WATER SERVICES TRUST FUND

ANTI - CORRUPTION POLICY

September, 2011
MANDATE
To assist in financing the provision of water services to areas of Kenya without adequate water services.

VISION
To become a dynamic and innovative leader nationally and in Africa in the financing of the water sector.

MISSION
To provide financial support for improved access to water and sanitation in areas without adequate services.

CORE VALUES
Accountability, transparency, good governance, teamwork, equity, fairness, honesty, & integrity, customer focus and life/work balance
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1. Foreword

Water Services Trust Fund (WSTF) is a State Corporation operating under the Ministry of Water and Irrigation (MWI). It is committed to upholding its institutional integrity and accountability. This is reflected in the Fund’s core organization values of: accountability, transparency, good governance; teamwork; equity and fairness; honesty and integrity; customer focus; and life-work balance.

When I began my career in the water sector, corruption was a fact of life. Because of the magnitude of the problem and its political sensitivity, development professionals usually attempted to contain it, limit it, or work around it, but not confront it. Today, corruption is no longer a taboo subject. And more importantly, we can’t ignore it because development cannot thrive in a corrupt environment.

In achieving our mandate, we in the WSTF recognize that our success depends not only on delivery of effective, efficient and professional services to our clients, donors and other stakeholders, but also in establishing governance structures that ensure equity in the promotion of procedures, recruitment and funding opportunities. Corruption can impact negatively on the public confidence in the organization and can damage both its reputation and image.

The anti-corruption policy sets out the organizational approach and obligation to the prevention and detection of corruption. It should be read in conjunction with the Funds’ Code of Ethics and the Human Resource Policy, Risk Management policy, Procurement and Finance Manuals.

The Fund shall promote an environment that actively encourages the principles of honesty, integrity, equity and equitable access to employment, services and all its funding opportunities. WSTF is further committed to working closely with the Kenya Anti-Corruption Commission, National Anti-Corruption Campaign Steering Committee (NACCSC) and other government bodies to provide training and expertise in executing this policy.

With the approval of this policy, it is my expectation that all WSTF stakeholders will join me in implementing the steps necessary for the Agency to play a leading role in promoting accountability, transparency and good governance to achieve a more stable, prosperous, and democratic world. I appeal to the management and staff to strive to maintain a culture that makes WSTF a corruption free environment.

Eng. Jacqueline K. Musyoki(Mrs.)OGW
Chief Executive Officer
2. Policy Statement

Water Service Trust Fund, Kenya is committed to upholding the rule of law, transparency and accountability in the day-to-day management of the Fund. All members of staff and the Board of Trustees shall be bound by the provisions of Chapter six of the Constitution of Kenya, 2010 on leadership and integrity.

Staff members and stakeholders will be sensitised on corruption and should ensure that all the assignments they undertake do not have any corrupt practices that may emerge in the course of duty. Any decisions being made should not have any influence that is corrupt in nature. The state of mind should be that which confirms that no corrupt ideas have been incorporated when arriving at the final results.

The responsibility of fighting corruption rests with all individual employees, customers such as Support Organisations (SO), Community Based Organisations (CBOs), Water Resources User Associations (WRUAs), Water Service Providers (WSP) Water Service Boards (WSB) and Water Resources Management Authority (WRMA) who act on behalf of, and represents WSTF in various stages of project implementation. WSTF is fully committed to fighting corruption and acknowledges that corruption can occur in all our areas of operation, and therefore, the importance of having an Anti Corruption Policy in place.

3. Legislative and administrative requirement

This policy has been prepared and is applicable in the laws of Kenya under several legal instruments, policies and bodies. They include the Constitution of Kenya, 2010; the Anti- Corruption and Economics Crimes Act, 2003; Ethics and Anti-Corruption Commission Act, 2011; the Public Officer Ethics Act, 2003; the Public Audit Act; Government Financial Management Act, 2004; Public Procurement and Disposal Act, 2005; Public Service Code of Conduct, the Performance Contract guidelines and the Human Resources Manuals’ and code of Conduct and Ethics.


4. Scope

This policy is binding to any officer, employee or member of WSTF either paid or unpaid, temporarily, consultant, other stakeholders and Board of Trustees who are engaged by WSTF in conducting its business.
5. Definition of Corruption

5.1 For the purpose of this Policy: corruption is hereby defined as:

“the misuse of public office for private profit or advantage, acts of omission or commission in your employment resulting in loss or disadvantage to your employer and private gain to you or any other person associated with you”.

corruption" means -

(a) an offence under any of the provisions of sections 39 to 44, 46 and 47 of the Anti- corruption and Economic Crimes;
(b) bribery;
(c) fraud;
(d) embezzlement or misappropriation of public funds;
(e) abuse of office;
(f) breach of trust; or
(g) an offence involving dishonesty -

(i) in 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;

economic crime" means

(a) an offence under section 45 of the Anti-corruption and Economic Crimes;

; or

(b) an offence involving dishonesty under any written law providing for the maintenance or protection of the public revenue;

Private Profit or interest would include any advantage to you or your family, close relatives, friends, and persons or organisations with which you have business or political relations. “abuse of power, most often for personal gain or for the benefit of a group to which one owes allegiance”or“an act done with intent to give some advantage inconsistent with official duty.

5.2 Under the Anti-Corruption and Economic Crimes Act, 2003, the following are corruption offences:
1) Bribery and bribing of employees or agents

2) Secret inducements for advice

3) Deceiving the WSTF as an employer

4) Conflict of interest, arising from situations where you as an employee of WSTF have a private interest that could potentially influence or appear to influence, the impartial and objective performance of your official duties.

5) Improper benefits to Board of Trustees for appointment

6) Bid rigging

7) Abuse of office

8) Dealing with suspect property

9) Fraud

10) Embezzlement or misappropriation of public funds

11) Breach of trust or confidentiality

12) Dishonesty in relation to appointments or promotion of persons to public office

5.2 The Economic and Crimes offenses will include but not limited to the following;

1) Unlawful acquisition, mortgage, and disposal of public property, service or benefit.

2) Damage of public property

3) Failure to pay taxes, fees, levies or charges payable to public body

4) Effecting or obtaining non-payment of taxes, levies, fees or charges to public body to which they are payable

5) Fraudulently making payment or excessive payment from public revenues for sub-standard or defective goods, goods not supplied or not supplied in full, or services not rendered or not adequately rendered

6) Failure to comply with procedures and guidelines for procurement; allocation, sale or disposal of property, tendering of contracts, management of funds or incurring expenditures

5.3 Based on the above examples of corruption, the staff, Board of Trustees and the stakeholders have a duty to do the following as a role in fighting corruption;

1) Respect and protect WSTF property including all public property
2) Avoid engaging in corrupt practises

3) Never give or receive bribes

4) Never falsify a claim

5) Name and shame corrupt individuals

6) Report cases of corruption to the management, CEO, BoT or any other WSTF relevant authority

7) Appreciate and reward hard work, honesty and trustworthiness

8) Talk to everyone about the evils of corruption

9) Be a role model

10) Stigmatize ill-gotten wealth

11) Correct and reprimand bad behaviours

12) Give advice and make suggestions on how to fight corruption

6. **Corruption Risk areas in WSTF**

Corruption may occur in functional areas that form the organisation either independently or interdependently. WSTF has eight functional areas with the following potential corruption related risks in addition to the operational risks outlined in the Risk Management Policy as illustrated below;

**a) The Chief Executive officer**

This is a steering office for the organisation. A probable risk would be undue pressure from senior government officials to influence the decisions that are made by the Chief Executive Officer. Resources may be diverted to other institutions instead of WSTF due to bad reputation and lack of integrity in its procedures and processes in identification and implementation of projects.

**b) Finance**

They are the custodian of the financial resource of the organisation. They can be influenced to honour payments that are fraudulent, not budgeted, overpriced, Undeserved allowances, tampering with the SAP software to give results that would give favour or specific desired results, lack of systems and confidentiality, misadvising the management or loosing documents with intention to conceal vital information. The Department faces the risk of incompetence and falsification of financial records, Malicious destruction of financial records, delays in preparation of financial records, malicious delays in preparation of financial records, compliance with relevant accounting standards, intentional
non-disclosure of items in the accounts, creative accounting and reporting.

c) Human Resource and Administration

Conflict of interest arising from preference of certain candidates and sharing interview questions pertaining to recruitment with potential candidates, favouring some candidates when short listing for interviews, accepting tokens in the process, unfair staff appraisals, recommendations and promotion of staff, unfair grading, unfair allocation resources, roles and duties to lower cadres, putting vehicles to private use or any other asset. Other risks facing the department are failure to advertise or limited circulation of adverts, interested parties being involved in preparation of job requirements, lack of clear human resource and retirement policy, placement of employees in areas they are not qualified for, adhoc identification of people to attend training and rewarding and promotion of non-performers.

d) Procurement

Disclosing information to bidding parties, accepting tokens, adjusting quotations to change a decision, not abiding to a prequalified list of suppliers, accepting sub-standard goods, collusion by various committees, lack of skills by committee members etc. Failing to implement the procurement plan splitting bids in order to circumvent procurement thresholds limits, rigging of bids and favouring certain suppliers, failing to carry out market surveys, preparing procurement plans without users inputs leading to urgent purchases and resorting to unjustified direct procurement.

e) Investment

This is the programme department that oversees implementation of various projects namely Rural program, Urban Program, WDC, OBA and UNICEF/Wash programs. The potential risk exposure that would exist include the following; implementing projects in areas where they are considered not-target areas, irrational allocations of funding within project areas, unequal treatment to WSBs or other partners, generating donor reports that are falsified, approval of projects where value for money is compromised etc.

f) Quality Assurance/Monitoring and Evaluation

The risk exposure that would amount to corruption would include colluding with CBOs, SOs, WSBs or any other related body or partner, inadequate partnering with WSBs, use of inappropriate tools in M&E, overlooking quality tests that have been set, being compromised on the region or project to carry out an inspection etc.
g) Planning

Planning unit monitors implementation of work plans and budgets. Risks involved would include non disclosure of non performing projects, being compromised by the various teams in charge of projects etc.

h) Public Relations

Conflict of interest may arise through publicising projects that are performing while not covering non performing projects which would compromise donor requirements or interest, it may also take the form of publicising certain regions as needy vis-a-vis others in order to divert donor attention, publicity of certain windows that one has an interest, publicising WSTF vis-a-vis other WSBs or other related institutions.

i) Resource Mobilization

Mobilising resources that would be skewed towards support to certain regions or communities of personal interest, colluding with stakeholders or other agencies to divert incoming resources and diverging of confidential information which constitutes a breach of contract.

j) Audit

The risk can take different dimension e.g. being compromised by the CEO, BoT, staff or any other related persons in conducting professional work, not conducting audits in certain areas of operation as the results may compromise your personal interests, misguiding the BoT or Audit Committee on risk exposures that may not exist as the likely decision arrived at would beneficial to the Audit Manager or staff within the Department.

k) ICT Department

Possible risks with regard to management of information technology in ICT include internal & external manipulation of data to perpetuate corruption, leakage of confidential data that may be used to perpetuate corruption, sharing of passwords leading to abuse of trust and gaining unauthorised access to ICT systems.

l) Legal

With regard to the Legal Department possible areas of corruption related risk include signing and vetting contracts that are disadvantageous to WSTF or that expose the fund to financial liability, failure to get representation in civil matters expeditiously that leads to judgements against the institution and manipulation of minutes and failure to accurately record Board resolutions.
7. **Structures to Fight Corruption**

WSTF shall;

1) Provide a corruption reporting hotline and other appropriate reporting mechanisms e.g. Anti-corruption box
2) Provide appropriate mechanisms to protect whistle blowers.
3) Adopt formal procedures to investigate corruption whenever it occurs or is suspected.
4) Work closely with KACC and other appropriate external authorities to combat fraud.
5) Support national initiatives against corruption.
6) Establish a corruption prevention committee to implement this policy.
7) Devise strategies to change organisational features that allow corruption to occur, remain unnoticed or unreported.
8) Carrying out a Corruption Risk assessment to identify loopholes in the systems, policies, procedures and practices that facilitate corrupt practices.
9) Formulate relevant Policies and procedure manuals.
10) Ensure System audits and examinations
12) Codes of Ethics.
13) Advocacy.
14) Advisory.
15) Watchdog role.
16) Fact finding or investigation.
17) Research.
18) Capacity building.
19) Social functions.

8. **Composition of the corruption prevention committee**

The Corruption Prevention Committee shall be composed of:

- Chief Executive Officer (Chair)
- Internal Audit Manager (vice chair Person)
- Finance and Administration Manager (member)
- Human Resource Officer (member)
- Planning Officer (Integrity Officer/Secretary)
- Legal Officer (Member)

An Integrity Officer who shall be the secretary of the Committee will be appointed by the CEO. He/She will undertake training with Ethics and Anti-Corruption Commission to enable him/her effectively undertake that role.
9. Mandate and operation of the corruption prevention committee

The role and functions of the Corruption Prevention Committee within WSTF are as follows:

1) Setting priorities in the prevention of corruption within the organization.

2) Planning and coordinating corruption prevention strategies.

3) Integrating all corruption prevention initiatives in the organization.
   • Receiving and reviewing reports on corruption prevention initiatives and recommending 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 anti-corruption campaigns within the jurisdiction of WSTF.

4) Monitoring and evaluating the impact of corruption prevention initiatives

5) Preparing and submitting quarterly progress reports to the Performance Contract Steering Committee.

6) Reviewing this policy at regular intervals and recommending any amendments to the management of WSTF.

10. Internal Audit Reviews

WSTF has an established Internal Audit Department which plays a crucial role in prevention and detection of corruption within the institution. Its designed to add value and improve on operations of the institution, help WSTF accomplish its objectives by bringing a systematic disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. It plays an important role in assessing the nature and extent of any fraud and corruption risk.

The Internal Audit Department reports functionally to the Audit Committee and administratively to the Chief Executive officer.

11. How to report corruption internally and externally

Disclosure of corrupt practices within WSTF should but not limited to the following avenues;

• Use of corruption reporting box or hotline number or in any of the modes shown in annex 1 herein.

• Report to the Integrity Officer, Internal Audit Manager, CEO or to any other member of the management team.
• Ethics and Anti-Corruption Commission is empowered to receive reports and complaints on real or suspected corruption.

12. Handling of corruption cases

All information regarding corruption practices reported to CEO WSTF shall be handled in strict confidence. Corruption cases deliberated upon and supported by cogent evidence or reasonable suspicion that a corruption offence has occurred shall be handled with fairness, promptly, expeditiously and in accordance with the law.

13. Protection of Whistleblowers

A whistleblower means any person, staff or a third party who volunteers corruption information to WSTF. Any person making corruption disclosures against any reprisals or detrimental action in relation to the disclosures shall be protected as prescribed by the Witness Protection Act, 2006.

14. Disciplinary measures

Breaches of the provisions of this policy shall be dealt with as stipulated in the Human Resources Policy Manual which constitutes a breach of the code of conduct by an employee and is an offence warranting disciplinary action. In particular any staff of the fund the CEO and Board of Trustee member suspected of corrupt practices shall step down to allow room for investigations.

15. Training

The management commits itself to sensitization and training of staff on anti corruption policy and procedures including internal control mechanisms to detect and deter corruption in WSTF operations.

16. Management/implementation authority

The WSTF Corruption Prevention Committee shall be responsible for implementation of this policy and shall be headed by the CEO who shall ensure the implementation of the policy.

17. Review

This Anti-corruption policy document shall be reviewed at such intervals as the Management may deem necessary but not exceeding three years.
ANNEX 1
CORRUPTION REPORTING PROCEDURE

1.0 WHO CAN REPORT CORRUPTION
Reports on corruption may emanate from:
members of the public and members of staff

2.0 HOW TO REPORT
All reports of corruption received by WSTF shall be treated with the utmost confidentiality to ensure protection to those who provide information. Complainants can use the Form attached to this guidelines to present their complaints in a typed or handwritten complaint letter done on normal foolscap size paper giving their identity and contact details.

3.0 ANALYSIS AND PROCESSING OF CORRUPTION REPORTS
All reports on corruption shall be received by the Chief Executive Officer and analyzed by the Integrity Officer who shall take the following action(s):
  a) Acknowledge reports on corruption within 2 days of receipt.
  b) Document and categorize the complaints received and identify possible action to be taken by the WSTF.
  c) Verify all allegations with the relevant persons and/or organizations and file a report.
  d) Refer matters requiring Audit investigation to the Manager Internal Audit.
  e) Refer matters requiring investigation to Ethics and Anti-Corruption Commision direction and further action.
  f) Members of staff and the Board of Trustees shall be required to step down if the allegations of corruption made against them are found to be credible pursuant to the provisions of the Public Officer’s Ethics Act, 2003 until cleared.

4.0 FEEDBACK
After the allegation is verified and action taken by WSTF, the complainant shall be informed of the outcome.

5.0 MODES OF REPORTING

In person
THE CHIEF EXECUTIVE OFFICER
WSTF
CIC Plaza, 1st Floor
Upper Hill, Mara Road
Nairobi, Kenya.

By Phone (Hot Line)/ Fax
Tel:
+254020-2720696
+2540202729017
Fax: +254 020 2724357

By Mail
P.O.Box49699-00100
Nairobi, Kenya

Prepared on 27/9/2011
WSTF CORRUPTION REPORTING FORM

1. Name…………………………………………………Email……………………………………
   ……
   Address…………………………………………
   Telephone/fax………………………………
   Constituency/Residence…………………location of
   origin……………………………………(This section is optional)

2. Brief description of Complaint(attach supporting Documents(if any):
   ………………………………………………………………………………………………
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   ………………………………………………………………………………………………
   ………………………………………………………………………………………………
   ………………………………………………………………………………………………
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3. Action required:
   ………………………………………………………………………………………………
   ………………………………………………………………………………………………
   ………………………………………………………………………………………………
   ………………………………………………………………………………………………

I hereby certify that I have voluntarily provided the above information which is I
believe to be true to the best of my knowledge.

Signed…………………………………………
Date……………………………………..

FOR OFFICIAL USE ONLY
Receiving Officer………………………….
Date……………………………………
Reference………………………………

NB: All reports will be acknowledged, addressed and action taken communicated to
you. Completed Form/Complaints should be sent to: The Chief Executive/ Secretary
using above address