

REPUBLIC OF KENYA



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THE PRESIDENCY

MINISTRY OF DEVOLUTION AND PLANNING

DIVISION OF PERFORMANCE CONTRACTING

#### ADDENDUM / CHANGES TO THE 12<sup>TH</sup> CYCLE GUIDELINES

The 12<sup>th</sup> Cycle guidelines are intended to guide negotiations, vetting and evaluation of the FY 2015/16 performance contracts for MDAs placed on contract.

During the briefing session for the IEEs, a few amendments and corrections to the description of performance indicators were proposed and agreed upon as provided here below.

Please note that the descriptions as contained in this addendum are the ones to be applied for the specific indicators rather than the ones in the already issued 12<sup>th</sup> Cycle Guidelines.

#### A. FINANCE AND STEWARDSHIP

##### Development Index:

The earlier description indicated that the development index is the ratio of Development Expenditure to Recurrent Expenditure. The correct description is that it is the ratio of development expenditure to total expenditure.

The description should therefore read as follows:

**Development Index** - refers to the relationship between development expenditure and recurrent expenditure. It is computed as Development Expenditure (DE), divided by Total Expenditure (TE) i.e.  $DE/TE$  where TE is equal to Development Expenditure (DE) + Recurrent Expenditure (RE). The performance target is computed by dividing total projected development budget for the contract period by the total projected total budget. Development expenditure includes expenditures on development of infrastructure, acquisition of new facilities, human capital development, marketing programmes, research and development, etc. Recurrent Expenditure (RE) on the other hand refers to expenditure on goods and services which does not result in the creation or acquisition of fixed assets. It consists mainly of expenditure on wages, salaries, purchase of consumer goods and services and consumption of fixed capital (depreciation). The Index is intended to ensure that more resources are progressively applied to development activities to ensure progressive and sustained growth. For purposes of computing quarterly achievements, the denominator for Development Index for a quarter should be the cumulative **Actual Total Expenditure** for the elapsed contract period by the end of the quarter. The numerator should be the cumulative **Actual Total Development** expenditure for the elapsed contract period by the end of the quarter. For government ministries, the indicator will only be applicable to the National Treasury under the operations criteria, and the National Treasury should ensure that the ratio of 70:30 for RE against DE is achieved during the budgeting process and subsequent releases to the MDAs. For non-commercial state corporations and universities, the ratio should be progressively improved.



## **INSTRUCTIONAL NOTES**

- All MDA's will forward a copy of CRA and the Mitigation Plan in the first quarter of the financial year. The risk identification (CRA) and the risk mitigation should include all functions of the MDA both support related and core functions
- Institutions which have conducted CRAs before, should forward them to EACC. However CRAs and corruption mitigation plans older than 2 years should be reviewed and forwarded to EACC in the first quarter of the financial year.
- The implementation report will be evaluated only on the basis of concrete actions taken and changes identified. *EACC will conduct sampled spot checks to ascertain the reports.*
- All MDAs are required to submit the quarterly reports, information on all tenders and contracts awarded which are above the threshold of Ksh.500, 000.00.
- Public Institutions with State officers (refer to Article 260 of the Constitution of Kenya) should develop a Specific Leadership Code (refer to Section 37 and Part II of the Leadership and Integrity Act 2012) for the state officers in that entity and submit to the EACC for review and approval.
- Public institutions which have Codes of Conduct and ethics should review their Codes and align them to the provisions of the General Leadership and Integrity Code under Part II of the Leadership and Integrity Act 2012.
- Public institutions that have not developed codes should develop and align the Codes to the General Leadership and Integrity Code under Part II of the Leadership and Integrity Act, 2012.
- Codes of conduct and ethics for staff (public officers other than state officers) aligned with Part II of LIA should be forwarded to the Commission upon completion.
- Public institutions should open Conflict of Interest and gift registers and submit returns on conflict of interest and declaration on gifts to their RESPECTIVE RESPONSIBLE COMMISSIONS by 31<sup>st</sup> July of each year.
- All Trained Integrity Assurance Officers are expected to meet at least once every quarter to deliberate on anti-corruption related issues. The meeting should be chaired by the Secretary to the Integrity Committee/CPC who should also be a trained IAO.
- Staff sensitization should be carried out by trained IAOs but the institutions are free to request for support from EACC where the capacity of the IAOs is not fully developed.
- Integrity Committees should meet at least once per quarter.
- Reports to EACC will be in the formats which will be posted in the EACC website. Reports not in conformity with the format will be rejected. The following reporting formats are posted on the EACC website:
  - i). Reporting format on the implementation of corruption risk mitigation plan.
  - ii). Reporting format on all tenders above the threshold of Ksh.500, 000.00.
  - iii). Reporting format and instruction for submission of returns for gift registers and conflict of interest.

- iv). Reporting format on institutional capacity building.
- v). Templates for submitting returns on gifts and conflict of interest.
- vi). Template for submission of conflict of interest and gift registers

## D. OPERATIONS

### Projects Completion Rate

The note erroneously indicated that projects completion rate is calculated by averaging the completion rates of all completed projects.

The correct description should read as follows:

**Project Completion Rate:** refers to the proportion of planned project(s) for the contract year, which is completed during that year. It should be obtained by averaging the total completion rates for all projects in the performance contract.

## E. DYNAMIC/QUALITATIVE

### Management of Pension:

1. A sub target on issuance of a written statement of a retirees' account with regard to remittance of tax dues and the status of their file has been added for both Ministries and other Agencies.
2. The ministries should issue notice to retirees 12 months do due date whereas other agencies should issue the notice 9 months to due date. Two notes have also been added to the section for note for other agencies. The description should therefore read as follows:

**Management of Pension:** The objective of this indicator is to ensure that retiring public servants are treated with dignity, receive their retirement dues promptly and encourage post-retirement follow ups.

### *Ministries are required to:*

- Prepare list of potential retirees within the year.
- Issue GP-24 and confirmation in appointment letter if not available in the file six months before retirement.
- Issue notice to retirees 12 months to due date



- Prepare and submit retirement documents to Pensions Department 3 months to due date.
- Give a written statement of account to the retiree that his/her taxes were remitted to KRA six months before retirement and that all requisite documents are available in retiree's file
- Submit Clearance Certificates to facilitate payment within 30 days of retirement.
- Automate the Pension Scheme
- Carry out pre-retirement training
- Develop a proposal on post-retirement Medical Scheme by 31<sup>st</sup> December, 2015

*Other Agencies are required to:*

- Prepare list of potential retirees within the year.
- Issue notice to retirees 9 months to due date
- Give a written statement of account to the retiree that his/her taxes were remitted to KRA six months before retirement and that all requisite documents are available in retiree's file
- Prepare and submit retirement documents to the Pensions Fund in accordance with first deed and roll.
- Submit Clearance Certificates to facilitate payment within 30 days of retirement.
- Automate the Pension Scheme
- Carry out pre-retirement training
- Develop a proposal on post retirement scheme by 31<sup>st</sup> December, 2015

**NOTE**

1. Any amendments to the Trust Deed to be done through a resolution of the retirement scheme membership prior to registration by Retirements Benefits Authority
2. Amendments to the Trust Deed to be communicated to retirement scheme members within three months of registration

## F. CORRUPTION ERADICATION/GOVERNANCE

### Corruption Eradication:

The sub-indicators for this performance indicator have been reviewed to provide more clarity and focus on corruption. The performance indicator on "Mwongozo Code of Governance" has been deleted from this performance criteria category for Ministries and Tertiary Institutions. Consequently the weight remains 5% for the performance Indicator on Corruption Eradication for these two categories of public institutions.

The Performance indicator on "Mwongozo Code of Governance" will now only be applicable to all State Corporations including Public Universities for the FY 2015/16. The matrix for State Corporations remains as issued earlier with the two performance indicators under this performance criteria category.

The description of the Corruption Eradication performance indicator is therefore as follows;

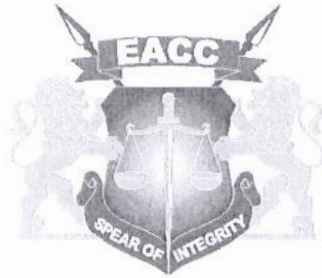
**Corruption Eradication** - This is an indicator that aims to combat and prevent corruption, unethical practices and promote standards and best practices in governance. This is in line with the Ethics and Anti-Corruption Commission Act No. 22 of 2011 and the Leadership and Integrity Act of 2012. To achieve this, MDAs are expected to undertake the following:

- I. Carry out corruption risk assessment and mitigation (25%);
- II. Enhance integrity in public procurement (10%);
- III. Promote high standards of ethical culture (30%);
- IV. Build capacity on corruption prevention, ethics and integrity (20%);
- V. Implement internal mechanisms that encourage and protect whistleblowing on corruption and unethical conduct (10%);
- VI. Submit quarterly reports to EACC in the prescribed formats provided in the EACC website [www.eacc.go.ke](http://www.eacc.go.ke) (5%).

### Note

State Corporations Advisory Committee (SCAC) has been added to the list of Specialized Agencies to take care of "Mwongozo Code of Governance" for State Corporations.

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## PERFORMANCE CONTRACTS 2015/16 FINANCIAL YEAR

### 12<sup>TH</sup> CYCLE GUIDELINES

#### CORRUPTION ERADICATION INDICATOR

The 2015/16 FY sub-indicators are in line with the Ethics and Anti-Corruption Commission Act No. 22 of 2011 and the Leadership and Integrity Act (LIA) of 2012 which mandates the Commission to combat and prevent corruption and unethical practices and promote standards and best practices in ethics; integrity and anti-corruption.

During the FY 2015/16 all Institutions will commit to implement the Corruption Eradication Indicator target outputs. Cabinet Secretaries/Accounting Officers/Chief Executive Officers will commit to address corruption in their respective institutions by undertaking the following corruption prevention measures and submitting to the EACC documents as outlined in the notes provided.

Key Indicator	Sub indicators	Weight	Total Weight
Carryout Corruption Risk Assessment and Mitigation	CRA report	5%	25%
	Risk Mitigation plan.	5%	
	CRA Quarterly Implementation report. ( <i>see notes</i> )	15%	
Enhance Integrity in Public Procurement	Submit Approved Annual Procurement Plan to EACC within the first quarter of the FY 2015/16	2%	10%
	Submit Quarterly reports on all tenders and contracts awarded ,which are above the threshold of KES 500,000.00	8%	



Key Indicator	Sub indicators	Weight	Total Weight
Promote high standards of Ethical Culture.	Gift registers opened and operationalised : <ul style="list-style-type: none"> <li>• Gift given</li> <li>• Gift received</li> </ul>	5%	30%
	Conflict of interest registers opened and operationalised	5%	
	Development and implementation of Code of Conduct and Ethics in line with LIA, 2012.	20%	
Build capacity on Corruption prevention, Ethics and Integrity	Training of Integrity Assurance Officers (IAOs).	5%	20%
	Sensitization of staff by IAO's	5%	
	Train and operationalise Integrity/ Corruption Prevention Committee	5%	
	Sensitization on Leadership and Integrity Act (LIA)	5%	
Implement internal mechanisms that encourage and protect whistle blowing on corruption and unethical conduct	See notes. <i>see guidelines</i>	10%	10%
Submit quarterly reports to EACC in the prescribed format provided in the EACC website <a href="http://www.eacc.go.ke">www.eacc.go.ke</a>	See notes	5%	5%
<b>Total</b>			<b>100%</b>