

Public Procurement
and Disposal of
Assets Authority
(PPDA)

Corruption
Prevention Policy



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FOREWORD

On 5th February 2007, during the commemoration of the **National Anti-Corruption Day**, the State President launched the Governance and Corruption Baseline Survey Report. On the same day, the State President and other stakeholders signed the Declaration for Zero Tolerance on Corruption pledging their commitment in the fight against corruption in Malawi. That declaration set off a series of activities including the drafting of the **National Anti-Corruption Strategy (NACS)** by the **Anti-Corruption Bureau (ACB)**.

The **National Anti-Corruption Strategy (NACS)** was launched by His Excellency the State President Ngwazi Professor Bingu wa Mutharika at COMESA Hall in Blantyre on 5th February, 2009. The Strategy has three main objectives

- i) Promoting integrity, transparency, accountability and improving service delivery in all sectors
- ii) Promoting involvement of members of the public in fighting corruption; and
- iii) Strengthening corruption prevention and promoting integrity in all sectors

The main thrust of the Strategy is the establishment of a **National Integrity System (NIS)** The focus of the NIS is the establishment of a **National Integrity Committee (NIC)** comprising heads of sectors to oversee and guide the

implementation of the National Anti-Corruption Strategy. Furthermore, the strategy required that institutions should establish **Institutional Integrity Committees (IICs)** in all the sectors. The IICs are to spearhead the development of anti-corruption programs within their specific institutions and report cases of corruption to relevant authorities such as the ACB. The Public Procurement and Disposal of Assets Authority established its Institutional Integrity Committee in 2010.

In implementing the **National Anti-Corruption Strategy (NACS)** the Public Procurement and Disposal of Assets Authority (PPDA) through the IIC has developed the Corruption Prevention Policy. The main objective of this Policy is to set and promote a culture that is intolerant to fraud and corruption at the PPDA and to provide guidelines and procedures for preventing, detecting, reporting and investigating fraud and corruption.

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This Corruption Prevention Policy is designed to assist the PPDA to promote integrity, transparency, accountability, improve service delivery, promote good governance and to contribute positively to social and economic development of this country

DIRECTOR PUBLIC PROCUREMENT AND DISPOSAL OF ASSETS AUTHORITY

1.0 INTRODUCTION

- 1.1 This Corruption Prevention Policy outlines the position of the PPDA on corruption and fraud in its provision of services to the public in Malawi.
- 1.2 The policy has been developed as a result of Malawi government's stand of zero tolerance to corruption in all its activities
- 1.3 The policy is a framework guiding staff and stakeholders on how to fight fraud and corruption within the operations of the PPDA
- 1.4 Compliance with the provisions of this policy is compulsory

2.0 DEFINITIONS AND ACRONYMS

- 2.1 '**Abuse of privileged information**', refers to using privileged information and knowledge which a person holds by virtue of his/her position or by virtue of being an employee or official of the PPDA to give unfair advantage to another person or organization to obtain an advantage. Such information includes but is not limited to an unpublished tender
- 2.2 '**Abuse of official discretion or position**', refers to using authority or discretion or any responsibility or

position entrusted in relation to any matter involving the PPDA to improperly benefit oneself or another person, employee, or another organization in exchange for a benefit whether directly or indirectly. Benefiting includes but is not limited to obtaining of an advantage, wealth, property, profit or business interest for oneself or another person.

2.4 ‘**Bribery**’ refers to the offering, giving or receiving or demanding of a benefit which can be money or something non-monetary in order to unduly influence an action or decision of the employee of the PPDA.

2.5 ‘**Custodian of the Policy**’ refers to the person designated to oversee and coordinate the implementation and enforcement of the provisions of this Policy. Under this Policy, it refers to the Director of the PPDA.

2.6 ‘**Conflict of Interest**’ refers to a situation which raises a potential conflict between personal or private interest and the interest of the PPDA which may reduce the likelihood of an objective and independent judgment to be exercised by the person involved

2.7 ‘**Corruption**’ refers but is not limited to any improper acts and practices including omissions which involve the misuse or influencing of official position

or entrusted responsibility for private gain.

- 2.8 **‘Corrupt Practice’** means the offering, giving, receiving, obtaining or soliciting of any advantage to influence the action of any public officer or any official or any other person in the discharge of the duties of that public officer, official or other person; influence peddling; or the extortion of any advantage.
- 2.9 **‘Director’** refers to the person holding the office of the Director of the Public Procurement and Disposal of Assets Authority.
- 2.10 **‘Embezzlement’** refers to the taking or using of money, property or valuable items belonging to the ODPP that has been placed in one’s trust by virtue of their position, for one’s selfish purpose.
- 2.11 **‘Employee’** refers to any person under the employment of the PPDA whether such employment is temporary, permanent, part-time, paid or unpaid and includes contracted staff and consultants
- 2.12 **‘Extortion’** refers to the demanding or obtaining of money or benefits from another (usually clients) in exchange for official action through the use of threats, coercion, or intimidation. It also refers to the charging of unauthorized fees or payments in exchange for official action or services.
- 2.13 **‘Favoritism or nepotism’** is defined as the

assignment of appointments, services, opportunities or resources according to family ties, party affiliation, tribe, religion, sect and other preferential groupings.

- 2.14 ‘ **Fraud** refers to irregularities such as false statements, forgery, evasion, manipulation of information or documentation and other illegal acts which are made willfully with the intention that they should be acted upon by another, resulting in actual or potential prejudice to another
- 2.15 ‘ **Influence Peddling**’ refers to using influence or connections with persons in authority to obtain favors or preferential treatment for oneself or another person in return for an advantage
- 2.16 ‘**Stakeholders**’ refers to all those individuals and entities that are involved in one way or another in the activities of the PPDA such as Government Ministries and Departments, funding and development partners, civil society, implementing agencies, banks etc
- 2.17 PPDA__refers to the Public Procurement and Disposal of Assets Authority
- 2.18 ‘ **IIC**’ refers to the Institutional Integrity Committee at the Public Procurement and Disposal of Assets Authority

- 2.19 **Victimization** in the Policy includes but is not limited to physical or verbal intimidation, physical or emotional harm, suspension or occupational detriment, denial of service or other actions inflicted directly or indirectly.
- 2.20 **'Whistle-blower'** refers to an employee, institution or any other person who reports any suspected breach of the provisions of this Policy or gives information concerning a suspected breach of the provisions of this Policy during an investigation.

3.0 OBJECTIVES OF THE POLICY

The objectives of this Policy are to

- a) Promote a culture in the PPDA that is intolerant to fraud and corruption;
- b) Provide a basis for the implementation of a range of measures to detect and prevent fraud and corruption in all the activities of the PPDA
- c) Provide a clear statement to employees and stakeholders of the PPDA forbidding any corrupt and fraudulent activity in order to create a corrupt free environment; and
- d) Provide guidelines and procedures for preventing, detecting, reporting and investigating fraud and corruption.

4.0 SCOPE OF THE POLICY

The Policy covers all fraudulent and corrupt practices involving management, employees and other stakeholders including politicians, other people in influential positions, private and public entities when they directly or indirectly transact with the PPDA.

5.0 RELATED POLICIES AND LEGISLATION

The Policy supports and complements the PPDA Conditions of Service and other Policies and relevant pieces of Legislation governing the operations of the PPDA as follows

- a) Constitution of Malawi
- b) Public Procurement Act
- c) Public Finance Management Act
- d) Public Audit Act
- e) Corrupt Practices Act
- f) Employment Act
- g) Malawi Public Service Regulations
- h) Public Procurement Regulations
- i) Public Asset and Disposal Management Regulation (draft)
- j) Supply Management Regulations (draft)
- k) Ethical Standards for Procurement Personnel;
- l) Ethical Standards for Suppliers
- m) PPDA Terms and Conditions of Service

- n) HIV and AIDS Policy; and
- o) Relevant circulars.

6.0 FORMS AND EXAMPLES OF FRAUD AND CORRUPTION

6.1 Fraud

Examples:

- a) *Registration of supplier who is not eligible; such as those who are not registered with Registrar of Companies, or those who are not registered with the MRA or those who tender fake registration information*
- b) *Claiming or receiving of travel allowances for a trip that is not undertaken*
- c) *Knowingly tendering of false documents by staff*

6.2 Abuse of official discretion or position

Examples:

- a) *Obtaining of an advantage, wealth, property, profit or business interest for oneself or another person using the authority and discretion conferred on one's position.*
- b) *Recruitment of PPDA staff based on factors other than merit*

6.3 **Abuse of privileged information**

Examples:

- a) *Disclosure of tender awards to suppliers before the procuring entity has done so*
- b) *Providing privileged information such as standard bid response or competitor's data to preferred bidder to enable them submit a winning bid*

6.4 **Bribery**

Examples:

- a) *Receiving or demanding a benefit for the purpose that the PPDA should make a decision in favour of a supplier or service provider and to avail upon a procuring entity to award a contract to that supplier or service provider even when the entity would not have selected that supplier or service provider*
- b) *Accepting a bribe in cash or in kind in order that the PPDA should favour the bidder in its submissions*

6.5 **Embezzlement**

Example:

- a) *Unauthorized use or theft of organization time, cash or assets for personal gain*

6.6 **Extortion**

Examples:

- b) *Charging fees beyond the prescribed amounts in order to register a supplier*
- c) *Extracting cash or other benefits by using threats to suppliers for them to register with the PPDA.*

6.7 **Favoritism or nepotism**

Example:

- a) *Recruitment or promotion that is not based on merit but affiliation of one kind or another*

6.8 **Influence Peddling**

Examples:

- a) *Exerting pressure on the Director or any other officer to approve a tender that has been rejected by a Procuring Entity*
- b) *Suppliers being allowed to use their familiarity with PPDA officials or other people in authority to intimidate procuring entities into awarding contracts to them*

7.0 REQUIREMENT TO DISCLOSE A CONFLICT OF INTEREST

7.1 When faced with a situation of possible conflict of interest, employees of the PPDA and other persons participating in decision making involving activities of the PPDA, shall declare this and shall not in any way participate in the matter or decision under consideration

7.2 The declaration shall be made using the approved Conflict of Interest Declaration form.

7.3 Any employee that fails to declare a conflict of interest or makes a false declaration shall be liable to disciplinary action

8.0 DETECTION AND PREVENTION OF FRAUD AND CORRUPTION

8.1 For the purposes of this policy, the following are considered high risk areas in the operations of the PPDA

- a) Registration of suppliers
- b) Procurement;
- c) Prior and post review of procurement submissions
- d) Human Resource activities such as recruitment,

- training
- e) Monitoring and enforcement
 - f) Finance management
 - g) Fleet management
 - h) Mailing system
 - i) Supply management
 - j) Data and information management; and
 - k) Disposal of assets

8.2 The Director in liaison with Heads of Department shall develop and implement specific fraud and corruption prevention programs to ensure that appropriate measures are put in place to mitigate against the risks in these areas

8.3 The Director shall ensure that an appropriate environment is created to promote detection and prevention of fraud and corruption.

8.4 The Director shall among other measures ensure that employees understand that internal controls are intended to prevent and detect fraudulent and corrupt activities, encourage employees to report suspected fraud and corruption without fear of disclosure or retribution; and require that suppliers and contractors abide by the Policy

8.5 The Internal Audit Office shall review and recommend policies and procedures to prevent, detect and monitor corrupt conduct in operations

within the PPDA. The office shall ensure that an appropriate risk profile for the PPDA exists and is updated annually

8.6 The Director shall develop, disseminate and enforce guidelines for managing conflict of interest, regulating gifts and other forms of entertainment for staff and other persons covered by this Policy

9.0 PROCEDURES FOR REPORTING SUSPECTED FRAUD AND CORRUPTION

9.1 If there is suspected **fraud, corruption and other breaches of this Policy**, this shall be reported to the Custodian of the Policy as follows

- a) By Phone on **01 788 111/506** or
- b) By Letter to the following address: The Director Public Procurement and Disposal of Assets Authority **Private Bag 383, Capital City, Lilongwe 3** or
- c) By e-mail **director@ppda.mw**
- d) By Fax: **01 789082** or
- e) In person or
- f) Suggestion box

9.2 If there is suspected fraud or corruption and other breaches of the Policy involving the Custodian/Director; this shall be reported to the Chief Secretary or the Director of the Anti-Corruption

Bureau at the following contacts

The Chief Secretary
Office of the President and Cabinet
Private Bag 301
Lilongwe 3
Telephone 01 776 086/01 776 089
Fax 01 788 456

Or

The Director
Anti-Corruption Bureau
P.O. Box 2437
Lilongwe
Telephone 01 770 166
Fax 01 770 108
Or 113 (Toll free Line)

9.3 The Custodian shall keep a Confidential Register which will contain details of all cases of suspected fraud or corruption reported, including those where there is no evidence of a fraudulent or corrupt practice

9.4 Any employee found to have made reports which are false and made with malicious intent shall face disciplinary action. However, allegations made in good faith but not confirmed by the investigation shall not be liable for disciplinary action.

9.5 Employees and those covered by this Policy are encouraged to indicate their names on all reports of suspected fraud, corruption and other regularities unless these are reported through Tip Offs Anonymous.

9.6 Anonymous reports made internally shall be investigated at the discretion of the Director taking into consideration the seriousness of the suspected fraud, corruption or other irregularities raised in the report, credibility of the report; and the likelihood of confirming the reported corruption and other irregularities.

10.0 PROTECTION OF WHISTLE-BLOWERS

10.1 Where an employee has acted in good faith in reporting suspected fraud, corruption or other breaches of this Policy or in providing information during an investigation into suspected fraud, corruption or other breaches of the Policy, the Director shall take all reasonable steps to protect them against victimization

10.2 All acts of victimization shall be reported using procedures outlined in section **9.0** above

11.0 PROCEDURES FOR INVESTIGATING FRAUD AND CORRUPTION

11.1 Reports of suspected fraud, corruption or other breaches of this Policy made internally shall be assessed by the Institutional Integrity Committee or a task team appointed by it and shall make appropriate recommendations to the Director

11.2 Reports of suspected fraud, corruption or other breaches of this Policy reported internally may be investigated internally or referred to external agencies such as the Anti-Corruption Bureau

11.3 The Director has the mandate to authorize investigations into all reports of suspected fraud, corruption or other breaches of this Policy made internally subject to recommendations from the IIC with the exception of breaches by himself.

11.4 The Director may, subject to recommendations from the IIC or if he deems appropriate, decline to authorize an investigation into any report of suspected fraud, corruption or other breaches of this Policy reported internally if he is satisfied that the report is trivial, frivolous, vexatious or not made in good faith; or the investigation would be unnecessary, improper or futile

11.5 The IIC shall investigate all reports of

suspected fraud, corruption or other breaches of this Policy made internally and may if necessary enlist the support of other departments or external agencies

11.6 Reports of suspected fraud, corruption or other breaches of this Policy involving employees shall be investigated in accordance with their applicable Terms and Conditions of employment.

11.7 Reports of suspected fraud, corruption or other breaches of this Policy involving persons or entities covered by this Policy other than employees, shall be investigated as directed by the Director or will be referred to other relevant authorities.

11.8 Members of the IIC and other persons assigned to receive or investigate reports of suspected fraud, corruption and other breaches of this Policy shall sign a Confidentiality Declaration Form and shall be liable for disciplinary action in the event of breach

11.9 All investigations into reports of suspected fraud, corruption or other breaches of this Policy made internally shall commence within 2 weeks after the report has been received.

11.10 Investigations shall be concluded within 2 months following which a report shall be compiled

and submitted to the appropriate authorities for action.

11.11 All employees shall cooperate with the persons appointed to investigate reports of suspected fraud, corruption or other breaches of this Policy in providing information. Any employee who deliberately withholds information or deliberately gives false information shall be liable to disciplinary action

11.12 Any person who interferes or attempts to interfere with the process of reporting a suspected breach of this Policy or the process of investigating any suspected breach of this Policy shall be liable for disciplinary action.

11.13 Interference with the process of reporting or investigating a breach of this Policy includes but is not limited to

- a) Using other persons to frustrate or delay the process in any way
- b) Using any means, such as one's discretion, authority, position or responsibility to delay, stop or frustrate the process; and
- c) Using physical or any other means to stop or delay or frustrate the process of reporting or investigations

12.0 RESOLUTION OF INVESTIGATED MATTERS

12.1 If a report of suspected fraud, corruption or other breaches of this Policy by an employee is proven to be true, disciplinary action shall be taken in accordance with the Conditions of Service of the PPDA and other applicable Policies

12.2 The PPDA shall, where it considers appropriate, take disciplinary action on the basis of the findings of an investigation, audit or any similar exercise by any external agency such as the Malawi Police Service or the Anti-Corruption Bureau or any appropriate authority if the findings of the report fall within the scope of issues covered under this Policy

12.3 In cases involving monetary loss, the PPDA shall resort to all legally available options to recover losses.

12.4 Action on suspected fraud, corruption or other breaches of this Policy by persons or entities other than employees of the PPDA may range from a warning, recommendation for prosecution by the Police or Anti-Corruption Bureau, cancellation of contract, debarment or any other action in accordance with applicable laws of the Republic of Malawi

13.0 CUSTODIANSHIP AND IMPLEMENTATION ARRANGEMENTS

13.1 The custodian of this Policy is the Director who shall, in addition to other responsibilities assigned by the Policy enforce the Policy and monitor its implementation

13.2 The Director may, where appropriate appoint a person to act as custodian in instances where the custodian is temporarily absent or when there is a vacancy in the position of the office appointed to be custodian of this Policy.

13.3 The Director shall additionally appoint an IC to assist the custodian in the implementation of this Policy

13.4 The Director may in consultation with the IC members remove or suspend from office any member of the IIC, for inability to perform the functions of his office or for misconduct or when the member is the subject of an investigation.

14.0 MEMBERSHIP AND MANDATE OF THE INSTITUTIONAL INTEGRITY COMMITTEE (IIC)

14.1 The membership of the IIC shall not be less than 3 but not more than 7 and shall be drawn from all the Departments of the PPDA

14.2 The committee shall have the mandate to

- a) Facilitate the development of an action plan for implementing the objectives of this Policy
- b) Receive reports of suspected fraud, corruption and other breaches of this Policy
- c) Review the reports and make appropriate recommendations to the Director or other appropriate authorities
- d) Conduct investigations into suspected fraud, corruption and other breaches of this Policy
- e) Monitor progress in the implementation of the Policy; and
- f) Produce and submit Quarterly Reports to the Director on the implementation of the Policy

14.3 The committee shall ensure that all employees and stakeholders are fully made aware of the Policy through

- a) The use of staff meetings, posters, brochures and other publications and mediums such as radio and television

- b) Organizing in-house training sessions to sensitize staff on issues of corruption and fraud
- c) Including anti-corruption messages in the Public Procurer magazine and other outlets
- d) Providing awareness through publications such as posters, flyers, and brochures
- e) Ensuring that all contractual agreements with the ODPP and tendering documents contain provisions prohibiting fraudulent or corrupt acts and include information about reporting fraud and corruption; and
- f) The use of client briefings to highlight the ODPP's Policy on fraud and corruption.

15.0 REVIEW OF THE POLICY

This Policy shall be reviewed at least once every 3 years after the effective date.

Corruption Reporting Toll Free Number: 113

