



ETHICS AND ANTI-CORRUPTION COMMISSION

Guidelines for Corruption Risk Assessment and Management for Public and Private Entities

October ,2024



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Ethics and Anti-Corruption Commission
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MANDATE

To combat and prevent corruption, economic crime and unethical conduct in Kenya through law enforcement, prevention, public education, promotion of standards and practices of integrity, ethics and anti-corruption.



VISION

An integrity driven and value-driven Kenyan society.



MISSION

To promote integrity and combat corruption through law enforcement, prevention and education.



CORE VALUES

Fidelity to the law
Integrity
Team work
Innovation
Professionalism
Courage

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FOREWORD



Corruption has permeated all spheres of our society and the Government in recognition of this challenge developed the National Ethics and Anti-Corruption Policy through a Sessional Paper No. 2 of 2018. The overall objective of the Policy is to reduce levels and prevalence of corruption and unethical practices in Kenya by providing a comprehensive, coordinated and integrated framework for the fight against corruption and promotion of ethics. Through the policy, the Government endeavor to mainstream corruption prevention in both public and private sectors. This is in order to

address systemic corruption and enhance ethical standards in service delivery and business environment.

This Guideline is intended to facilitate institutions in mainstreaming corruption prevention into operations of public and private sectors through identification and mitigation of systemic weaknesses and opportunities that may facilitate corruption and unethical practices. Further, the guideline for Corruption Risk Assessment and Management enables entities to make informed decisions by prioritizing high-risk areas and taking appropriate remedial measures.

The Guideline provides a standardized process of undertaking Corruption Risk Assessment and Management in public and private sectors. I therefore call upon all entities to implement these Guidelines to address the problem of bribery and other forms of corruption.

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Dr. David Oginde (PhD) Chairperson
ETHICS AND ANTI-CORRUPTION COMMISSION

PREFACE



The Ethics and Anti-Corruption Commission (EACC) is mandated under section 11(1) (b), (g) and (i) of the Ethics and Anti Corruption Commission Act, 2011 to among others work with other State and public offices in the development and promotion of standards and practices in integrity and anti-corruption; advise, on its own initiative, any person on any matter within its functions; and Subject to Article 31 of the Constitution, monitor the practices and procedures of public bodies to detect corrupt practices and to secure the revision of methods of work or procedures that may be conducive to corrupt practices. Further, Section 13 (2) (b) of the EACC Act empowers the Commission to undertake preventive measures against unethical and corrupt practices.

The Commission has developed this guideline to assist the public and private entities in developing corruption risk assessment and management plan. It is important to note that Section 9 (1) of the Anti-Bribery Act 2016 requires public and private entities to put in place procedures appropriate to their size, scale and nature of operations, for the prevention of bribery and corruption. EACC is mandated to advise and assist public entities to develop and put in place procedures for the prevention of bribery and corruption and in the implementation of procedures as spelt out under Section 9(3) and Section 12 (3) of the Anti-Bribery Act. The Guideline will assist public and private entities to proactively prevent bribery and other forms of corruption.

The Commission expresses gratitude to the Director Preventive Services, Deputy Director Corruption Prevention, Corruption Prevention Department Staff and the Technical Team consisting of Felix Onjoma, Nelly Kabui, Sophia Muturi and Stanislas Ondimu for their invaluable contributions in the development of the Guidelines.

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Twalib Mbarak, MGH, CBS Chief Executive Officer/ Secretary Ethics and Anti-Corruption Commission

LIST OF ABBREVIATIONS AND ACRONYMS

ACECA	Anti-Corruption and Economic Crimes Act
AD-P	Assistant Director - Prevention
CEO	Chief Executive Officer
CRA	Corruption Risk Assessment
CRA&MP	Corruption Risk Assessment and Mitigation Plan
DD-P	Deputy Director – Prevention
DPS	Directorate of Preventive Services
EACC	Ethics and Anti-Corruption Commission
ICT	Information Communication Technology
IFMIS	Integrated Financial Management Information System
GJLOS	Governance, Justice, Law and Order Sector
MDAC	Ministries, Departments, Agencies and Counties
PFM	Public Financial Management
PPP	Public Private Partnerships
PSIP	Public Service Integrity Programme
RD	Research and Development
SLAs	Service Level Agreements
UNCAC	United Nation Convention Against Corruption
UNDOC	United Nations Organizations on Drugs and Crime

GLOSSARY OF TERMS

TERM	DEFINITION
Assessment	Is a systematic determination of the extent to which an entity has met certain requirements
Bribery	Bribery has the meaning assigned to it under section 2 of the Anti-Bribery Act, 2016
Code of Conduct and Ethics	The Specific Code of Conduct and Ethics developed by a public body pursuant to Part II of the Leadership and Integrity Act, 2012 or the General Code of Conduct and Ethics established pursuant to Part III, of the Public Officer Ethics Act No. 4 of 2003.
Commission	Ethics and Anti-Corruption Commission
Corruption Risk Assessment	A diagnostic tool seeking to identify weaknesses within the policies, processes, procedures and practices which may present opportunities for bribery and corruption to occur in an entity.
Corruption Loophole	Vulnerabilities that present opportunities for corrupt practices
Corruption Mitigation	Measure(s) undertaken to prevent occurrence of corrupt practices
Corruption Risk	Exposure to corrupt practices
Ethics	The standard of morality that a State or Public Officer must commit themselves to follow.
Risk Mapping	Is a systematic approach to decision-making processes, which helps to evaluate and compare risks within an organization. Risks are evaluated based on likelihood of occurrence and potential impact on the entity's operations
Risk Management	Is the treatment of the identified and prioritized risks through the development and implementation of the risk mitigation plan.

1.0 INTRODUCTION

1.1 Understanding Corruption

The United Nations Guide on Anti-Corruption Policies published in 2003 by the United Nations Office on Drugs and Crimes (UNODC) point out that there is no single, comprehensive, universally accepted definition of corruption and attempts to develop such a definition invariably encounter legal, criminological and, in many countries, political problems.

Transparency International defines corruption as the abuse of entrusted power for private gain. In Kenya, the Anti-Corruption and Economic Crimes Act, 2003 includes bribery, breach of trust, fraud, abuse of office, embezzlement, Tax evasion, extortion and grabbing of public property as some of the offences that constitute corruption and economic crimes. These are stipulated in various sections of the Act, as highlighted in the table below:

Corruption offences under the Various Legislative Instruments

<i>Section 2 Of the ACECA</i>	<ul style="list-style-type: none">• Bribery• Fraud• Embezzlement or misappropriation of public funds• Abuse of office• Breach of trust• Dishonesty in connection with taxation, maintenance or protection of public revenue , or election to public office• Laundering of the proceeds of Corruption
<i>Section 40 of ACECA</i>	<p>Secret inducements for advice</p> <ul style="list-style-type: none">• With respect to a benefit that is an inducement or reward for, or otherwise on account of, the giving of advice to a person; or• if the person receives or solicits, or agrees to receive or solicit, a benefit to which this section applies if the person intends the benefit to be a secret from the person being advised; or• gives or offers, or agrees to give or offer, a benefit to which this section applies if the person intends the benefit to be a secret from the person being advised.

<p><i>Section 41 of ACECA</i></p>	<ul style="list-style-type: none"> • Deceiving principal-if an agent who, to the detriment of his principal, makes a statement to his principal that he knows is false or misleading in any material respect is guilty of an offence; or • An agent who, to the detriment of his principal, uses, or gives to his principal, a document that he knows contains anything that is false or misleading in any material respect is guilty of an offence.
<p><i>Section 42 of ACECA</i></p>	<p>Conflicts of interest occurs when:</p> <ul style="list-style-type: none"> • an agent has a direct or indirect private interest in a decision that his principal is to make the agent is guilty of an offence; or • If the agent knows or has reason to believe that the principal is unaware of the interest and the agent fails to disclose the interest; or the agent votes or participates in the proceedings of his principal in relation to the decision; or • a private body may authorize its agent to vote or participate in the proceedings of the private body and the voting or participation of an agent as so authorized is not a contravention of subsection; or • An agent of a public body who knowingly acquires or holds, directly or indirectly, a private interest in any contract, agreement or investment emanating from or connected with the public body is guilty of an offence.

<p><i>Section 43 of ACECA</i></p>	<p>Improper benefits to trustees for appointments as follows:</p> <ul style="list-style-type: none"> • with respect to a benefit that is an inducement or reward for the appointment of a person as a trustee of property or for joining or assisting in such an appointment; or • if the person receives or solicits, or agrees to receive or solicit, from a trustee of property a benefit to which this section applies; or gives or offers, or agrees to give or offer, to a trustee of property a benefit to which this section applies.
<p><i>Section 44 of ACECA</i></p>	<p>Bid rigging in the following instances:</p> <ul style="list-style-type: none"> • submitting a tender, proposal, quotation or bid with a receives or solicits or agrees to receive or solicit a benefit to which this section applies; or • giving or offering or agreeing to give or offer a benefit causing refraining from submitting a tender, proposal, quotation or bid or withdrawing or changing a tender

<p><i>Section 45 of ACECA</i></p>	<p>1. fraudulently or otherwise unlawfully:</p> <ul style="list-style-type: none"> I. acquiring public property or a public service or benefit; II. mortgaging, charging or disposing of any public property; III. damaging public property, including causing a computer or any other electronic machinery to perform any function that directly or indirectly results in a loss or adversely affects any public revenue or service; or IV. failing to pay any taxes or any fees, levies or charges payable to any public body or effects or obtains any exemption, remission, reduction or abatement from payment of any such taxes, fees, levies or charges. <p>2. fraudulently making payment or excessive payment from public revenues for:</p> <ul style="list-style-type: none"> I. sub-standard or defective goods; II. goods not supplied or not supplied in full; III. services not rendered or not adequately rendered; IV. wilfully or carelessly fails to comply with any law or applicable procedures and guidelines relating to the procurement, allocation, sale or disposal of property, tendering of contracts, management of funds or incurring of expenditures; and V. engages in a project without prior planning.
<p><i>Section 5 of Anti-Bribery Act, 2016</i></p>	<p>Giving a bribe</p> <p>A person commits the offence of giving a bribe in the following instances:</p> <ul style="list-style-type: none"> i. if the person offers, promises or gives a financial or other advantage to another person ii. if the person offering, promising or giving knows or believes the acceptance of the financial or other advantage would itself constitute the improper performance of a relevant function or activity.
<p><i>Section 6 of Anti-Bribery Act, 2016</i></p>	<p>Receiving a bribe</p> <p>A person commits the offence of receiving a bribe if:</p> <ul style="list-style-type: none"> I. the person requests, agrees to receive or receives a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly whether by that person receiving the bribe or by another person; II. the recipient of the bribe requests for, agrees to receive or accepts a financial or other advantage and the request, agreement or acceptance itself constitutes the improper

	<p>performance by the recipient of a bribe of a relevant function or activity;</p> <p>III. in anticipation of or as a consequence of a person requesting for, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly by that person, or by another person at the recipients' request, assent or acquiescence</p>
<p><i>Section 8 of the Anti-Bribery Act, 2016</i></p>	<p>Bribing of Foreign Public Officials with the intention of influencing that official's capacity</p>

1.2 Prevention of Corruption

Bribery and other forms of Corruption pose a great danger to economic growth, reduce economic efficiency, undermine efforts aimed at improving the quality of human life due to loss of Government revenue, and hamper Government reforms. Most Countries around the world have realized the retrogressive nature of corruption and have embarked on serious effort to combat the vice.

Kenya, through the National Ethics and Anti-Corruption Policy (NEAP) of 2018 and a raft of laws adopted a multipronged approach to combating corruption including law enforcement, prevention, public education, promotion of standards and practices of integrity, ethics and anticorruption.

1.3 Background to Corruption Prevention in Kenya

The Public Service Integrity Programme (PSIP) was launched in 2002 as part of Government initiative to restore public confidence in the fight against corruption in the Country. A Sourcebook for Corruption Prevention in the Public Service published in March, 2002 recommended various strategies for mainstreaming corruption prevention, which included corruption risk assessment and management.

The reforms implemented by the Government in the period subsequent to 2002, necessitated the review of the Sourcebook in the year 2003 and 2009 to ensure that the reforms could achieve the desired impact. The objective then was to implement various elements of the programme, to restore transparency, accountability and integrity in public service. All public service organizations were required to implement the PSIP programme. Consequently, the Commission has since FY 2007/2008, partnered with now the Public Service Performance Management Unit (PSPMU) in the State Department for Performance

and Delivery Management to provide advisories to Ministries, Departments and Public Agencies on mainstreaming corruption prevention. The thrust of the advisories focus on putting in place a framework for sustainable corruption prevention in the public sector. Accordingly, developing and implementing corruption risk assessment and mitigation plans has been a key parameter under the Corruption Prevention Indicator of the Performance Contract in the Public service.

Section 9 of the Anti-Bribery Act, 2016 requires all public and private entities to put in place appropriate procedures for the prevention of bribery and corruption. Clause 13(2) of The AntiBribery Regulations, 2022 gazetted pursuant to section 22 of the Anti-Bribery Act, 2016 requires all entities when developing the bribery and corruption prevention procedures under section 9, to incorporate bribery and corruption risk assessment and management as one of the guiding principles.

2.0 POLICY, LEGAL AND REGULATORY FRAMEWORK FOR CORRUPTION PREVENTION

2.1 Policy Framework

a) The United Nations Convention Against Corruption (UNCAC), 2003

Chapter II of UNCAC provides for developing and maintaining effective anti-corruption policies, establishing and promoting practices aimed at the prevention of corruption, putting in place relevant legal instruments and administrative measures to facilitate prevention of corruption, and establishing mechanisms to ensure participation of all actors in the prevention of corruption. Kenya, as a signatory, is obligated under Chapter II of UNCAC to put in place legislative, institutional and administrative measures to promote effective practices aimed at prevention of corruption.

b) The African Union Convention on Preventing and Combating Corruption (AUCPCC)

Kenya signed and ratified the Convention on 17th December, 2003 and 3rd February, 2007 respectively. The Convention requires the state parties to put in place legislative and other measures to promote public education and awareness in the fight against corruption and prevention of corruption in both public and private entities.

c) Kenya Vision 2030 and Medium Term Plans (MTPs)

Kenya Vision 2030 and Medium Term Plans (MTPs) provide the overarching platform for implementation of the Governance, Justice, Law and Order Sector (GJLOS) strategies. It seeks to secure just, cohesive, democratic, accountable, transparent and conducive environment for a prosperous Kenya.

The Sessional Paper No. 2 of 2018: National Ethics and Anti-Corruption Policy (NEAP)

This is the overarching policy guiding anti-corruption initiatives in the Country. Section 4.1.5 requires the Government to mainstream corruption preventions strategies and measures in both public and private sectors so as to eliminate systemic corruption and enhance ethical standards in service delivery and business environment. Specifically, the strategies include among others.

- Developing and enhancing capacity of private and public sectors to implement corruption prevention strategies;
- Instituting appropriate structures and mechanisms for corruption prevention in Ministries, Departments, Agencies and Counties (MDACs); and
- Instituting systems and structures that promote transparency in public institutions.

2.2 Legal and Regulatory Framework for Corruption Prevention

a) The Constitution of Kenya, 2010

The Constitution of Kenya, 2010 lays the foundation for preventing and combating corruption. The salient provision among others are: Article 10 (National values and principles of Governance), Article 232 (the values and principles of public service) and Chapter Six, which outlines the values, guiding principles of leadership and integrity. These values and principles underpin the overarching objectives and purpose of entrenching sound decision making and good governance.

b) The Anti-Corruption and Economic Crimes Act, 2003

The Act sets out the prevention, investigation and punishment of corruption, economic crimes and related offences as its objectives.

c) The Public Officer Ethics Act, 2003.

The Act obligates public officers to Declare Income, Assets and Liabilities (DIALs) under Section 26. This is an important tool for the detection and prevention of Corruption.

d) The Ethics and Anti-Corruption Commission Act, 2011

The Act empowers the Commission to put in place measures to detect and prevent corruption by undertaking, among others, the following:

- i. Work with other State and public offices in the development and promotion of standards and best practices in integrity and anti-corruption;
- ii. Raise public awareness on ethical issues and educate the public on the dangers of corruption and enlist public support in combating corruption;
- iii. Monitor the practices and procedures of public bodies to detect corrupt practices and to secure the revision of methods of work or procedures that may be conducive to corrupt practices; and
- iv. Advise, on its own initiative, any person on any matter within its function.

e) The Leadership and Integrity Act, 2012

Some of the salient provisions of the Act aimed at instituting integrity in leadership include:

- i. Providing the general leadership and integrity codes;
- ii. Setting out specific leadership and Integrity codes for the State Officers;
- iii. Empowering the Commission to monitor compliance with the integrity requirements;
- iv. Empowering the Commission to give advisory opinions to public entities upon request; and
- v. Collaboration with public entities for the purpose of developing and overseeing the provision of education and training on leadership and integrity.

f) The Anti-Bribery Act, 2016

The object of the Act is to provide for the prevention, investigation and punishment of bribery as outlined in the following sections:

- i. **Section 9(1)**, obligates public and private entities to put in place appropriate procedures for the prevention of bribery and corruption.
- ii. **Section 9(3)**, requires the Commission to assist private entities, public entities, and any interested person, to develop and put in the place procedures.
- iii. **Section 12(1)**, Obligates the Cabinet Secretary responsible for matters relating to justice, in consultation with the Commission, to publish guidelines to assist private and public entities in preparation of procedures for prevention of bribery and corruption.

- iv. Under **section 12(3)**, The Commission may provide assistance to public or private entities or any other person in implementation of the procedures.
- v. The Anti-Bribery Regulations under **clause 13(2)** provide that undertaking Corruption Risk Assessment and Management is one of the four guiding principles to be incorporated in the procedures for prevention of bribery and corruption.

3.0 FRAMEWORK FOR CORRUPTION PREVENTION

The National Ethics and Anti-Corruption Policy recognizes the Corruption Prevention framework, including:

- i. The development and implementation of corruption prevention policies and corruption prevention plans;
- ii. Constitution of corruption prevention committees to spearhead the fight against corruption in MDACs;
- iii. Appointment of Integrity Assurance Officers to provide technical support in the fight against corruption;
- iv. Corruption Risk Management, which involves conducting corruption risk assessment and developing risk mitigation strategies;
- v. Establishing sufficient mechanisms to facilitate reporting of corruption;
- vi. Taking appropriate action against reported cases of corruption within respective institutions;
- vii. Establishing mechanisms to encourage and protect whistle-blowers, informants and witnesses to report bribery and corruption; and
- viii. Provision for effective communication, awareness creation and dissemination to internal and external stakeholders on the measures put in place to prevent bribery and corruption.

4.0 CORRUPTION RISK ASSESSMENT AND MANAGEMENT

Corruption Risk Management is a set of procedures and controls in place to detect, assess and mitigate corruption risks within an organisation. It is integral to all decisions and activities of an organisation, from the institutional level to individual programmes within the entity. It is a systematic process of identifying, assessing and mapping out potential risk exposures (loopholes) within the operating environment of an organization with a view to developing and implementing strategies to mitigate against the occurrence of the risks (corrupt practices). The identified risks are evaluated through risk mapping, scoring and assessing likelihood and impact of corruption risks. A plan is then developed for

mitigating the identified risks, and continuously monitored to achieve the desired objectives. It seeks to identify weaknesses within the systems in an organization that may present opportunities for corruption to occur. It focuses on the potential rather than the perceived existence or extent of corruption. It identifies institutional vulnerabilities within a system or process which might favour or facilitate corrupt practices.

Individual institutions are expected to undertake self-evaluation assessments to identify potential corruption risks and develop strategies to proactively mitigate against the occurrence of the risks, through strengthening internal control systems.

4.1 Objectives of Corruption Risk Assessment and Management

The objective of Corruption Risk Assessment and Management (CRA&M) is to promote the integrity of the systems by sealing systemic weaknesses that may facilitate corrupt practices.

The specific objectives of the CRA&M are to:

- i) Undertake a systematic identification, analysis, and profiling of potential corruption risks on the strategic objectives of an entity;
- ii) Develop mitigation strategies and measures for the management of the identified risks;
- iii) Provide an environment for engagement with internal and external stakeholders and ownership in corruption prevention; and
- iv) Monitor the implementation of the recommended strategies and measures.

4.2 Importance and Justification of Corruption Risk Assessment and Management

The importance of undertaking corruption risk assessment and management is underscored by the fact that, it:

- i. Is a requirement under the Anti-Bribery Act, 2016 and the PSIP;
- ii. Provides a road map in management of corruption risks;
- iii. Provides a linkage with institutional strategic plans and work plans; iv. supports risk awareness and restructured decision making for improved service delivery;
- v. Enhances prudent and optimal use of resources within an entity;
- vi. Promotes efficiency and productivity of an entity; and

vii. Projects a positive corporate image of the organization.

4.3 Scope of Corruption Risk Assessment and Management

CRA&M can be conducted by any entity notwithstanding its nature, size and location. The scope of CRA&M may be comprehensive or specific to a function of an entity based on vulnerability of the service, incidences of corruption or during introduction of a new system.

This can be:

- National, where a periodic review is undertaken to identify systemic weaknesses in the national anti-corruption framework. The assessment mainly focusses on the efficiency and effectiveness of the policy, legal, regulatory and institutional framework of preventing corruption in a Country;
- Sectoral, where the assessment seeks to identify systemic weaknesses in a given sector. It focusses on the interrelationship between the entities and functions that are domiciled within a sector;

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- Institutional, where the assessment seeks to identify systemic weaknesses in a given institution; and
 - Functional, where the assessment seeks to identify systemic weaknesses in a given function.

4.4 Methodology for Undertaking corruption risk assessment and management

The conduct of corruption risk assessment takes the form of administering questionnaires, conducting focus group discussions, and conducting interviews of internal and external stakeholders, and can either involve all employees of the entity being assessed, or just those who hold relevant positions in the focus areas. This allows participants to reflect on their individual experiences with corruption risks. The process also involves conducting surveys and reviewing relevant records such as the applicable governance tools, internal and external audit reports, and management / board committee reports and operational documents to identify potential risk exposures. Observations of work processes and site visits also form part of the assessment. Mitigation measures are identified through a consultative method in order to come up with the best course of action to address the risks.

5.0 PURPOSE OF THE CORRUPTION RISK ASSESSMENT AND MANAGEMENT GUIDELINE

The purpose of this guideline is to provide advisories to institutions, both in the public and private sector, on corruption risk mitigation. It provides detailed guidance on how to undertake corruption risk assessment, develop and implement risk mitigation plan and monitor its implementation.

The guideline will also be used by officers of the Commission to empower or build capacity of staff in public and private entities to undertake Corruption Risk Assessments and develop Risk Mitigation Plans.

Focus of the guideline

The guideline focuses on both public and private entities. The scope of the activities covered include:

- i. The institutional and administrative arrangement for corruption risk mitigation;
- ii. Pre-conditions for Corruption Risk Assessment and Management;

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- iii. Conduct of Corruption Risk Assessment; iv. Development of corruption risk mitigation strategies;
 - v. Implementation of Corruption Risk Mitigation Plan; and vi. Monitoring and evaluation of corruption risk management programme.

6.0 INSTITUTIONAL ARRANGEMENT FOR CORRUPTION RISK MANAGEMENT

The Entity

The leadership of the entity will be responsible for corruption risk management in the entity. The various functions to be undertaken by the entity includes:

- i. Establishment of the Institutional Corruption Prevention Framework, including the anticorruption policy, Corruption Prevention Committee and corruption reporting framework;
- ii. Development of Corruption Risk Mitigation Plan through risk assessment and development of risk mitigation strategies;
- iii. Implementation of Corruption Risk Mitigation Plan; iv. Monitoring and evaluation of Implementation of Corruption Risk Mitigation strategies; and
- iv. Submission of necessary reports to EACC or other oversight agencies (where applicable).

NB/ Institutions in a given sector may initiate a corruption risk assessment at the sectoral level in order to facilitate development of generic standardised strategies that may enhance integrity.

Ethics and Anti Corruption Commission

The Commission will be responsible for:

- i. Provision of technical guidance through strategies such as capacity building, and development of guidelines on corruption prevention;
- ii. Monitoring of corruption prevention strategies by the entities through:
 - a. Monitoring of implementation of corruption prevention strategies by the entities.
The Commission will provide guidelines on the monitoring framework;
 - b. Continuous risk monitoring of strategic programs and projects; and
 - c. Conducting Systems Reviews to identify corruption loopholes at national, sectoral, institutional and functional levels.

Stakeholders

Stakeholders may be engaged to provide information necessary to facilitate corruption risk management.

7.0 PREPARING FOR CORRUPTION RISK ASSESSMENT AND MANAGEMENT

The following factors are crucial for a successful CRA&M process:

Top-Level Commitment and Oversight

Top level management commitment is key to effective Corruption Risk Assessment and Management in an entity. The leadership should facilitate and steer the process to ensure comprehensive and sustainable risk assessment and management. The top leadership in an entity should therefore be responsible for:

- a) Ensuring that Corruption Risk Management is captured in the institutional wide plans;
- b) Assigning clear responsibilities for corruption risk assessment and management. The overall responsibility should be given to a senior executive;
- c) Allocating adequate resources to conduct a comprehensive corruption risk assessment covering all the functional areas (Departments, units and sections), and to ensure that there is a continuous risk identification and management process. This include appointing the right person(s), and allocating time and budgetary resources for the activity;
- d) Setting control objectives as a precursor to the corruption risk assessment and management process by recognizing how the entity's range of objectives might be affected by corruption risk;
- e) Deciding the corruption risk approach of zero tolerance to corruption; and
- f) Providing oversight of the corruption risk assessment and management process. This requires appropriate levels of understanding of the corruption risks.

Establishing the Scope of the Corruption Risk Assessment.

The motivation for engaging in a corruption risk assessment and management process is an adoption of a strategy to involve the entire organization to conduct a corruption risk assessment and devise a prevention plan. It's a proactive way for entities to assess their vulnerabilities to prevent corruption risks. The entity will decide if the process will be comprehensive, or target specific operational area. The areas to be targeted may be informed by:

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- i. Red flags – these are circumstances that suggest a strong corruption risk that needs to be identified and mitigated through adequate safeguards. Red flags are warning signs on corruption vulnerability of the systems. This could refer to problems with policy, institutional/administrative arrangement, system, process, person, decision, and third party along the chain. This may include; increased customer complaints, unrealistic performance expectations, similarity in bids submitted, incomplete or untimely bank reconciliations, unrestricted access to assets or sensitive data, discrepancies in size, weight and colour of health supplies, existence of black market for school text books, ghost workers etc;
 - ii. Media reports;
 - iii. Complaints from both internal and external stakeholders; and iv. Internal and external audit reports.

Initiation of the Corruption Risk Assessment and Management Process

The Accounting Officer/ Chief Executive Officer appoints the Technical Team with representation from critical functional areas (Core and Support functions) to provide the technical support to the institution, to:

- i. Conduct Corruption Risk Assessment(s) and develop Risk Mitigation Plan(s); and
- ii. Oversee or coordinate implementation of the Risk Mitigation Plan(s).

The composition of the team and its position in the hierarchy of the entity depends on the size, mandate and operational structure of the entity and the cooperative or adversarial nature of its relationship with stakeholders.

The Role of the entities' Personnel

The Corruption Risk Assessment and Management process will involve staff from the entity in the identification and management of their own vulnerabilities and the corruption risks created.

The Role of Commission

The Commission may provide technical support to assist and guide the working group or Team of an entity in undertaking a self-assessment.

The Commission will endeavour to acquire a strong understanding of the sector and environment in which the entity operates in order to empower entities on how to identify corruption risk exposure.

Empowering the Working Group

The entity's leadership shall state clearly the importance of the process, the background that led to the launch of the assessment, and that it has the full support of the management. The working group members should be empowered to perform their functions by identifying corruption risks and providing mitigation strategies.

Creating Feedback Mechanisms

The corruption risk assessment and management process requires continuous feedback through regular communication and consultation with relevant stakeholders. This can help build support for the actions contained in the mitigation plan and the stakeholders can bring their own experience and insight to the table, providing additional information on corruption risks and what can be done to mitigate them.

8.0 STEPS FOR CORRUPTION RISK ASSESSMENT AND MANAGEMENT

The following are the steps for undertaking Corruption Risk Assessment and Management

1. Evaluating the operating environment.
2. Identify the target functional area(s) in the entity.
3. Mapping out the various sub functions/processes of the identified target areas.
4. Identifying existing systemic weaknesses /and opportunities
5. Identifying Potential bribery and Corruption Malpractices
6. Analyzing corruption risks.
7. Evaluating corruption risks.
8. Identify strategies and activities to mitigate the corruption risks.
9. Preparing the Corruption Risk Mitigation Plan.
10. Approving and adopting the Corruption Risk Mitigation Plan.
11. Implementing the Corruption Risk Mitigation Plan.

Step 1 – Evaluating the Operating Environment

Evaluating the operating environment involves understanding the entity's legal and administrative framework and functional areas (policies, laws, structure, strategic plans, size, geographical cover, programs, location, processes, and complexity among others).

This is a process of establishing the context, which include:

- i. Understanding the context of an entity's -vision, mission, regulatory framework, strategies, core activities, leadership commitment, ethical culture, etc;
- ii. Understanding the expectation of the top management;
- iii. Identifying External and Internal corruption risk factors;
- iv. Establishing Corruption Risk Assessment and Management Context; and
- v. Identification of stakeholders to be involved in the corruption risk assessment.

It is important for the CRA&M team to understand the entity to facilitate effective design of the risk assessment approach.

Step 2 – Identifying the target functional area(s) in the entity

Identify the major functional areas in the organization - such as the Core mandate; Governance and Operating Environment; Core functions; Institutional support functions

such as Financial Management, Supply Chain Management and Human Resource Management; and institutional oversight mechanisms by regulatory bodies, audits, and Monitoring & Evaluation among others. This may be guided by the organization structure as reflected in the organogram for the entity and or the scoping criteria highlighted in section 7.0

Step 3 - Mapping out the target functional area(s) in the entity

This involves identifying the key process areas/ sub functions within each functional area. Sub functions/processes in the following sample functional areas may include;

- 1) Human Resource Management – human resource planning, recruitment, promotion, training and development and disciplinary processes;
- 2) Finance – budgeting, revenue collection, expenditure, accounting and asset management; and
- 3) Licensing – application, evaluation and issuance of license.

Step 4 - Identifying systemic weaknesses /and opportunities

This involves analysing the existing policies, structures, procedures, processes and work practices to identify systemic vulnerabilities that may be exploited to perpetuate corrupt practices. These weaknesses may include; complex operational guidelines, inadequate capacity, uncontrolled discretionary powers, limited supervision, bureaucratic processes, inadequate accountability mechanisms and lack of access to information.

The approaches in systemic risk identification include:

- i. Formal and informal interviews with both internal and external stakeholders;
- ii. Focus group discussions;
- iii. Observation of processes and procedures relating to service delivery; iv. Conducting walk-through tests;
- v. Analysis of customer feedback reports;
- vi. Conducting Spot checks on operations; and
- vii. Reviewing Secondary sources of information such as policy documents; operational circulars and manuals; Internal and external audit reports; and other relevant operational documents.

Step 5 – Identifying Potential bribery and Corruption Malpractices

Identification of potential bribery and corruption malpractices involves generating a comprehensive list of systemic risks in each of the identified areas. It seeks to address the following:

- i. What could go wrong?
- ii. Why could it go wrong?
- iii. How could it happen?
- iv. What are the consequences if it went wrong?

See sample risk identification process for selected areas in **appendix i**

Step 6 - Analysing Corruption Risks

For each identified corruption risk:

- a) Examine the effectiveness and adequacy of existing controls if any (existing controls on risks) ;
- b) Assess likelihood and impact (consequences: - Potential losses / harm to the organization); and
- c) Assess time related factors and volatility (possibility of risk changing)

Step 7 – Evaluating Corruption Risks

- 1) Evaluate the risks using either or both qualitative and quantitative tools. Identify the significance of each of the risks, assess the possibility of these risks occurring and undertake a rating by considering factors such as:
 - i. The amounts of money which may be lost.
 - ii. Non-monetary risks such as time, information and threat to public safety.
 - iii. Previous history of corruption.
 - iv. The existing internal controls.
 - v. Public attitude.
 - vi. Legal liabilities.
- 2) Based on the evaluation, rank the risks in order of severity and likelihood of occurrence (High – medium – low). The Impact can be estimated in terms of financial loss or reputational loss in the case of a corruption scandal.

Assess the likelihood and magnitude (impact) of the risks using a risk-ranking matrix as illustrated below.

Table 1 : Risk Ranking Matrix

Impact	High (3)	3	6	9
	Moderate (2)	2	4	6
	Low-(1)	1	2	3
		Low-(1)	Moderate (2)	High (3)
	likelihood / Probability			

Table 2: Evaluation and Ranking of Corruption Risk

Situation	Score	Colour	Example
High	>6; ≤9	Red	Suit, loss of public funds, reputational damage
Moderate	>3; ≤ 6	Amber	Disciplinary action, Penalty
Low	>1; ≤ 3	Green	Some popular complaint, Customer Dissatisfaction

Step 8: Mitigation Strategies and Activities

- 1) For each identified corruption risk, review existing controls and determine the need for new or additional internal or external control mechanisms. (**see Appendix ii**)
- 2) Develop corruption risk mitigation strategies and activities for each of the identified risks. In selecting the best response to the identified risks, consider the following:
 - i. Relative effectiveness and costs of different options for managing specific risk areas.

-
- ii. In some instances, you may only need administrative action.
 - iii. In others, you may need to design new rules, regulations, and guidelines.
 - iv. Responses should be simple and understandable

Step 9– Preparing Corruption Assessment and Risk Mitigation Plan

- 1) Prepare the Corruption Risk Assessment and Mitigation Plan (CRAMP) to include responsibility, resources / budget and timelines. For details of the plan see **appendix iii. a & iii b**
- 2) The plan should be explicitly linked to other organizational plans such as the corporate/strategic plan, Budget, work plans, internal audit plan and other management plans.

Step 10 - Approving and adopting the Corruption Assessment and Risk Mitigation Plan

- 1) The Corruption Risk Assessment and Mitigation Plan be approved and adopted by the entity ; and
- 2) The CRMP be internally and externally publicized for ownership and acceptability.

Step 11: Implementing the Corruption Risk Assessment and Mitigation Plan

The management should embark on implementation of the approved CRAMP. The responsible departments to submit regularly reports to the Corruption Prevention Committee.

9.0 MONITORING, EVALUATION AND REPORTING

- 1) Monitoring and evaluation plays a crucial role in assessing the effectiveness of Corruption Risk Assessment and Management. It identifies gaps and weaknesses, and develop evidence-based strategies to prevent and deter corrupt practices.
- 2) The Entity shall establish a Monitoring, Evaluation, Reporting and Review mechanism to track and assess the effectiveness of corruption prevention strategies, identify gaps and undertake appropriate adjustments as required. This will entail development and implementation of monitoring and evaluation framework that is aligned to the institution’s CRAMP.

- 3) The Entity shall use the logic framework tool for designing, implementing and evaluating CRAM outlining the inputs, activities, outputs, outcomes, key performance indicators, resource requirement, key actors and reporting mechanism (**see appendix iv**).
- 4) M&E reports should be presented to the Board / management to provide independent assurance on the effectiveness of the corruption risk management process.

Monitoring by EACC

- 1) EACC shall undertake periodic monitoring of the implementation CRAMP through the review of the periodic progress reports submitted using the template indicated in **appendix v**.
- 2) EACC may conduct spot checks to assess the progress made on the implementation of the CRAMP by an Entity.
- 3) EACC may also undertake a systems review to provide quality assurance on an institutional risk management programme.



Corruption Risk Management Process (illustrated)

REFERENCES AND APPENDICES

REFERENCES

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- 6) GoK, (2016). Anti-Bribery Act. Government Printer: Nairobi, Kenya
- 7) GoK, (2016). Anti-Bribery Act. Subsidiary legislation (Anti-Bribery Regulations, 2022)
- 8) GoK, (2012). Leadership and Integrity Act. Government Printer: Nairobi, Kenya.
- 9) OAJ, (2018). National Ethics and Anti-Corruption Policy; Kenya Literature Bureau Report No. 2: Nairobi, Kenya.
- 10) United Nations Vienna, 2020 State of Integrity A Guide on Conducting Corruption Risk Assessments in Public Organizations by United Nations Office on Drugs and Crime (UNODC)
- 11) United Nations 2003 Guide on Anti-Corruption Policies by the United Nations Office on Drugs and Crimes (UNODC)

Appendix i. Sample risk identification process for selected areas in an entity

S/No.	Risk Area	Systems inadequacy/ vulnerability	Potential bribery/corruption practices	Mitigation strategy
1)	Operating Environment			
a)	Governance instruments	Inadequate dissemination of operational guidelines for implementation	Discretion in decision making leading to abuse of power for private gain	Timely dissemination of operational guidelines
b)	Organization structure	Lack of segregation of duties	Difficulties in detecting malpractices	Ensure segregation of duties between departments and staff
	Operational Functions			
2)	Education			
a)	Students database	Maintenance of admission registers that are not comprehensive. Missing data may include; date of birth of child, name of parent/guardian and contacts	Admission of learners who do not meet the minimum admission age	Maintenance of comprehensive students registers
b)	Disbursement of funds	Delays in disbursements to schools	Delays in payment of suppliers resulting to favoritism	Timely Disbursement of funds

c)	Instructional materials	Failure to use authorized learning materials	Ineffective delivery of intended curriculum	Use of the current list of approved publishers and related course materials
3)	Project Management			
a)	Project guideline	Lack of a harmonized guideline for project implementation, with	Issuance of conflicting procedures and inconsistency in	Development of a harmonized guideline that covers all project components

		most guidelines being fragmented and disseminated to the stakeholders in piecemeal.	decision making which may result to waste of resources	
b)	Project coordination	Lack of a central coordinating unit for various components of a project.	Duplication of roles, and inconsistencies in decision making which may result to waste of resources.	Establish a central unit to ensure coordinating of the various components of a project.
c)	Stakeholder engagement	Lack of a structured stakeholders' engagement in the initialization and implementation of the project	Non-cooperation by some stakeholders resulting to poor quality decisions.	Develop a structured framer for managing stakeholders
4)	Estate Management			
a)	House allocation	Lack of house allocation committees	Creates room for discretion and iits a loophole for bribery and extortion in the allocation of houses.	Constitution of house allocation committees

b)	Housing Inventory	Lack of updated housing inventory and building register is maintained and regularly updated	Loss of revenue and theft of Government property.	Maintenance of updated housing inventory and building registers
5)	Health Services			
a)	Community Health Services	Inadequate training, equipping and oversight over the work of community health workers.	Poor quality and costly health services	Training, equipping and oversight over the performance of the Community health services
b)	Management of Referrals	Lack of adequate mechanisms to discourage self-referrals to referral hospitals	Overburdening of the referral facilities leading to delays in provision of services. This may result to bribery	Establishment of adequate mechanisms to discourage self-referrals to referral hospitals
6)	Financial Management			
a)	Revenue collection	<ul style="list-style-type: none"> i. Lack of configuration of all sources of revenue in the system ii. Use of manual receipts on already automated streams iii. Lack of county laws to support some of the revenue streams iv. Lack of 100% banking of revenue collected v. Unauthorized bank accounts for 	<ul style="list-style-type: none"> Revenue leakage and use of parallel receipts and theft. Potential misappropriation of cash at hand Misuse of unmonitored/unreported revenue in unauthorized bank accounts 	<ul style="list-style-type: none"> i. Ensure the revenue management system is fully automated. ii. Enacting of county finance bills to support all revenue streams iii. Ensure 100% banking of revenue by close of business each day

		revenue collections		iv. Opening of all bank accounts to be authorized by the CEC Finance.
b)	Databases for traders and businesses	Lack of comprehensive databases for traders and businesses operating in a County	Difficulties in mapping out revenue sources and estimate revenue collection, and is also a loophole for bribery and exhortation	Ensure that databases for traders and are developed and updated.
c)	Payment	Payment vouchers not supported by any document or not properly supported Payment vouchers that not authorized or fully authorized	Potential payment for goods not delivered or service not rendered Payment of unauthorized expenditures Forgery that may lead to pilferage and loss of funds through fictitious payments	Ensuring; i. Examination of support documents to ensure they are genuine ii. All payment vouchers are sufficiently supported iii. Payment vouchers and evidence are stamped paid after payments are done.
7)	Supply Chain Management			

a)	Treasury Policy Repository	Failure maintain a central repository for filing all the policy guidelines, circulars and instructions issued by the National Treasury and County Treasury	Lack of awareness of existing policy requirements resulting to difficulties in complying with procurement policies and irregularities	Ensure that a central repository is maintained and updated every time a policy guideline is issued by the National Treasury or County Treasury
b)	Tendering	Inadequate instructions in bid document.	Engagement of suppliers who are not eligible	Provision of adequate information in bid documents
c)	Minutes of procurement proceedings	Inaccurate minutes of proceedings of committees such as tender opening and evaluation committees.	Manipulation of minutes to provide the wrong representation of committee deliberations	Ensure that accurate minutes of committees deliberations are maintained
8)	Records Management			
a)	Records Management	Unauthorized access to records	Manipulation and theft of records	Ensure that records of are adequately secured and access restricted to authorized personnel.

b)	Storage space and facilities	Inadequate storage space and facilities	Loss of documents and difficulties in retrieval creating avenues for malpractices in the movement of records.	
9)	Oversight functions			
a)	Audit of automated Systems	Lack of access rights to automated systems	Perpetration of irregularities, malpractices and embezzlement of funds through the systems without prompt detection	Ensure that automated systems are audited.
b)	Audit Recommendations	Failure to implement audit recommendations	Failure to institute adequate controls leading to continuous perpetration of malpractices and loss of resources	Ensure audit recommendations are implemented.

Appendix ii. Examples of control mechanisms in an entity

Factors that comprise an organization's internal control environment
<ol style="list-style-type: none">1. Personal and professional integrity of personnel, including support for internal controls2. Commitment to competence3. Management's philosophy and style (tone at the top)4. Organizational structure5. Organizational culture.6. Human resource policies and procedures
Assessing how external factors affect an organization's corruption mitigation plan
<ul style="list-style-type: none">• What are the laws governing the organization's operations and what powers do they grant to the organization?• Which government bodies oversee the organization? The parliament, County Assembly, Office of the Auditor General, the courts?• How do these bodies react to reports of corruption?• Who investigates corruption allegations? An internal inspector, the police or an anti-corruption body?• Who are the organization's stakeholders?• Are the stakeholder's interests aligned with those of the organization?• Which civil society groups monitor its behaviour?• How much media coverage does the organization receive?• To what extent are formal rules and institutions adhered to?• Do informal institutions influence the organization's operations or the behaviour of its stakeholders?

Appendix iii: a. Template for Developing Corruption Risk Assessment and Mitigation Plan

NAME OF INSTITUTION

..... **a.**

CORRUPTION RISK ASSESSMENT

S. No	Identified Risk (what could go wrong)	Risk source (why would the risk event occur)	Ranking		
			Probability (Pr)	Impact (IM)	Score (Pr X Im)
			Scale 1 to 5	Scale 1 to 5	Scale 1 to 25
1.					
2.					
3.					
4.					

Appendix iii: b. Template for Developing Corruption Risk Assessment and Mitigation Plan

NAME OF INSTITUTION

b. CORRUPTION RISK MITIGATION PLAN

S.No	Identified Risk (what could go wrong)	Mitigation strategy (mechanisms, policies and procedures to address the risk)	Activities	Indicators (KPI)	Target	Output	Indicators (KPI)	Target	Resources (e.g. Budget)	Timeframe	Responsibility
1.			a. b. c.	a. b. c.	a. ... b. ... c. ...	a. b. c.	a. b. c.	a. ... b. ... c. ...			
2.											
3.											

4.											
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Appendix iv. Monitoring, Evaluation and Reporting Template

MONITORING AND EVALUATION LOGIC FRAMEWORK

NAME OF INSTITUTION

Functional Area 1								
Identified Risk								
Mitigation Strategy								
Design Elements	Description	Key Performance Indicator	Periodicity/ Frequency	Data Source	Baseline	Target	Achievement	Responsibility
Outcome								
Output								
Activities	1. 2.							
Functional Area 1								
Identified Risk								

Mitigation Strategy								
Design Elements	Description	Key Performance Indicator	Periodicity/ Frequency	Data Source	Baseline	Target	Achievement	Responsibility
Outcome								
Output								
Activities	1. 2.							

Appendix v. Template for submitting implementation progress reports

Name of Ministry/Institution: **Quarter:**

.....**FOR FY** /

S.No	Identified Risks – (as per the CRAMP)	Mitigation/Prevention Measure - (as per the CRAMP)	Activities implemented –as per the CRAMP)	Outputs achieved	Emerging issues and challenges noted during implementation	Actions to address the issues and challenges
	FUNCTIONAL AREA 1					
1.						
2.						
3.						

4.						
	FUNCTIONAL AREA 2					
1.						
2.						
3.						
4.						

