



**KENYA PLANT HEALTH
INSPECTORATE SERVICE
(KEPHIS)**

Fraud & corruption prevention Policy

2009

CONTENTS

SECTION	TITLE	PAGE
1.0	FOREWARD	2
1.1	PREAMBLE	3
1.2	POLICY STATEMENT	3
1.3	SCOPE	3
1.4	PUBLIC OFFICER ETHICS ACT 2003	3
1.5	PURPOSE	3
1.6	DEFINITION OF CORRUPT CONDUCT	4
1.7	EXAMPLES OF CORRUPT CONDUCT	4
1.8	DEFINITION OF FRAUD	5
1.9	EXAMPLES OF FRAUD	5
1.11	RESPONSIBILITY STRUCTURES	5
1.12	FRAUD AND CORRUPTION RISK ASSESSMENT	7
1.13	CORRUPTION AND FRAUD RISK AREAS	7
1.14	INTERNAL CONTROLS	8
1.15	FRAUD AND CORRUPTION AWARENESS	8
1.16	CUSTOMER AND PUBLIC AWARENESS	9
1.17	FRAUD AND CORRUPTION REPORTING PROCEDURES	9
1.18	PROTECTION OF WHISTLE BLOWERS	10
1.19	FRAUD AND CORRUPTION DETECTION	10
1.20	INVESTIGATION PROCEDURE	10
1.21	DISCIPLINARY PROCEDURE	11
1.22	RECOVERY OF PROCEEDS OF FRAUD OR CORRUPTION	11
1.24	LINKAGES WITH OTHER AGENCIES	12

1.0 FOREWORD

The Government of Kenya has established various policies, legislation and structures aimed at ensuring high standard of probity is maintained in the public sector. KEPHIS recognizes the critical need for accountability for achievement of efficiency and effectiveness in service delivery. In this regard, the development of policies and sound systems is of vital importance. One such policy is the Fraud and Corruption Prevention Policy.

The policy outlines the Corporation's continued commitment to creating a corruption and fraud-free environment while maintaining high ethical standards. Proper utilization of resources is predicated upon the existence of systems that do not condone fraud or corruption. This policy adopts a proactive and structured approach to identifying and remedying fraud and corruption risks.

Managing Director

1.1 PREAMBLE

KEPHIS is a public institution established under State Corporations Act Cap 446 of the Laws of Kenya and as such it manages public resources as an agent of the Government of the Republic of Kenya. Safeguard of public trust is therefore expected in the conduct of its operations.

1.2 POLICY STATEMENT

Kenya Plant Health Inspectorate Service management and staff shall ensure that fraudulent and corrupt conduct is prevented, detected, investigated, reported and acted upon.

KEPHIS requires all its members from top to bottom to act honestly and with integrity to safeguard public resources for which they are responsible. The Corporation is committed to protecting all revenue, expenditure and assets from any attempt of fraud or corruption.

Any fraud or corruption committed against the Corporation is a major concern to the Corporation. Consequently, any case will be thoroughly investigated and appropriate disciplinary action will be taken against any member of staff who is found to have committed an act of fraud or corruption.

All members of KEPHIS community are obligated to report suspected corruption or fraud whether internally and or externally instigated.

1.3 SCOPE

This policy shall apply to all employees of the Corporation.

1.4 OBLIGATIONS UNDER THE PUBLIC OFFICER ETHICS ACT OF 2003

KEPHIS officers are expected to familiarize themselves and comply with the requirements of the Public Officer Ethics Act of 2003 hereinafter referred as the ACT. The Act seeks to ensure ethical conduct among public officers and further provides the framework for adherence to a Code of Conduct and Ethics and declaration of wealth by the officers.

In addition, the officers are expected to comply with the provisions of KEPHIS Code of Ethics and Values. However, compliance with the Code does not absolve anyone from the obligations under the ACT.

Where there is conflict between this policy and the law, the law shall prevail.

1.5 PURPOSE OF FRAUD AND CORRUPTION PREVENTION POLICY

The purpose of this policy is to protect KEPHIS property and resources from fraud, corruption, misappropriation or wastage by:

- Confirming senior management commitment and responsibility for managing fraud and corruption risks.

- Reinforcing the requirement for all KEPHIS staff and others to avoid acts of fraud and corruption.
- Encourage reporting of corruption allegations.
- Ensuring that all serious suspected allegations of fraud, corruption or misappropriation or wastage of resources are dealt with efficiently and effectively.

1.6 DEFINITION OF CORRUPT CONDUCT

Corrupt conduct will be deemed to have occurred where:

- Any person adversely affects the honest and impartial exercise of official functions or where;
- A KEPHIS officer :
 - is dishonest or biased in the conduct of his/her official duties.
 - breaches public trust or abuses his/her position or authority.
 - misuses information, materials or resources for personal gain or gain by another person
 - misuses office or authority to improperly give a benefit to oneself or to anyone else or a group through misrepresentation, falsification, dishonesty or any other improper acts or means in breach of laws, regulations and rules in force.

In a broad perspective, corruption and economic crimes are set out in the Anti-Corruption and Economic Crimes Act, 2003 – Sections 2,39,40,41,42,43,44,45,46 and 47.

1.7 EXAMPLES OF CORRUPT CONDUCT

Examples of corrupt conduct to which KEPHIS may be subject include:

- a) Acceptance or solicitation of bribes/commissions from customers, suppliers, fellow members of staff and others.
- b) Manipulation of the tendering process or procurement process or other KEPHIS procedural manual processes for personal gain or gain of another.
- c) Conflict of interest as provided in section 11 of the ACT.
- d) Engagement in acts of improper enrichment as provided in section 10 of the ACT.
- e) Conflict of interest involving a KEPHIS officer acting in his or her own self-interest rather the interest of KEPHIS.
- f) Nepotism and cronyism where the appointee to a position in KEPHIS is inadequately qualified to perform the role to which he or she is appointed, or not selected on merit.
- g) Release of confidential information for any other purpose other than proper and official business.
- h) Obtaining or offering secret commissions.
- i) Perverting the course of justice.
- j) Participating in any conspiracy or attempt in relation to any of the above.

1.8 DEFINITION OF FRAUD

Fraud is a subset of corruption describing dishonest activity causing actual or potential financial loss to any person or entity including theft of monies or other property by officers or persons external to the Corporation. It includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for an official purpose or improper use of information or position.

1.9 EXAMPLES OF FRAUD

Examples of fraud and aspects of corruption in financial management and other operations to which KEPHIS may be subject include but not limited to the following:

- a) Misuse of KEPHIS time and property including computers, vehicles, internet, telephones and other property or services including operation of a private business using KEPHIS facilities and time.
- b) Understatement of revenue receipts.
- c) Irregular spending of revenue at source before banking intact
- d) Concealing fraud through failure to prepare up-to-date bank reconciliation statement.
- e) Introduction and use of fake receipts.
- f) Undercharging of revenue due from clients.
- g) Misappropriating the Corporation's assets (money, vehicles, premises, equipment, stationery etc) including use of the assets for private purposes.
- h) Causing a loss to be incurred by the Corporation through avoidance or creation of a liability for the Corporation by deception.
- i) False invoicing for goods or services never rendered.
- j) Making cheques out to false persons.
- k) Misappropriating or deliberate improper issue of official accountable documents (receipts, plant import permit, phytosanitary certificates, seed testing certificates, licenses, laboratory test results etc.) to gain a personal benefit.
- l) Fabrication or falsification of technical data and analysis results or information.
- m) Claiming overtime, travel or other allowance for an activity not undertaken.
- n) Making or using or possessing forged or falsified documents such as academic certificates, birth certificates, employment records etc.
- o) Misuse of sick and annual leave.
- p) Theft of cash or petty cash.
- q) Using the Corporation credit facilities for personal expenses.
- r) Submitting exaggerated or fictitious claims e.g. insurance claims.
- s) Receiving "kickbacks" or "secret commissions" from a contractor.
- t) Theft of plant equipment or inventory.

1.11 RESPONSIBILITY STRUCTURES

The Managing Director is ultimately responsible for the operation of the Corporation including prevention and detection of fraud and is responsible for ensuring that appropriate internal control systems are established.

The Managing Director shall constitute a committee namely Corruption Prevention Committee to assist in the implementation of this policy. The Committee shall also have the responsibility of ensuring that the Corporation's operations and procedures

are appropriate and there are no opportunities for corruption. Membership and composition of the Corruption Prevention Committee will be as follows:

Chairman	Managing Director
Members	General Manager - Finance and Administration
	General Manager - Quality Assurance
	General Manager - Phytosanitary Services
	Corporation Secretary
	Head Procurement
	Head Internal Audit
	Head – Human Resource and Administration
Secretary	Integrity Assurance Officer

The committee will have a minimum of five (5) members and shall have the following responsibilities:

1. Setting priorities in the prevention of fraud and corruption;
2. Ensuring all fraud and corruption prevention initiatives are integrated within the organization;
3. Receiving and reviewing reports on fraud and corruption prevention initiatives and recommending appropriate action;
4. Coordinating corruption prevention strategies (corruption prevention planning);
5. Ensuring that all decisions and policies on fraud and corruption prevention are communicated effectively to all levels of staff;
6. Implementing 1.14 and 1.18 below.

The committee shall have powers to appoint a subcommittee to assist in the discharge of its duties and will also take cognizance of the Human Resource Policies and Procedures Manual under which actions against infringement of this policy will be taken.

All officers of the Corporation play a role in preventing corruption. However, the following have specific responsibilities within this policy:

- Managers/Heads of Departments – 1.11; 1.12; 1.13; 1.15.
- Corruption Prevention Committee – as spelt out above.
- Audit Committee of the Board – 1.18.
- KEPHIS Staff Advisory Committee – 1.19.
- Internal Audit Office – 1.11; 1.12; 1.13.

The Managing Director may appoint an Integrity Assurance Officer or assign some other officer with related responsibilities. The officer shall assist the Managing Director and the Corruption Prevention Committee to:

- (a) develop a Fraud and Corruption Prevention Plan that include a timetable for implementing corruption prevention strategies and monitoring progress; and
- (b) coordinate and facilitate the implementation of corruption prevention programmes.

1.12 FRAUD AND CORRUPTION RISK ASSESSMENT

This is the process of identifying, analyzing and evaluating fraud and corruption risks in the Corporation. Fraud and corruption may occur whenever a person supplies or has access to resources or information or has responsibility for decision making. This therefore requires adequate awareness of risks and management/internal controls that can reduce risk exposure to acceptable level.

Internal Audit Office, through regular audits and control risk assessments, shall play a key role in assisting KEPHIS management to identify and control risks including those related to fraud and corruption. However, it is the responsibility of the Manager responsible for the technical and/or support operation that has the ultimate responsibility for the control of the operations activities including fraud and corruption prevention.

Fraud and corruption risk assessment should be integrated into the overall risk assessment framework of the Corporation.

1.13 CORRUPTION AND FRAUD RISK AREAS

The Corporation recognizes that all functional areas may be afflicted by acts of corruption hence the importance of putting comprehensive and wholistic measures for reduction or elimination of risks. The following are among the identified risks and practices for each functional area:

Functional Area	Risks
Financial Management Systems and Procedures	• Flouting of laid down financial procedures for personal gain or the gain of others • Payment of falsified Claims • Misappropriation of institutional revenue resources
Information, Communication and Technology Systems (ICT)	• Unauthorized access to computerized records. • Deliberate destruction of stored information. • Misuse of information system. • Manipulation of ICT tenders during evaluation. • Tampering with software applications.
Human Resources and Registry	• Flouting and manipulation of staff selection, recruitment, promotion, training, and career development policies and procedures and payroll manipulation due to: 1. Nepotism 2. Favouritism 3. Tribalism 4. Discrimination 5. Blotted workforce The consequent of this would be a bloated and demoralized workforce

	• Pervasion of justice and discrimination in handling disciplinary cases • Irregular payment of salaries and allowances • Misuse of information for financial/personal gain or any other unauthorized purposes. • Deliberate misplacement of records. • Record tampering and destruction. • Failure to document actions and misfiling and hoarding of records.
Technical Operations.	• Taking or soliciting bribes to flout laws, regulations and procedures of service delivery. • Flouting of standards of technical procedures for personal gain or the gain of others. For example oversampling during sampling process. • Selective application of regulatory requirements. • Favoritism in service delivery • Extortion • Misuse of information

The risks will be reviewed periodically and the changes will be reflected in the Corporation's Corruption Prevention Plan.

1.14 INTERNAL CONTROLS

All Managers in their day to day operations are responsible for establishing appropriate operational, financial and administrative controls to ensure achievement of set objectives including reducing risk of fraud and corruption. Controls applicable to fraud and corruption include:

- ◆ Suitable recruitment and placement procedures.
- ◆ Segregation of duties.
- ◆ Identification and declaration of conflict of interest.
- ◆ Security both physical and in relation to information systems.
- ◆ Supervision and internal checks.
- ◆ Budget control.
- ◆ Reconciliations.
- ◆ Clear reporting lines.
- ◆ Regular review of management reports.
- ◆ Approvals within the law and in compliance to the set policies and regulations.

Where Managers do not have the expertise to evaluate internal controls they should seek assistance from Internal Audit Office.

1.15 FRAUD AND CORRUPTION AWARENESS

Officers who have responsibility for resources, decision making or information need to be aware of the behaviours that could result in fraud and corruption. All managers/supervisors need to be aware of the corruption risks in the activities they supervise. The managers will also create awareness amongst the staff with regard to the Corporation's policy of "zero tolerance to corruption in all operations". This will be achieved through:

- ◆ Training or awareness creation on fraud, corruption and ethics.
- ◆ Staff familiarizing themselves with this policy and the Code of Ethics and values.
- ◆ Supervisors/managers participating in risk assessments.
- ◆ Staff meetings.
- ◆ Availing useful/relevant publications.

The **Corruption Prevention Committee** is responsible for ensuring awareness creation is undertaken in accordance with this guideline.

1.16 CUSTOMER AND PUBLIC AWARENESS

The Corporation recognizes that corruption can be externally induced hence the need to educate the stakeholders about acceptable standards of behaviour of KEPHIS staff, clients and all those who interact with the Corporation's fraternity.

Any attempt by a member of the public to corrupt a KEPHIS staff should be reported to the management.

Stakeholders and staff awareness creation will be accomplished through the following:

- ◆ Warning signs/posters located in offices where operations may be susceptible to corruption.
- ◆ Posters encouraging customers and the public to report any corrupt conduct.
- ◆ Issuance of information on the Corporation's stand on fraud and corruption through the website, procurement documents such as tenders, orders, contracts etc that are provided to suppliers of goods and services.
- ◆ Availing pamphlets on corruption issued by the Kenya Anti-Corruption Commission for public use.

1.17 FRAUD AND CORRUPTION REPORTING PROCEDURES

Any KEPHIS staff suspected to have engaged in fraudulent and corrupt conduct as defined in section 1.5 to 1.9 of this policy, must be reported immediately. The report should provide evidence or information that can facilitate successful investigation or follow-up.

KEPHIS officers are also encouraged to report other malpractices including maladministration or waste of KEPHIS resources.

Staff members are discouraged from making anonymous complaints as it may be difficult to pursue the matter in cases where more information is required. However,

anonymous disclosures of serious allegations that have been supported by sufficient evidence to justify investigation will be investigated.

False allegation willfully made, will be construed to be malicious hence an act of misconduct.

Reporting can be:

- ◆ In writing to the Managing Director or a responsible Manager.
- ◆ Verbally to the Managing Director or a responsible manager
- ◆ In writing through the Anti-corruption boxes installed in all KEPHIS offices to facilitate reporting of fraud and corruption.
- ◆ External Reporting to the Kenya Anti-corruption Commission through either verbal or written reports or through the Commission's on-line reporting system.

Clients and the general public will be encouraged to report any act of corruption committed by a KEPHIS staff.

1.18 PROTECTION OF WHISTLE BLOWERS

Any staff making credible and genuine disclosures concerning fraud, corruption, maladministration or serious waste of KEPHIS resources shall be protected against reprisals and victimization of whatever nature. Information provided shall be treated with the confidentiality expected of such information.

It should be noted that protection is not available if the disclosure made is found to be:

- ◆ Vexatious or vindictive
- ◆ Frivolous
- ◆ False and/or malicious
- ◆ Made in an attempt to avoid dismissal or disciplinary action.

1.19 FRAUD AND CORRUPTION DETECTION

The Corporation recognizes the importance of early detection of fraud and corruption. KEPHIS employees are vital to detecting fraudulent or corrupt behaviour.

It shall be a responsibility of all KEPHIS staff to detect and report incidences of fraud or corruption.

Early detection will be achieved through:

- ◆ Monitoring high risk jobs or areas;
- ◆ Investigating breaches of internal controls;
- ◆ Regular reporting on usage of resources prone to risks such imprests, credit cards, vehicles, telephone, internet etc;
- ◆ Internal audits;
- ◆ Departmental reviews;
- ◆ Targeted post transactional reviews such as cash survey, stores inspection, validation of technical processes and issuance of certificates.
- ◆ Unusual changes in behavioural patterns or lifestyle of staff.

1.20 INVESTIGATION PROCEDURE

The Managing Director or the Manager-in-Charge, upon receiving disclosure of serious allegation of fraud or corruption, conduct an investigation. The accused shall be accorded the opportunity to respond to the allegations at the earliest and appropriate time. Investigations will be undertaken by the Internal Audit Office or any other investigative unit appointed by the Managing Director or the Manager-in-Charge. The Managing Director may refer a fraud or corruption incident to an external investigative unit depending on complexity and gravity of the matter.

The Audit Committee of the Board may also institute an internal investigation as provided in section 120(.03) of the KEPHIS Internal Audit Manual.

Instruction to undertake any investigation related to this policy will be in writing detailing the allegations received and the scope of the investigations.

The investigative unit upon receipt of instructions will be required to develop an investigation plan and structure the investigation to ensure gathering of sufficient reliable information to enable prove or disapproval of the allegations.

Investigative activities may encompass the following:

- ◆ Interviewing relevant persons both internal and external.
- ◆ Obtaining statements from witnesses.
- ◆ Reviewing and collating evidence.
- ◆ Examination of records.
- ◆ Making inquiries both internally and external.
- ◆ Interviewing the accused.
- ◆ Report preparation.

Upon receiving an investigation report confirming an allegation, the Managing Director shall take appropriate administrative action in line with the provisions of the Corporation's Human Resource Policies and Procedures.

The Managing Director may also upon receiving an internal report of investigation decide to report the matter to relevant external authority for further investigations or criminal prosecution.

1.21 DISCIPLINARY PROCEDURE

In the absence of criminal prosecution, disciplinary proceedings shall be undertaken by the KEPHIS Staff Advisory Committee or the relevant committee of the Board of Directors or as may otherwise be prescribed in the KEPHIS Human Resource Policies and Procedures Manual. All proven cases of material fraud or corruption shall be treated as serious offences as provided in section 2.4.2 of the Human Resource Policies and Procedures Manual.

1.22 RECOVERY OF PROCEEDS OF FRAUD OR CORRUPTION

The Corporation may cause to be taken legal action to recover losses resulting from a proven act of fraud or corruption. Such a decision shall be subject to a cost-benefit consideration which however should not preclude any decision to take recovery action.

1.23 LINKAGES WITH OTHER AGENCIES

The Managing Director has the responsibility to notify any relevant external agencies of any material fraud or corruption that may have occurred where deemed appropriate.