee or member of the National Museums of Kenya including one that is unpaid, stipendiary, part-time or temporal;

“Unexplained assets” – Means assets in possession of a person –

- a) Acquired at or around a time the person was allegedly guilty of corruption or economic crime; and
- b) Whose value is disproportionate to his known source of income at or around that time and for which there is no satisfaction explanation.

“Whistle blowers’ means a person who publicize or openly make corruption disclosures.

For the purpose of this policy a person shall be deemed to be in possession of any record, property, information or other thing if the possession of it is under his control.

SECTION ONE

ROLES AND RESPONSIBILITIES

- It is the responsibility of every NMK staff to counter bribery and corruption at the organization.
- Each should ensure interaction with public officials complies with all relevant laws and regulation as well as this policy.
- NMK Staff should ensure that all business partners, contractors and suppliers of NMK know and respect this policy.
- NMK Staff should actively resist any corrupt payment, gift or hospitality and instead report to the committee for appropriate action.

SECTION TWO

CORRUPTION RISK AREAS

All functional areas at NMK are potential risk areas. The areas include:-

- Financial Management systems and procedures.
- Information, Communication and Technology Systems
- Procurement
- Human resources and Administration systems.
- Records management.
- Internal Audit systems
- Security.
- Research.

SECTION THREE

CORRUPT PRACTICES

For the purposes of this policy, the following acts will pass for corrupt practices if engaged in by Staff, agents, customers, suppliers and interns including potential suppliers, customers and interns or any member of the public dealing with NMK.

1. Receiving or soliciting, or agreeing to receive or to solicit any benefits/property on account of divulging confidential NMK information to the detriment of NMK.
2. Deceiving or knowingly making a false or misleading statement to NMK in favor of own private interest.
3. Refraining from submitting a tender, proposal, quotation or bid or withdrawal or changing of tender, proposal, quotation or bid for own and/or another persons benefit.

4. Fraudulently making payments or excess payments for sub standard or defective goods, untendered/ inadequate services and/or for unsupplied goods.
5. Hindering or obstructing fellow colleagues from performing their duties as per the service charter/performance contract.
6. Fraudulently altering accounts and audit records for purposes of evading tax payments and hiding transparency NMKs dealings.
7. Soliciting, receiving and /or demanding for an inducement in order to facilitate the processing/payment of any money due to the supplier, employee or agents.
8. Canvassing for self or other person to be recruited in a certain position/post.
9. Receiving or soliciting for sexual favors in return for or as a condition for employment, training, salary increments and /or promotion.
10. Giving, receiving or soliciting for any benefits/ property in return for job opportunities, tender awards and / or inclusion in the list of suppliers.
11. Financial or other donations to political parties, politicians or political activities including campaigns.

Individual Staff are free to participate in the political and democratic process to the extent permitted under the law especially the public officers' ethics act, 2003.

Facilitation fee or other payments made with a view to expediting the performance of a public duty and / or fast tracking of any payment, benefit, advantage, business or other authorization due or required by the organization for the conduct of its business.

Protection money is regarded as a form of extortion and may involve threats of harm to employees or other agents. As a policy staff shall not give to such demands and/ or threats instead the same shall be reported to the relevant law enforcement agencies for appropriate action.

Excessive gifts and hospitality or gifts/ hospitality aimed at influencing a decision or outcome of any matter. Gifts such as wine, confectionary, clothes, flowers, tickets to sports or cultural events and hospitality in form of meals, receptions, complimentary tickets. Incase staff is faced with demand for prohibited payment including excessive gifts or hospitality, they must firmly resist the demand, payment, gift must notify the chair of CPP/IAO for guidance.

SECTION FOUR

Institutions and Structures that will assist NMK to fight corruption and deal with corrupt employees include:

1. NMK Corruption prevention/Integrity Committee.
2. The Staff committee of the Board.
3. The NMK disciplinary committee.
4. Anti corruption reporting boxes
5. Staff training on integrity and accountability.
6. Job evaluation and staff placement after every 5 years.
7. Integrity/Security office

SECTION FIVE

COMPOSITION OF CORRUPTION PREVENTION COMMITTEE/ INTEGRITY COMMITTEE

The NMK corruption prevention committee shall comprise of:

1. The Director General (Chair)
2. The Director Research and Collection(member)
3. The Director Administration and Human Resources (Member).
4. The Director- IPR (Member).
5. The Director DCA (Member).
6. The Integrity Assurance Officer (Secretary).
7. Chief internal Auditor (Member).

MANDATE AND OPERATIONS OF THE CORRUPTION PREVENTION COMMITTEE

The roles and functions of the corruption prevention committee are to:

1. Set priorities in the prevention of corruption within NMK
2. Plan and coordinate corruption prevention strategies.
3. Integrate all corruption prevention initiatives at NMK
4. Receive and review reports on corruption prevention initiatives and recommend appropriate action.
5. Receive and task action on corruption reports made by staff and other stakeholders.
6. Prepare and submit quarterly progress reports to KACC and performance contract steering committee
7. Assist law enforcement agency of Kenya in the investigation of corruption or economic crimes.

MANDATE OF INTEGRITY ASSURANCE OFFICERS

Integrity Assurance Officers are officers selected, trained and assigned duties to offer technical expertise to NMK on the implementation of corruption prevention activities. The officers shall have the responsibility of assisting the CPC to:

1. Carry out corruption baseline surveys
2. Initiate action in response to corruption risk assessment.
3. Establish timetables for implementing corruption prevention plans.
4. Develop and implement organizational codes of conduct and ethics.
5. Co-ordinate and facilitate implementation of corruption prevention programs
6. Monitor, evaluate and review the implementation of PSIP activities.
7. Compile progress reports and present the reports to CPC for forwarding to
8. Implement anti-corruption education and awareness programs.

SECTION SIX

INTERNAL AUDIT REVIEWS

NMK shall ensure that Internal Audit Reviews are up to date and viable so as to provide an institutionalized mechanism for supervision, control and review of operational systems within the organization and assessing the nature and extend of any fraud and corruption risk.

SECTION SEVEN

PROCEDURE FOR REPORTING AND DOCUMENTATION OF CORRUPTION CASES:

Reporting of corruption cases within NMK shall be to the Corruption Prevention Committee through use of any avenue such as corruption reporting boxes, hotlines, emails, websites, face to face and whistle blowing.

For the purposes of reporting corruption cases:

1. The management shall maintain and ensure the accuracy and integrity of its books and records on all financial transactions.
2. The Corruption prevention /Integrity Committee shall access and maintain complete records of all risk assessments and due diligences undertaken by the organization.
3. The management shall ensure records/reports of all risk assessment and due diligences' are securely maintained by the officer in charge of the internal audit
4. The management and the committee shall maintain a complete record of all incidences of corruption
5. The committee shall render an annual review of the anti corruption /integrity system within NMK so as to determine its suitability, adequacy and effectiveness.
6. Management should review the system on an annual basis and come up with recommendations for improvement.
7. The review reports and/or records of the proceedings of the corruption prevention/Integrity committees should be subjected to annual audits and findings disclosed in NMKs final annual accounts.

SECTION EIGHT

HANDLING OF CORRUPTION

A staff, intern, Agent, Supplier suspected of any contravention of this policy shall be handled in the following way:

1. Upon receiving any corruption allegation in the prescribed modes, the matter shall first be vested with the Corruption Prevention/Integrity committee who shall cause the allegations /complaints to be recorded as a complaint in a complaints book.

2. The committee shall then invite the complainant in writing to provide any further evidence in support of the allegation
3. Review the complaints and supporting evidence and if necessary receive oral submissions by the complainant prior to determining the validity or otherwise the complaint.
4. In the absence of sufficient evidence to warrant any further action, the committee could dismiss the complaint and advise all the concerned parties accordingly.
5. Where the evidence supplied by the complainant reasonably suggests that some corruption may have occurred and that an employee or agent or supplier or customer or other persons dealing with NMK was involved, then the committee shall set up a sub committee of atleast three of its members to investigate the allegations and make suitable recommendations to the committee .
6. Upon conclusion of the preliminary investigations, if it is established that any of the parties listed was involved in any corrupt practice, the committee shall frame a statement of allegations and invite the employee or other party concerned to respond to them. The provision will not
7. Upon receipt and evaluation of the response, the committee may either dismiss the case for lack of adequate and relevant evidence or proceed to institute disciplinary proceedings against the suspect in case of an employee or refer the matter to the Board in case of a Director or Tender committee in case of a supplier.
8. The designated committee shall then receive the alleged complaints, invite the complainant to make a written statement and adduce all material evidence in relation to the case. If necessary, the aggrieved party will also be summoned to the case. If necessary, the aggrieved party will also be summoned to appear personally before the designated committee and provide further information in support the allegations.
9. After according all concerned parties a reasonable opportunity to be heard and considering each party's claims as well as the findings of the investigations, the committee shall come up with a conclusion whether there is a case or not. Where the matter is to proceed, the same shall be dealt with and punitive measures imposed as set out in this policy.
10. Where allegations are made against a member of the CPC, the member shall be required to step aside and allow independent investigations and determination of the case.
11. Incase the committee establishes after investigation that an employee or agent or supplier or customer is guilty of any corrupt practices, appropriate disciplinary measures could be taken or the matter referred to the relevant body/authority for suitable action.
12. At the conclusion of the hearing of any case decisions of the committee shall be communicated in writing to the complainant and the suspect within thirty (30) days of the determination of the proceedings.

SECTION NINE

SANCTIONS/PENALTIES

The Board, Director General and or the relevant authority within the institutional framework of the organization as the case may be, shall in relation to penalty for breaches of any of the provisions of this policy mete out any of the following measures to the guilt party:

1. Dismissal and loss of benefits in case of an employee
2. Reprimand/warning in writing.
3. A surcharge for any loss that NMK may have incurred as a result of the accused persons corrupt practice.
4. Suspension from employment for a specific period as shall be determined by the committee.
5. Retrieval of any improperly received benefits/requiring the suspect to account for any secret profits made.
6. Requiring the guilty party to compensate the organization for the loss suffered.
7. Termination of appointment/Contract
8. Disqualification of a supplier if convicted of corruption or economic crimes
9. Termination of any appointment either as an employee, intern or supplier of goods/services
10. Denial of opportunity of internship or training
11. Referral of the matter to the Kenya Anti -Corruption Commission for further investigation or action especially where the practice complained of amounts to a crime punishable under any law.

SECTION TEN

PROTECTION OF WHISTLE BLOWERS

The committee shall provide for the protection of the identity of persons making corruption disclosures to it and will ensure that information that may identify the person making disclosures is not released to the suspect or any other person. Incase there is need to release such information, this will be discussed firstly, with persons making it and such a person protected from any reprisal or detrimental action.

TRAINING

1. The Management and the Corruption Prevention Committee shall ensure sensitization and training of NMK staff on matters of ethics and integrity.
2. The Board shall ensure all NMK employees, agents, clients, suppliers and customers are made aware of the contents of the policy document and any other attendant programs.
3. Each new staff member will be accorded relevant training and briefing on the policy in addition to being furnished with a copy of the policy document as part of the induction.
4. In order to enhance compliance the Management will be responsible for ensuring each employee undertakes mandatory training at least once a year on the provisions of this policy and other integrity related policies and laws.

5. The management and the Corruption prevention committee shall be responsible to the Board for the implementation and monitoring of the workings of this policy

SECTION ELEVEN

REPORTS

The Corruption Prevention Committee shall render quarterly reports to KACC and the Relevant Ministry

REPORTING CORRUPTION CASES

Corruption cases shall be reported using the following channels:

1. In writing use
 - a. Corruption reporting boxes
 - b. P.O. Box 40658 00100 Nairobi (NMK) or P.O. Box 61130 00200 Nairobi (KACC)
 - b. Emails: cpc@museums.or.ke or kacc@integrity.go.ke
2. In person
 - a. Talk to NMK Integrity Assurance Officers (IAOs)
 - b. KACC Report Center, Valley Road/Milimani Road Junction 2nd Floor, Nairobi
3. By Phone
 - a. Tel: 3742161-4 or 3742131-4 (NMK)
 - b. Tel: 020 2717468 (KACC - Nairobi)

SECTION TWELVE

REVIEW

NMKs management shall have power to review the provisions of this policy from time to time in response to the changes in the relevant law and business demands.

AGREEMENT

This policy shall be governed by clauses herein mentioned, cross checked by the Legal Office, Approved by the NMK Board and signed by the Chairman, National Museums of Kenya Board for implementation through the close monitoring by the Director General.

Approved by the board on: 9th February, 2012

Signature: Issa A. Timamy

Chairman: ISSA A. TIMAMY