

REPUBLIC OF KENYA

MINISTRY OF DEVOLUTION AND PLANNING

THE LEADERSHIP AND INTEGRITY CODE FOR STATE OFFICERS

**A COMMITMENT TO ABIDE BY THE REQUIREMENTS OF THE
LEADERSHIP AND INTEGRITY ACT, 2012**

MAY 2014

ARRANGEMENT OF THE CODE

Preamble

PART I- PRELIMINARY

1. Citation
2. Interpretation
3. Application of Code
4. Application of the Constitution and Public Officer Ethics Act, 2003
5. State Officers to sign Code

PART II- REQUIREMENTS

6. Rule of Law
7. Public trust
8. Responsibility and duties
9. Performance of duties
10. Professionalism
11. Financial Probity
12. Moral and ethical requirements
13. Gifts or benefits in Kind
14. Wrongful or unlawful acquisition of property
15. Conflict of interest
16. Participation in tenders
17. Public Collections
18. Bank accounts outside Kenya
19. Acting for foreigners
20. Care of property
21. Misuse of official information
22. Political neutrality
23. Impartiality
24. Giving of advice
25. Gainful employment
26. Offers of future employment
27. Former State Officer acting in a government or public entity matter
28. Misleading the public
29. Falsification of records
30. Conduct of private affairs
31. Bullying
32. Acting through others
33. Reporting improper orders
34. Confidentiality
35. Duty to prevent occurrence of corruption or unethical practice in the Commission
36. Promotion of ethics, integrity and best practices in the Commission
37. Dress Code
38. Implementation of the Code
39. Breach of Code
40. Review

THE LEADERSHIP AND INTEGRITY ACT (No. 19 of 2012)

Establishment of the Code

In exercise of the powers conferred by section 37 of the Leadership and Integrity Act, 2012, the Ministry of Devolution and Planning establishes this Leadership and Integrity Code for the State Officers in the Ministry.

THE LEADERSHIP AND INTEGRITY CODE FOR STATE OFFICERS IN THE MINISTRY OF DEVOLUTION AND PLANNING

Preamble

The ethos of the Public Service is to offer services to members of the public and support successive governments of the Republic of Kenya with loyalty, impartiality, honesty and integrity and to facilitate the objectives of enhancing peace, socio-economic growth and prosperity.

In accomplishing the mission of the government, State Officers will be guided by a shared vision that the Ministry of Devolution and Planning will be an efficiently and effectively performing institution, committed to serving citizens with courtesy, integrity, giving value for the tax payers money; not demanding of the citizens but anxious to be of service to them.

This Code is established pursuant to section 37 of the Leadership and Integrity Act, 2012 which requires every public entity to prescribe a Specific Leadership and Integrity Code for the State Officers in the entity. The Code is intended to establish standards of integrity, behaviour and ethical conduct in the leadership of the Ministry of Devolution and Planning by ensuring that the State Officers respect the values, principles and requirements of the Constitution in the discharge of their duties.

PART I – PRELIMINARY

1. Citation

This Code may be cited as the Leadership and Integrity Code for State Officers in the Ministry of Devolution and Planning.

2. Interpretation

In this Code, unless the context otherwise requires –

"Act" means the Leadership and Integrity Act, 2012;

"Asset" means a thing, tangible or intangible, owned, whether wholly or in part, or controlled by a person, which has an actual or determinable economic value and can be sold, exchanged or otherwise used or applied to meet an obligation or acquire something else in return;

"Authorized officer" means an authorized officer of the Ministry having jurisdiction pursuant to Article 234(5) of the Constitution and the Public Service Regulations 2005;

"Bank account" means an account maintained by a bank or any other financial institution for and in the name of, or in the name designated by, a customer of the bank or other financial institution and into which money is paid or withdrawn by or for the benefit of that customer or held in trust for that customer and in which the transactions between the customer and the bank or other financial institution are recorded;

"Business associate" means a person who does business with or on behalf of a State Officer and has express or implied authority from that State Officer;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to leadership and integrity in the Ministry of Devolution and Planning;

"Code" means the Leadership and Integrity Code for State Officers of the Ministry of Devolution and Planning

"Commission" means the Ethics and Anti-Corruption Commission established under the Ethics and Anti-Corruption Commission Act 2011.

"General Code" means the Code prescribed under Part II of the Act;

"Ministry" means the Ministry of Devolution and Planning established under the Presidential Order No. 1 of 2013.

"Personal interest" means a matter in which a State Officer has a direct or indirect pecuniary or non-pecuniary interest and includes the interest of his/her spouse, child, business associate or agent;

"Principal Secretary" means the Principal Secretary for the time being responsible for resource management in the State Department Planning and/or Devolution in the Ministry of Devolution and Planning

"Register" means the register of State Officers' Registrable Interest

"Registrable Interest" means an interest that may, or may be perceived to prejudice the integrity of a State Officer in the discharge of official functions of his office

"Regulations" mean the Regulations made by the Commission pursuant to Section 54 of the Leadership and Integrity Act, 2012;

"Spouse" means a wife or husband;

"State Officer" means Cabinet Secretary, Principal Secretary in the Ministry of Devolution and Planning;

3. Application of Code

This Code applies to State Officers in the Ministry.

4. Application of the Constitution and the Public Officer Ethics Act 2003

- (1) The provisions of Chapter Six of the Constitution shall form part of this Code;
- (2) Unless otherwise provided in this Code, the provisions of the Public Officer Ethics Act and any other relevant Legislations (Public Service Commission Act (Revised), Public Finance Management Act 2012, Procurement and Disposal Act, 2005) shall form part of this Code in so far as they conform to the provisions of the Leadership and Integrity Act.

5. State Officer to sign Code

- (1) A State Officer appointed to the Ministry of Devolution and Planning shall sign and commit to this Code at the time of taking oath of office or within seven days of assuming office.
- (2) The provisions of this Code take effect from 27th August, 2012 being the date of commencement of Leadership and Integrity Act.

PART II – REQUIREMENTS

6. Rule of Law

- (1) A State Officer shall respect and abide by the Constitution and the Law;
- (2) A State Officer shall carry out the duties of his/ her office in accordance with the Law;
- (3) In carrying out the duties of his/her office, a State Officer shall not violate the rights and fundamental freedoms of any person unless otherwise expressly provided for in the Law and in accordance with Article 24 of the Constitution.

7. Public Trust

A State Office is a position of public trust and the authority and responsibility vested in a State Officer shall be exercised by the State Officer in the best interest of the Ministry and the people of Kenya.

8. Responsibility and duties

Subject to the Constitution and any other law, a State Officer shall take personal responsibility for the reasonably foreseeable consequences of any actions or omissions arising from the discharge of the duties of his/ her office.

9. Performance of duties

A State Officer shall, to the best of his/ her ability —

- (1) Carry out the duties of the office efficiently, effectively and honestly;
- (2) Carry out the duties of the office in a transparent and accountable manner;
- (3) Keep accurate records and documents relating to the functions of the office;
- (4) Report truthfully on all matters of the Ministry; and
- (5) Communicate effectively and responsibly.

10. Professionalism

A State Officer shall —

- (1) Carry out the duties of his/her office in a manner that maintains public confidence in the integrity of the office;
- (2) Treat members of the public, staff and other State and Public Officers with courtesy and respect;
- (3) Not discriminate against any person, except as is expressly provided by the law;
- (4) To the extent appropriate to the office, maintain high standards of performance and level of professionalism within the Ministry; and
- (5) If the State Officer is a member of a professional body, observe and subscribe to the ethical and professional requirements of that body in so far as the requirements do not contravene the Constitution, any other law or this Code.

11. Financial Probity

- (1) A State Officer shall not use his or her office to unlawfully or wrongfully enrich himself or herself or any other person;

- (2) Subject to Article 76(2)(b) of the Constitution, a State Officer shall not accept a personal loan or benefit which may compromise the State Officer in carrying out his or her duties;
- (3) A State Officer shall submit to the Public Service Commission an initial declaration of income, assets and liabilities on Form PSC. 2b at Appendix 1 within thirty days of assuming office in the Ministry and thereafter bi-annually;
- (4) A State Officer shall not:
 - (a) Evade paying taxes
 - (b) Neglect their financial obligations

12. Moral and ethical requirements

- (1) A State Officer shall observe and maintain the following ethical and moral requirements —
 - (a) Demonstrate honesty in the conduct of his or her public and private affairs;
 - (b) Not to engage in activities that amount to abuse of office;
 - (c) Accurately and honestly present information to the public;
 - (d) Not engage in wrongful conduct in furtherance of personal benefit;
 - (e) Not misuse public resources;
 - (f) Not falsify any records;
 - (g) Not sexually harass or have inappropriate sexual relations with other state officers, staff of the Ministry or any other person;
 - (h) Not engage in actions which would lead to the State officer's removal from the membership of a professional body in accordance with the law; and
 - (i) Not neglect family or parental obligations as provided for under any law

13. Gifts or benefits in Kind

- (1) A gift or donation given to a State Officer on a public or official occasion shall be treated as a gift or donation to the Ministry;
- (2) Notwithstanding subsection (1), a State Officer may receive a gift given to the State 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 does not exceed Ksh.20, 000 as provided under Section 10 of Public Officer Ethics Act, Regulations.
- (3) A State Officer shall not —
 - (a) Accept or solicit gifts, hospitality or other benefits from a person who;
 - (i) Is under investigation;
 - (ii) Has a contractual relationship with the Ministry
 - (iii) Has any interest that is directly or indirectly connected with the State officer's duties;
 - (b) Receive a gift which has the potential of compromising his or her integrity, objectivity or impartiality; or
 - (c) Accept any type of gift expressly prohibited under the Act.
- (4) Subject to section 13(2), a State Officer who receives a gift or donation shall upon return to the office declare the gift or donation to the Ministry within

fourteen days of receipt of the gift as prescribed in Form A, Reports of Gifts Received at Appendix II

- (5) The Ministry shall maintain a register of all gifts received by State Officers as provided for in the regulations.

14. Wrongful or unlawful acquisition of property

A State Officer shall not use the office to wrongfully or unlawfully acquire or influence the acquisition of property.

15. Conflict of interest

- (1) A State Officer shall use the best efforts to avoid being in a situation where his or her personal interests conflict or appear to conflict with the State officer's official duties.
- (2) Without limiting the generality of subsection (1), a State 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 a conflict of the State officer's personal interests and the officer's official duties.
- (3) A State Officer whose personal interest conflict with their official duties shall declare the personal interest to the Authorized Officer in the Ministry except for the Cabinet Secretary who will declare his/her interest to Ethics and Anti-Corruption Commission as prescribed in Form B Declaration of Interest at Appendix III.
- (4) The Ministry or the Commission may give directions on the appropriate action to be taken by the State Officer to avoid the conflict of interest and the State Officer shall comply with the directions; and refrain from participating in any deliberations with respect to the matter. Any direction issued by the Commission under this sub-section shall be in writing.
- (5) Notwithstanding any directions to the contrary under subsection (4), a State officer shall not award or influence the award of a contract to;
- (a) Himself or herself;
 - (b) The State Officer's spouse or child;
 - (c) A business associate or agent; or
 - (d) A corporation, private company, partnership or other body in which the officer has a substantial or controlling interest.
- (6) Where a State Officer is present at a meeting, and an issue which is likely to result in a conflict of interest is to be discussed, the State Officer shall declare the interest at the beginning of the meeting or before the issue is deliberated upon.
- (7) A declaration of a conflict of interest under subsection (6) shall be recorded in the minutes of that meeting.
- (8) The Ministry shall maintain a register of conflicts of interest in the prescribed form in which an affected State Officer shall register the particulars of the registrable interests, stating the nature and extent of the conflict.
- (9) For purposes of subsection (8), the registrable interests shall include:-
- (a) The interests set out in the Second Schedule of the Act;

- (b) Any connection with a person or a company, whether by relation, friendship, holding of shares or otherwise, which is subject of an investigation by the Commission;
 - (c) Any application for employment or other form of engagement with the Ministry, by a family member or friend of the State Officer or by a corporation associated with the State Officer;
 - (d) Any application to the Commission, by a family member or friend of the State Officer, for clearance with respect to appointment or election to any public office;
 - (e) Any other matter which, in the opinion of the State Officer, taking into account the circumstances thereof, is necessary for registration as a conflict of interest.
- (10) The Ministry or the Commission shall keep the register of conflict of interest for five years after the last entry in each volume of the register;
- (11) The Ministry shall prepare a report of the registered interest within thirty days after the close of a financial year and forward such reports to the Commission;
- (12) A State Officer shall ensure that an entry of registrable interests under subsection (7) is updated and to notify the Commission of any changes in the registrable interests, within one month of each change occurring.

16. Participation in tenders issued by the Ministry

- (1) A State Officer shall not participate in a tender for the supply of goods or services to the Ministry.
- (2) Notwithstanding subsection (1), a company or entity associated with the State Officer shall not be construed as trading with the Ministry unless:-
 - (a) The State Officer has a controlling shareholding in the company or entity; or,
 - (b) The State Officer is a Director of the Company.

17. Public Collections

- (1) A State Officer shall not solicit for contributions from the Ministry or any other person or entity 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;
- (2) A State Officer shall not participate in a public collection of funds in a way that reflects adversely on that State officer's integrity, impartiality or interferes with the performance of the official duties.
- (3) Subject to subsection (2), a State Officer may, with the approval of the Ministry, participate in a collection involving a private cause as may be approved by the Principal Secretary.
- (4) A State Officer who has been given approval to take an active part in a collection involving a private course shall not use his/her office for that purpose nor involve any staff of the Ministry.

18. Bank accounts outside Kenya

- (1) Subject to Article 76(2) of the Constitution or any other written law, a State Officer shall not open or continue to operate a bank account outside Kenya without the approval of the Commission;
- (2) A State Officer who has reasonable grounds for opening or operating a bank account outside Kenya shall apply to the Commission for approval to open or operate a bank account;
- (3) A State Officer who operates or controls the operation of a bank account outside Kenya shall submit statements of the account annually to the Commission and authorize the it to verify the statements and any other relevant information from the foreign financial institution in which the account is held;
- (4) Subject to subsections (1) and (2), a person who is appointed as a State Officer in the Ministry and has a bank account outside Kenya shall, upon such appointment, close the bank account within six months;
- (5) Subject to subsection (4), a State Officer may open or continue to operate a bank account outside Kenya as may be authorized by the Commission in writing.

19. Acting for foreigners

- (1) A State Officer shall not be an agent of, or further the interests of a foreign government, organization or individual in a manner that may be detrimental to the security interests of Kenya, except when acting in the course of official duty.
- (2) For the purposes of this section —
 - (a) An individual is a foreigner if the individual is not a citizen of Kenya; and
 - (b) An organization is foreign if it is established outside Kenya or is owned or controlled by a foreign government, organization or individual.

20. Care of property

- (1) A State Officer shall take all reasonable steps to ensure that public property in the officer's custody, possession or control is taken care of and is in good repair and condition;
- (2) A State Officer shall not use public property, funds or services that are acquired in the course of or as a result of the official duties, for activities that are not related to the official work of the State Officer;
- (3) A State Officer shall surrender to the Ministry all the public property in their custody, possession or control at the end of the appointment term;
- (4) A State Officer who contravenes subsection (2) or (3) shall, in addition to any other penalties provided for under the Constitution, the Act or any other law, be personally liable for any loss or damage to the public property.

21. Misuse of official information

- (1) A State Officer shall not directly or indirectly use or allow any person under the officer's authority to use any information obtained through or in connection with the office, which is not available in the public domain, for the furthering of any private interest, whether financial or otherwise.

- (2) A State Officer shall not violate the requirements of subsection (1), if the information is to be used for the purposes of —
- (a) Furthering the interests of the Act
 - (b) Educational, research, literary, scientific or other purposes not prohibited by law.

22. Political neutrality

- (1) A State officer, shall not, in the performance of his /her duties —
- (a) Act as an agent for, or further the interests of a political party or candidate in an election; or
 - (b) Manifest support for or opposition to any political party or candidate in an election.
- (2) Engage in any political activity that may compromise or be seen to compromise the political neutrality of the office subject to any laws relating to elections.

23. Impartiality

A State 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.

24. Giving of advice

A State Officer who has a duty to give advice shall give honest, accurate and impartial advice without fear or favour.

25. Gainful employment

- (1) Subject to subsection (2), a full time State Officer shall not participate in any other gainful employment.
- (2) 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 State Office or which results in the impairment of the judgment of the State Officer in the execution of the functions of the State office or results in a conflict of interest.

26. Offers of future employment

- (1) A State 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;
- (2) A State Officer shall disclose, in writing, to the Ministry and the Commission, all offers of future employment or benefits that could place the State Officer in a situation of conflict of interest.

27. Former State Officer in the Ministry

A former State Officer shall not be engaged by the Ministry in a matter in which the State Officer was originally engaged in as a State officer, for at least two years after leaving the Ministry.

28. Misleading the public

A State Officer shall not knowingly give false or misleading information to any person.

29. Falsification of records

A State Officer shall not falsify any records or misrepresent information to the public.

30. Conduct of private affairs

A State Officer shall conduct their private affairs in a manner that maintains public confidence in the integrity of the office.

31. Bullying

- (1) A State Officer shall not bully another State Officer, a member of staff or any other person;
- (2) For purposes of subsection (1), "bullying" includes repeated offensive behavior which is vindictive, cruel, malicious or humiliating and is intended to undermine a person.

32. Citizenship and Leadership

- (1) A state officer shall not hold dual citizenship

33. Acting through others

- (1) A State Officer shall not —
 - (a) Cause anything to be done through another person that would constitute a contravention of this Code, the Constitution or any other law if done by the State Officer; or
 - (b) Allow or direct a person under their supervision or control to do anything that is in contravention of this Code, the Constitution or any other law.
- (2) Subsection (1)(b) shall not apply where anything is done without the State Officer's knowledge or consent or if the State Officer has taken reasonable steps to prevent it.
- (3) A State Officer who acts under an unlawful direction shall be responsible for his or her actions.

34. Reporting improper orders

If a State Officer considers that anything required of them is in contravention of the Code or is otherwise improper or unethical, the State Officer shall report the matter to the Commission who will take appropriate action.

35. Confidentiality

A State Officer shall not disclose or cause to be disclosed any information in his/her custody to any unauthorized person during or after expiry of tenure of office.

36. Duty to prevent occurrence of corruption or unethical practice in the Ministry

A State Officer who believes or has reason to believe that a corrupt act or unethical malpractice has occurred or is about to occur in the Ministry shall take all necessary measures to prevent it from continuing or materializing in addition to any other appropriate action including reporting to the Commission.

37. Promotion of ethics, integrity and best practices in the Ministry

State Officers in the Ministry shall collectively and individually take measures to ensure that staff of the Ministry uphold and practice the highest attainable degree of integrity in the performance of their duties.

38. Dress Code

A State Officer shall maintain appropriate standard of dress and personal hygiene at all times.

39. Implementation of the Code

The Commission shall be responsible for ensuring full implementation of this Code.

40. Breach of Code

- 1) Breach of this Code amounts to misconduct for which the State Officer may be subjected to disciplinary proceedings including removal from office;
- 2) Where a breach of this Code amounts to a violation of the Constitution, the State Officer may be removed from office in accordance with Article 152 of the Constitution;
- 3) Any person may lodge a complaint alleging a breach of this Code by a State Officer;
- 4) A person alleging a breach of this Code by a State Officer other than a breach under Article 251 of the Constitution, may submit a petition setting out the alleged violation to the National Assembly;

41. Review

The Code shall be reviewed as and when necessary.

Signed..... dated this.....day of March 2014

CABINET SECRETARY

MINISTRY OF DEVOLUTION AND PLANNING

P.O BOX 30005-00100 NAIROBI, KENYA

TELEPHONE: 020 22 52299

COMMITMENT TO THE CODE

I, _____

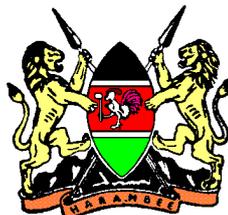
holder of National ID/ Passport No. _____ and
Post Office Box No . _____
having been appointed as Cabinet Secretary/ Principal Secretary of the Ministry of
Devolution and Planning, do hereby confirm that I have read and understood this
Code and now do commit to faithfully uphold and abide by the provisions of the
Code at all times.

Signed _____

This _____ Day of _____ 20 _____

Sworn Before Me:

COMMISSIONER FOR OATHS/ JUDGE/ MAGISTRATE



REPUBLIC OF KENYA

DECLARATION FORM

Appendix I

PSC. 2b

PUBLIC SERVICE COMMISSION OF KENYA

Declaration of Income

(The Public Officer Ethics Act, 2003)

1. Name of the Public Officer

(Surname)	(First Name)	(Other names)
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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 as 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: _____

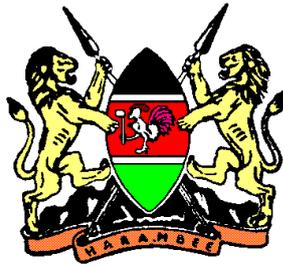
Date: _____

Witness:

Signature: _____

Name: _____

Address: _____



REPUBLIC OF KENYA

Appendix II

(Form A)
Report of Gifts Received

To: (approving Authority) _____

Description of Offer or _____

Name and title: _____

Company: _____

Relationship (Business/personal) _____

Occasion on which the gift was/is to be received _____

Description & (assessed) value of gift _____

Suggested Method of Disposal

- Retained by receiving staff
- Retained for display/ as a souvenir in the office
- Shared among the officers
- Reserve as luck draw prize at staff function
- Donate to charitable organization
- Return to offeror
- Others (please specify)

Date

Name of receiving staff
Title/Department

Part B - Acknowledgment (to be completed by approving authority)

To (receiving staff) _____

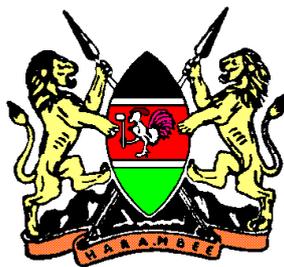
The recommended method of disposal is *Approved/Not Approved

The gift(s) concerned should be disposed of by way of: _____

Date

Name of approving Authority
Title/Department

***Please delete as appropriate**



REPUBLIC OF KENYA

(Form B)

Appendix III

Declaration of conflict of interest

Part A-Declaration (to be completed by declaring staff)

To: (Approving Authority)

I would like to report the following **existing/potential*** conflict of interest situation arising during the discharge of my official duties:

Persons/companies with whom/which I have official dealings and /or personal interest

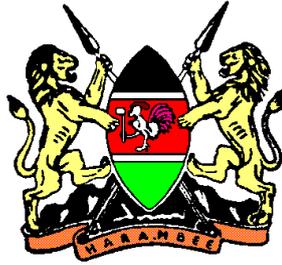
- 1.
- 2.
- 3.

Brief description of my duties which involve the persons/companies mentioned above and these are the areas of real/possible conflict of interest.

- 1.
- 2.
- 3.

Date

Name of declaring staff
Title/Department



REPUBLIC OF KENYA

Part B-acknowledgment (to be completed by approving authority)

To: declaring staff.....

The information contained in your declaration for.....is noted. It has been decided that:

You should refrain from performing or getting involved in performing the work, as described in Part A, which may give rise to conflict of interest.

You should continue to handle the work as described in Part A, provided that there is no change in the information declared above.

Other conditions (please specify.....

Date

Name of approving authority
Title/Department