KENYA URBAN ROADS AUTHORITY

Efficient and Safe Urban Roads

WHISTLE BLOWING POLICY

November 2016

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LIST OF ACRONYMS

ACECA	-	Anti – Corruption & Economic Crimes Act (2003)
BOD	-	Board of Directors.
CPC	-	Corruption Prevention Committee.
DG	-	Director General.
EACC	-	Ethics and Anti-Corruption Commission
GOK	-	Government of Kenya.
GM	-	General Manager
HOD	-	Head of Department.
IAOs	-	Integrity Assurance Officers
EACC	-	Ethics and Anti – Corruption Commission.
KURA	-	Kenya Urban Roads Authority.
POEA	-	Public Officers Ethics Act (2003).
PSIP	-	Public Service Integrity Program.

FOREWORD

Kenya Urban Roads Authority (KURA) is a State Corporation established under the Kenya Roads Act, 2007. The development of this whistle blowing policy is a reflection of the Authority's commitment to fighting corruption at the work place.

The policy is intended to internalize the requirements under the Leadership and Integrity Act, 2012 which provides procedures and mechanisms for effective administration of Chapter Six of the Constitution of Kenya 2010.

The Authority is committed to high ethical standards including honesty, accuracy, co-operation, tolerance, acceptance of obligations as well as rights, accountability to our clients, the public and the government. Unethical behaviour can cause damage to the Authority's reputation and image. The development of this Whistle Blowing Policy demonstrates the Authority's due care and diligence in fighting corruption and assists in achieving its objectives.

The policy provides for avenues for members of staff, clients of the Authority and the general public to provide information, without fear of victimization, on conducts that may lead to corrupt practices.

Minimization of corruption and development of a corruption resistance culture is an obligation of all KURA employees. Progress will be monitored from time to time by the concerned organs.

On behalf of the Kenya Urban Roads Authority, I wish to express gratitude to all members of the Authority for their continual cooperation towards creating a working environment free from potential, perceived or actual influence of unethical practices.

Eng. Silas M. Kinoti
Ag. Director General

1.0. BACKGROUND

1.1. Introduction

The whistle blowing policy focuses on the Authority's commitment to protect and prohibit victimization of persons who provide information in good faith.

1.2. Objective

This policy is developed in furtherance of and upholding of Article 10 of the Constitution of Kenya on National values and Principles of Governance and its operationalization in the Leadership and Integrity Act, 2012 in tandem with the Witness Protection (amendment) Act, 2010.

1.3. Definitions

Whistle blowing is defined as deliberate, voluntary disclosure of individual or organizational wrongdoing by a person who has access to data, events, or information about an actual, suspected or anticipated wrongdoing within the Authority.

Whistle blower refers to any representative who attempts tp make or wish to make a report in connection with a wrongful act under this policy and wish to avail themselves of the protection offered within the Authority.

Wrongful act includes but not limited to:

- Breaches of legal obligations or miscarriage of justice
- Criminal offences
- Mismanagement of funds
- Actual or suspected fraud
- Abuse of authority
- Health and safety risks, including risks to the public as well as other employees
- Damage to environment
- Sexual or physical abuse of clients
- Concealment of any of the above

2.0. THE POLICY

2.1. Statement

Kenya Urban Roads Authority (KURA) is committed to ensuring the highest possible standards of care and ethics in delivering the services it provides.
Board members and employees are expected to act with integrity by consistently upholding the highest standards of honesty and truthfulness. They should not use their positions to inappropriately obtain an advantage for themselves or to advantage

or disadvantage others" and should take all possible steps to prevent and resolve any real, apparent or potential conflicts of interest between their official responsibilities and their private affairs.

The Authority recognizes that an important aspect of accountability is to have a mechanism to enable all individuals to voice their concerns, when they discover information they believe shows serious malpractices, in a responsible and effective manner.

The Authority appreciates the difficulty staff may face in voicing concerns and therefore assures them of support and confidentiality during investigation process.

Where the Authority concludes that false or malicious allegations have been made it may be necessary to take action under the Authority's disciplinary procedures against the complainant.

The authority will not retaliate or discriminate against any employee or person who submitted a complaint in good faith.

Specifically, the Authority will not discharge, demote, suspend, threaten, harass, or in any way discriminate against any employee who lawfully provides information to the authorities regarding any wrongful acts.

Where this policy is in conflict with any Act enacted by Parliament, then the Act will take precedence over this policy.

2.2. Application

This policy is applicable to the Board of Directors, Management and all staff at the headquarters, Sections, the Regions and includes all the Authority's Agents in the Republic of Kenya. The Policy also applies to the general public and those contractors working for the Authority or suppliers providing services under a contract with the Authority.

2.3. Responsibilities

2.3.1. All staff are duty bound to ensure that the best possible standards of care are achieved and to act in accordance with their professional codes of conduct.

2.3.2. Staff are encouraged to:

- Report any form of unethical behaviour, a contravention of the Authority's code of ethics or raise any concerns of unethical or improper actions that might compromise the provisions of the code of ethics
- Raise concerns in good faith with the true belief that a malpractice has occurred
- Not raise concerns with any malicious intent or vexatious nature
- Raise concerns with an appropriate officer outlined in this policy

2.3.3. Any person who has reason to believe that the actions of a member of the Authority do or could constitute a wrongful act should raise the matter with the following:

i.) Board of Directors
ii.) Director General
iii.) General Managers, Head of Departments/Sections, Regional Managers or Supervisors
iv.) Head of Internal Audit
v.) Secretary of the Corruption Prevention Committee
vi.) Integrity Assurance Officers (IAOs)
vii.) Confidential reporting hotline number: **0202722222 or email to: info@kura.go.ke**

2.3.4. Persons who are the first recipients of reports have a duty to:

- Treat concerns in a confidential manner
- Take staff concerns seriously
- Consider them carefully including undertaking investigations
- Establish an enabling environment which ensures that corrective measures are taken to address any operating procedures that may contribute to such violations
- Seek appropriate advice
- Take appropriate action to resolve the concern or refer it on to an appropriate person
- Keep the whistle blower informed of the progress and monitor and review the situation

2.4. Protection of Informers/Witnesses

KURA undertakes to duly protect any person(s) from within and outside the Authority who makes corruption disclosure(s) and any supplied information and data will be managed confidentially. For any disclosure(s) whatsoever of such information, can only be released with the consent of the supplier. KURA staffs are particularly encouraged to freely report corruption activities affecting the Authority on account that they are also stakeholders and are committed to eradicating corruption and all other integrity vices from their Authority.

The Authority commits to implement internal mechanisms that encourage and protect whistle blowing on corruption and unethical conduct.

The Authority commits to the protection of identity of whistle blowers, informers and witnesses in recognition of legislative requirements for protecting staff/persons who make disclosures of corruption, maladministration and substantial waste.

The Authority shall protect the identity of persons making corruption disclosures and information that might identify the person making the disclosure shall be released unless the same is first discussed with the person.

In addition the Authority commits to protect and prohibit victimization of persons who provide information in good faith.

The Authority shall not retaliate nor tolerate retaliation against any person who brings an issue to its attention in good faith.

2.5. Principles

- All representatives have an obligation to report wrongful acts or suspected acts in accordance with this policy
- All representatives have a right to speak and honestly to report wrongful acts in a safe environment without fear of retaliation or reprisal
- All concerns raised will be treated fairly and properly
- The Authority will respond in a timely, respectful and confidential manner to all disclosures of wrongful acts

2.6. Confidentiality

- The Authority will protect the confidentiality of all matters raised
- All correspondences entered into the whistleblowing process is absolutely confidential whether a person making the disclosure to remain anonymous or not.
- The substance of an investigation including the identities of the parties to it will remain confidential and will only be disclosed with the consent of the complainant.
- However when a report is investigated, at some point it may be necessary to disclose the facts and the substance of the report to the person who is the subject of the report
- Unauthorised disclosure of information relating to a report, identity of the whistle blower will be regarded seriously and may result in disciplinary action, which may include dismissal.

2.7. Anonymous allegations

- This Policy encourages all whistle blowers to put their name to the allegation whenever possible.
- To the extent possible any complaint should be factual rather than speculative or conclusory, and should contain as much information as possible to allow for proper assessment.
- Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Authority. While exercising this discretion, the factors to be taken in to account would include:
  - i.) The seriousness of the issues raised
  - ii.) The credibility of the concerns
  - iii.) The likelihood of confirming the allegations from attributable source

2.8. False Disclosure and untrue allegations

- The Authority will treat all disclosures of wrongful acts seriously and protect staffs that raise concerns in good faith.
- However deliberate false reports will not be tolerated and anyone found making a deliberate false claim or report will be subjected to disciplinary action, which could include dismissal.
- This Policy encourages all whistle blowers to put their name to the allegation whenever possible.

3.0. WHISTLE-BLOWING PROCEDURES

3.1. Raising a Concern

3.1.1. By Staff

When staffs have an issue or concern to raise the may utilize the following channels:

- i.) Report to the immediate supervisor
- ii.) If discussion with the immediate supervisor are fruitful the case shall be investigated and resolved forthwith
- iii.) If the discussion with the immediate supervisor are not fruitful or if inappropriate or highly confidential, staff may report directly using the channels in 1.5 above of this policy
- iv.) Staff are entitled to channel concerns to other relevant agencies, which may include:
  - a) The Office of the Auditor General

b) A relevant professional or regulatory body
c) Efficiency Monitoring Unit (EMU)
d) Ethics and Anti-Corruption Commission (EACC)
e) Department of Criminal Investigation (DCI)
f) Witness Protection Agency
g) The Ombudsman Office

3.1.2. By the general public

Information received through whistle blowers will be forwarded to the Corruption Prevention/Integrity Committee for deliberations. The CPC may refer cases to the Internal Audit Department for reviews or to the Disciplinary Committees for action under disciplinary procedures of the Authority.

Depending on the veracity of the claims/information received or the persons involved in relation to whistle blowing, serious crimes shall be forwarded directly to the relevant investigative agencies.

3.2. Internal structures to handle concerns

3.2.1. Corruption Prevention/Corporate Integrity Committee (CPC)

The Authority shall regularly reconstitute the Corruption Prevention Committee in line with guidelines in the performance contracting.

The composition of CPC will be heads of departments of the key functional areas of the Authority.

The role and functions of the KURA CPC will include:-

i.) Setting priorities in the prevention of corruption within the Authority
ii.) Planning and coordination corruption prevention strategies
iii.) Integrating all corruption prevention initiatives in the Authority
iv.) Receiving and reviewing reports on corruption prevention initiatives and recommend appropriate action
v.) 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
vi.) Spearheading anti-corruption campaigns within their jurisdiction
vii.) Monitoring and evaluating the impact of corruption prevention initiatives
viii.) Preparing and submitting quarterly progress reports to the performance contracting steering committee

3.2.2. Integrity Assurance Officers

The Director General will appoint suitable members of staff as Integrity Assurance Officers (IAOs). The IAOs will be trained by the Commission. The IAOs will assist the CPC in preventing, detecting and responding to these risks. Qualified IAOs are expected to serve as change champions in the Authority and in particular to assist the management mainstream corruption prevention strategies and perform any duties as assigned by the Director General.

3.2.3. Internal Audit Reviews

Internal Audit plays a crucial role in the prevention and detection of corruption within the Authority. The Audit Department provides an institutionalized mechanism for supervision, control and review of operational systems within the Authority. Regular audits are important to assess the nature and extent of any fraud and corruption risk.

The CPC may conduct investigations separately or jointly with the Internal Audit Department.

4.0. TRAINING AND DISSEMINATION OF POLICY

The Authority will ensure that staff at all levels are sensitized and trained on matters related to ethics and integrity as well as whistle blowing.

Specifically the Departmental/ Divisional/ section heads and section heads will:

i.) Ensure that the contents of this policy are communicated to all employees under them and that they have access to copies of the policy.

ii.) Management shall establish and appoint members to the Corruption Prevention Committee.

iii.) CPC will monitor and evaluate the implementation of this policy at all levels and stages on quarterly basis.

iv.) Ensure the Policy shall be placed on the website

5.0. FURTHER POLICY DEVELOPMENT AND REVIEW

i.) The policy is subject to review as Management may determine

ii.) The Policy will be reviewed from time to time to ensure that it remains relevant to the needs of the Authority at all levels and aligned to relevant legislations enacted periodically. Suggestions about the updating of material in this document should be made to the CPC Secretary, KURA.

6.0. RESOLUTION

Board members, the Public and employees of the Authority are expected to be guided by this Policy. The Board members and Management are expected to resolve issues in a fair and respectful manner and consider informal processes such as dialogue or mediation.

In the event of an ethical dilemma or dispute, Board members and Management may seek advice and support from other appropriate sources such as the Ethics and Anti-Corruption Commission (EACC), and any other oversight body.

APPROVED AND ADOPTED BY THE MANAGEMENT OF KENYA URBAN ROADS AUTHORITY on this …30TH …… day …NOVEMBER….. 2016

7.0. EFFECTIVE DATE

Issued this, 30th day of NOVEMBER, 2016.

Signed: ………………………………………………………………

DIRECTOR GENERAL (KURA)