

**MINISTRY OF TRANSPORT AND INFRASTRUCTURE
CODE OF CONDUCT AND ETHICS**

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FOREWORD

The Ministry of Transport and Infrastructure has an important role to play in enhancing the economic growth and development of the country. In order to achieve this, it is necessary that services are rendered to the public and stakeholders in an effective and efficient manner. The Government is committed to develop and promote standards and best practices in integrity in the work place.

This Code contains rules of conduct and ethics to be observed by Public Officers so as to maintain the integrity and impartiality of the Ministry. The Code does not in any way replace the regulations governing the discipline and general conduct of public officers. Public officers must obey those regulations and all other applicable laws.

Officers should adhere to this Code so as not to bring the Ministry into disrepute. I am therefore calling on all of us to nurture and maintain a culture of good ethics and integrity at all times.

Eng. John Mosonik, EBS
Principal Secretary- Infrastructure Services

Nduva Muli, EBS
Principal Secretary- Transport Services

PART I — PRELIMINARY

Citation

1. This Code may be cited as the Ministry of Transport and Infrastructure Code of Conduct and Ethics.

Interpretation

2. In this Code, “public officer” means—
 - (i) any State officer; or
 - (ii) any person, other than a State Officer, who holds a public office.
3. In this Code, “Act” means— The Leadership and Integrity Act, 2012

Application of Code

4. This Code applies with respect to the public officers for whom in the Ministry of Transport and Infrastructure is the responsible Commission under the Act.

PART II — REQUIREMENTS

Compliance with General Code

5. (i) A public officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part II of the Leadership and Integrity Act, 2012,
 - (ii) The General Code of Conduct and Ethics set out in Part II of the Act is set out in the Appendix to this Code and shall form part of this Code.

Prohibition against standing for election

6. A public officer shall not stand for election as a member of the National Assembly or a local authority or hold a political office.

Political neutrality

7. Regardless of his political opinions, a public officer shall serve impartially, with loyalty, honesty and objectivity.
8. A public officer who is a member of the public service;
 - (i) shall not make public comments that support or criticize a political party;
 - (ii) shall not make public comments that may compromise, or may reasonably be seen to compromise, the political neutrality of his office;
 - (iii) shall not publicly comment, except in furtherance of his official duties, on matters in relation to which he/she has been professionally involved;
 - (iv) shall not, expressly or by implication, represent that any public comments he makes reflect the views or opinions of his organisation if that is not the case.

Responsibility to organisation and Cabinet Secretary

9. (i) A public officer shall ensure that he carries out his duties in a way that is consistent with his being part of his organisation.
 - (ii) A public officer shall observe the principle that the responsibility for a Ministry lies with a Cabinet Secretary and shall ensure that he/she is not personally identified with his/her Ministry or its policies to a degree that is inconsistent with that principle.

Private affairs -outside activities

10. (i) While a public officer should not be isolated from the society of which he/she is a part, he/she shall ensure that his/her non-official activities do not interfere with his/her official duties or affect the dignity of his/her office and that the risk of conflict with his/her official duties is minimized.
 - (ii) A public officer shall not engage in private business during official working hours.
 - (iii) Subject to subsection (iv), a public officer who is serving on a full time basis shall not participate in any other gainful employment.
 - (iv) In this section, “gainful employment” means work that a person can pursue and perform for money or other form of compensation or remuneration which is inherently incompatible with the responsibilities of the public office or which results in the impairment of the judgment of the public officer in the execution of the functions of the public office or results in a conflict of interest.

Private affairs -financial dealings

11. A public officer shall live within his means and avoid incurring any financial liability that he cannot satisfy.

Gifts

12. (i) A gift or donation given to a public officer on a public or official occasion shall be treated as a gift or donation to the State.

(ii) Notwithstanding subsection (i), a public officer may receive a gift given to the public officer in an official capacity, provided that —

(a) the gift is within the ordinary bounds of propriety, a usual expression of courtesy or protocol and within the ordinary standards of hospitality;

(b) the gift is not monetary; and

(c) the gift does not exceed such value as may be prescribed by the Commission in the regulations.

(iii) Without limiting the generality of subsection (ii), a public officer shall not—

(a) accept or solicit gifts, hospitality or other benefits from a person who —

(1) has an interest that may be achieved by the carrying out or not carrying out of the Public officer's duties;

(2) carries on regulated activities with respect to which the Public officer's organisation has a role; or

(3) has a contractual or legal relationship with the Public officer's organisation;

(b) accept gifts of jewelry or other gifts comprising of precious metal or stones, ivory or any other animal part protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; or

(c) any other type of gift specified by the Commission in the regulations.

(iv) A Public officer shall not receive a gift which is given with the intention of compromising the integrity, objectivity or impartiality of the State officer.

(v) Subject to subsection (ii), a Public officer who receives a gift or donation shall declare the gift or donation to the Commission and the public entity which the Public officer represents.

(vi) Every public entity shall keep a register of -

(a) gifts received by a Public officer serving in the public entity; and

(b) gifts given by the public entity to other public officers.

(vii) The Commission shall make and publicize regulations regarding receipt and disposal of gifts under this section.

Bank Accounts outside Kenya

13. A public officer shall not—

(i) maintain a bank account outside Kenya except in accordance with an Act of Parliament; or

(ii) seek or accept a personal loan or benefit in circumstances that compromise the integrity of the public officer.

Public Collections/Harambees

14. (i) A public officer shall not preside over a harambee, play a central role in its organisation or play the role of "guest of honour".

(ii) A public officer shall not participate in a Public Collections in such a way as to reflect adversely on his/her integrity or impartiality or to interfere with the performance of his/her official duties.

(iii) A public officer shall not solicit for contributions from the public for a public purpose unless the President has, by notice in the Gazette, declared a national disaster and allowed a public collection for the purpose of the national disaster in accordance with the law.

Safeguarding of information

15. A public officer shall ensure that confidential or secret information or documents entrusted to his/her care are adequately protected from improper or inadvertent disclosure.

Breach of Code

16. Where a public officer has committed a breach of this Code, appropriate action will be taken in accordance with the Public Officers Ethics Act and other applicable laws.

PART III - GENERAL CODE OF CONDUCT AND ETHICS

Part sets out general Code

17. This Part sets out a general Code of Conduct and Ethics for public officers.

Public Trust

18. A Public Office is a position of trust and the authority and responsibility vested in a Public officer shall be exercised by the public officer in the best interest of the people of Kenya.

Responsibility and duties

19. Subject to the Constitution and any other law, a public officer shall take personal responsibility for the reasonably foreseeable consequences of any actions or omissions arising from the discharge of the duties of the office.

Performance of duties, general

20. A public officer shall, to the best of his/her ability, carry out his/her duties and ensure that the services that he/she provides are provided efficiently and honestly.

Professionalism

21. A public officer shall—

- (i) carry out his/her duties in a way that maintains public confidence in the integrity of his/her office;
- (ii) treat the public and his/her fellow public officers with courtesy and respect;
- (iii) to the extent appropriate to his/her office, seek to improve the standards of performance and level of professionalism in his/her organisation;
- (iv) if a member of a professional body, observe the ethical and professional requirements of that body;
- (v) observe official working hours and not be absent without proper authorization or reasonable cause;
- (vi) maintain an appropriate standard of dress and personal hygiene; and
- (vii) discharge any professional responsibilities in a professional manner.

Rule of law

22. (i) A public officer shall carry out his duties in accordance with the law.

(ii) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Chapter Four, Part 2 of the Constitution 2010.

Conflict of interest

23. (i) A Public officer shall use his/her best efforts to avoid being in a position in which his/her personal interests conflict with his/her official duties.

(ii) Without limiting the generality of subsection (i), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the officer's personal interests conflicting with his/her official duties.

(iii) A public officer whose personal interests conflict with his/her official duties shall—

(a) declare the personal interests to his/her superior or other appropriate body and comply with any directions to avoid the conflict; and

(b) refrain from participating in any deliberations with respect to the matter.

(iv) Notwithstanding any directions to the contrary under subsection (iii)(a), an officer shall not award a contract, or influence the award of a contract, to—

(a) himself/herself;

(b) a spouse or relative;

(c) a business associate; or

(d) a corporation, partnership or other body in which the officer has an interest.

(v) The regulations may apply when the personal interests of a public officer conflict with his/her official duties for the purposes of this section.

(vi) In this section, "personal interest" includes the interest of a spouse, relative or business associate.

Acting for foreigners

24. (i) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(ii) For the purposes of this section—

(a) an individual is foreign if the individual is not a citizen of Kenya;

(b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.

Care of property

25. (i) A public officer shall take all reasonable steps to ensure that property that is entrusted to his/her care is adequately protected and not misused or misappropriated.

(ii) A public officer who contravenes subsection (i) shall be personally liable for losses resulting from the contravention.

Impartiality

26. A public officer shall, at all times, carry out the duties of the office with impartiality and objectivity in accordance with Articles 10, 27, 73(2)(b) and 232 of the Constitution and shall not practice favouritism, nepotism, tribalism, cronyism, religious bias or engage in corrupt or unethical practices.

Giving of advice

27. A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

Wrongful or unlawful acquisition of property

28. A Public officer shall not use the office to wrongfully or unlawfully influence the acquisition of property.

Misleading the public, etc.

29. A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

Sexual harassment

30. (i) A public officer shall not sexually harass a member of the public or a fellow officer.

(ii) In subsection (i), "sexually harass" includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome —

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person's sexuality.

Offers of future employment

31. (i) A public officer shall not allow himself or herself to be influenced in the performance of their duties by plans or expectations for or offers of future employment or benefits.

(ii) A public officer shall disclose, in writing, to the public entity and the commission, all offers of future employment or benefits that could place the public officer in a situation of conflict of interest.

Former Public officer acting in a Government or public entity matter

32. A former public officer shall not be engaged by or act for a person or entity in a matter in which the officer was originally engaged in as a public officer, for at least two years after leaving the Public office.

Falsification of records

33. A Public officer shall not falsify any records or misrepresent information to the public.

Tax, financial and legal obligations

34. (i) A Public officer shall pay any taxes due from him or her within the prescribed period.

(ii) A Public officer shall not neglect their financial or legal obligations.

Bullying

35. (i) A Public officer shall not bully any person.

(ii) For purposes of subsection (i), “bullying” includes repeated offensive behavior which is vindictive, cruel, malicious or humiliating and is intended to undermine a person.

Selection of public officers

36. A public officer shall practice and promote the principle that public officers should be selected on the basis of integrity, competence and suitability; or

Submitting of declarations, etc.

37. (i) Every public officer shall, once every two years as prescribed by section 27, submit to the responsible Commission for the public officer a declaration of the income, assets and liabilities of himself, his spouse or spouses and his dependent children under the age of 18 years.

(ii) The declaration shall be in the form set out in the Schedule and shall include the information required by the form.

Acting through others

38. (i) A public officer contravenes the Code of Conduct and Ethics if—

(a) he/she causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or

(b) he/she allows or directs a person under his/her supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

(ii) Subsection (i)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

Reporting improper orders

39. If an employee of the Ministry considers instructions issued in the performance of their duties amount to contravention of the Code of Conduct and Ethics he/she shall report the matter to an appropriate authority.

Enforcement of the Code

40. Investigations

- (i) The Ministry will investigate to determine whether the public officer has contravened the Code of Conduct and Ethics.
- (ii) An investigation may be made on the Ministry's own initiative or pursuant to a complaint by any person.
- (iii) The Ministry may refer a matter to another appropriate body for investigation and that body shall investigate the matter within a reasonable time and submit a report to the Ministry on its findings.
- (iv) An investigation may be conducted even if the subject of the investigation has ceased to be a public officer.

41. Disciplinary action

- (i) If an investigation discloses that the public officer has contravened the Code of Conduct and Ethics, the Ministry shall, within the time period prescribed:-
 - a) take the appropriate disciplinary action; or
 - b) if the Ministry does not have the power to take the appropriate disciplinary action, refer the matter to a body or person who does have that power.
- (ii) The Ministry shall inform the public officer concerned of any action it takes or intends to take under subsection (i) either before it takes the action or within thirty days after it does so.

42. Referral for possible civil or criminal proceedings

If, as a result of an investigation under this Part, the Ministry is of the view that civil or criminal proceedings ought to be considered, the Ministry shall refer the matter to the Attorney-General or other appropriate authority.

Dated the _____ of _____ 20_____

Eng. John Mosonik, EBS
Principal Secretary- Infrastructure Services

Nduva Muli, EBS
Principal Secretary- Transport Services

Ministry of Transport and Infrastructure
REPUBLIC OF KENYA

APPENDIX

PUBLIC SERVICE COMMISSION OF KENYA

Declaration of Income, Assets & Liabilities (The Public Officer Ethics Act, 2003)

1. Name of the Public Officer

(Surname)	(First Name)	(Other Names)
_____	_____	_____

2. Birth Information

- a. Date of Birth _____
- b. Place of Birth _____

3. Marital Status _____

4. Address

- a. Postal Address: _____
- b. Physical Address: _____

5. Employment Information

- a. Employment No. _____
- b. Designation _____
- c. Name of Employer _____
- d. Nature of Employment (Permanent, temporary, contract, etc)

6. Name of Spouse or Spouses

(Surname)	(First Name)	(Other Names)
_____	_____	_____

7. Names of dependent children under the age of 18 years

(Surname) (First Name) (Other Names)

8. Financial Statement for _____

(A separate statement is required for the officer and each spouse and dependent child under the age of 18 years. Additional sheets should be added required)

a. Statement Date: _____

b. Income, including emoluments, for period

From: _____ to _____

(Including, but not limited to, salary and emoluments and income from investments. The period is from the previous statement date to the current statement date. For an initial declaration, the period is the ending on the statement date.)

Description	Approximate Amount

c. Assets (as of the statement date)

(including, but not limited to, land, buildings, vehicles, investments and financial obligations owed to the person for whom the statement is made.)

Description (including location of asset where applicable)	Approximate Amount

d. Liabilities (as of the statement date)

Description	Approximate Amount

9. Other information that may be useful or relevant:

I solemnly declare that the information I have given in this declaration is, to the best of my knowledge true and complete:

Signature of officer: _____

Date: _____

Witness:

Signature: _____

Name: _____

Address: _____