

24th May, 2010

OP.CAB.3/77A

**The Attorney General
All Permanent Secretaries/Authorized Officers
All Chief Executives of State Corporations**

GUIDELINES ON HANDLING OF CASES OF PUBLIC OFFICERS WHO ARE SUSPECTED OF INVOLVEMENT IN CORRUPT PRACTICES

Your attention is drawn to the resolutions adopted at the Workshop on Strategies to fight and eliminate corruption in the Public Service for Permanent Secretaries/Accounting Officers and Chief Executives of State Corporations at the Kenya Institute of Administration (KIA) from 5th to 6th February, 2010.

In particular, the commitment to implement the directives by H.E. the President and the Rt. Hon. Prime Minister respectively to fight corruption and urgently take steps to restore the integrity of the Public Service is pertinent. In this connection it was resolved to, among other actions, exercise firmness in the execution of laws and regulations and expeditiously deal with corruption cases.

It was observed at the KIA Workshop that the delays in resolving suspected corruption cases as a result of elaborate legal procedures often led to perceptions by the public that the Government is unwilling or unable to take decisive action on affected officers. It was therefore resolved that while the legal process takes its course, administrative measures will be applied in expeditiously dealing with these cases.

In order to move forward in this respect, it has been found necessary to provide guidelines for Permanent Secretaries/Authorised Officers and Chief Executives of State Corporations to follow in instituting administrative action in the respective Ministries/Departments and State Corporations. These guidelines do not in any way preclude legal action, where necessary, against public officers under investigations.

Once an officer is suspected of corrupt practices within a Ministry or State Corporation, the Permanent Secretary/Authorised Officer or Chief Executive will be required to immediately institute investigations in accordance with the laid down procedures. In addition, the following steps will be taken as appropriate:-

1. If it is deemed that the investigations may entail disciplinary proceedings that could lead to dismissal, the officer should be interdicted or suspended in accordance with the provisions of the relevant regulations.
2. Whenever investigations have to be undertaken, the Authorised Officer shall appoint a Committee with specific Terms of Reference. The committee members shall be officers who are senior to the officer under investigation and they shall be independent. In the case of a Local Authority or State Corporation, the relevant committee shall carry out the investigation. The Committee will be required to complete investigations within one month.
3. At the end of the investigations, the committee shall prepare an investigation report which shall include:
 - (a) The issues for investigation as communicated by the Permanent Secretary/Authorised Officer or Chief Executive;
 - (b) The oral and documentary evidence availed on each issue and the names of the witnesses if any;
 - (c) The representations by the officer under investigation including any documentary evidence submitted by the officer.
 - (d) The conclusions or findings on each issue; and
 - (e) A statement of opinion by the committee on any of the issues as well as any material information aggravating or mitigating the case.
4. Where internal investigations reveal that a serious criminal offence may have been committed and that further investigations may need to be instituted, external investigators including the Police, Efficiency Monitoring Unit, Inspectorate of State Corporations, Kenya Anti-Corruption Commission, the Kenya National Audit Office or any other agency authorized under the law may be called in to assist. These second tier investigations should be concluded within two months.

5. The Authorised Officer will inform the Minister immediately a decision to institute internal investigations is made. If it is found necessary to involve external investigators, the Authorised Officer will inform the Office of the Prime Minister and the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service. The Terms of Reference for the external investigators will at the same time be made available to these two offices.

The Chief Executive of a State Corporation will be required to inform the Board of Management and the Permanent Secretary of the parent Ministry.

6. On receipt of the investigating Committee's report, the Permanent Secretary/Authorised Officer or Chief Executive will make a decision on the next course of action including forwarding the Report to the Public Service Commission or the Board of Management as the case may be.
7. Where the Authorized Officer or Chief Executive is the subject of investigations, the office of the Prime Minister and that of the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service will take action and if necessary initiate investigations in liaison with the respective Minister or Chairman of the Management Board.
8. In conducting investigations and in processing any related disciplinary cases, Permanent Secretaries/Authorised Officers and Chief Executives are advised to correctly interpret and strictly adhere to the procedures laid down in laws and regulations in order to safeguard the rights of the affected officers and those of the Public.

It is paramount that the guidelines are strictly followed to ensure that administrative action in dealing with suspected cases of corruption by public officers is taken without delay and in accordance with relevant laws and regulations.

Amb. Francis K. Muthaura, EGH
PERMANENT SECRETARY, SECRETARY TO THE
CABINET AND HEAD OF THE PUBLIC SERVICE

CC: H. E. The Vice President and Minister for Home Affairs

The Rt. Hon. Prime Minister

The Deputy Prime Ministers

All Ministers

All Assistant Ministers

The Inspector General, Inspectorate of State Corporations