



NILE  
BASIN  
INITIATIVE

## ANTI CORRUPTION POLICY

2014

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## Introduction

**N**ile Basin Initiative (NBI) is entrusted to manage funds received from different sources including the owners of the organizations, the member states. This responsibility can effectively be discharged only if there are transparent policies. Accountable and transparent administration ensures that concerns over the proper use of funds are addressed. One of such policies is this one, the NBI Anti-corruption Policy.

The policy is designed to prevent and combat corruption that may occur in connection with the use of funds received from development partners, member countries and any other legitimate source. The policy sets out the policy statement, requirements and sanctions applicable to NBI personnel which receive, are responsible for the deposit or transfer of, or take or influence decisions regarding the use of, such funds. NBI personnel must take all appropriate measures to prevent and combat corruption, and refrain from engaging in corruption in connection with the use of funds received by the NBI.

## Purpose & scope

**T**his Anti-Corruption Policy is intended to address all anticipated, real and perceived corruption challenges and related problems. The policy helps to deter violations of the NBI ethical rules; uphold honesty and integrity in staff and individuals representing the NBI; ensure transparency and accountability in NBI operations and activities and hold individuals and entities accountable for their actions. It is meant to prevent corruption from occurring in the NBI but at the same time ensure that there is a mechanism in place to effectively detect/ properly investigate it where it occurs and appropriately sanction the wrongdoers. It also helps to ensure awareness of the NBI staff, individuals representing it in whatever way, partners and financiers, stakeholders and all interested parties that NBI does not tolerate corruption at all.

The Anti-Corruption Policy covers all employees, operations/ projects, vendors, customers, and partners as well other stakeholders of NBI to the extent that any NBI resources are involved or impacted.

## Definition of terms

**P**rovision of clear definition for corruption and other key terms and phrases associated with it is important to understand what constitutes corruption. The following words and phrases are the most common terms.

- **Corruption** involves behavior on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the public power entrusted to them.<sup>1</sup>
- **Corrupt practice** is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party. Typical examples of corrupt practice include bribery and **kickbacks**.<sup>2</sup>
- **Anything of value** includes every object and advantage you can imagine from the obvious (cash and gifts) to the less obvious (securing a job for a relative).
- **Collusive practice** is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.<sup>3</sup>
- **Coercive practice** is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.<sup>4</sup>
- **NBI staff** means staff of Nile Basin secretariat (Nile Sec), staff of Nile Equatorial Lakes subsidiary action programme (nelsap) and staff of Eastern Nile Technical Regional Office (ENTRO).
- **Obstructive practice** is (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) acts

<sup>1</sup> Transparency International, 1996. *The TI Sourcebook*, edited by Jeremy Pope. Berlin: TI, p.1., cited in Asian Development Bank: *Anticorruption, Our Framework Policies and Strategies*,

<sup>2</sup> World Bank, *GUIDELINES on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants*, October 15, 2006

<sup>3</sup> *ibid*

<sup>4</sup> *ibid*

intended to materially impede the exercise of the Bank's contractual rights of audit or access to information.<sup>5</sup>

- **Debarment** means the declaration that a firm or individual is ineligible to bid, participate as a subcontractor, or receive a contract either indefinitely or for a specified period of time.<sup>6</sup>
- **Whistle-blower** means an NBI employee or any third party who reveals corruption in an NBI activity by contacting either anonymously or openly the NBI.<sup>7</sup>
- **Whistle-blower protection** means measures taken to ensure that anyone who reveals corruption in NBI operations is protected from reprisals.<sup>8</sup>
- **Active bribery** usually refers to the act of offering or paying a bribe,<sup>9</sup>
- **Passive bribery** refers to the requesting or receiving of a bribe. A corrupt transaction may be initiated under either rubric: by a person who offers a bribe or by an official who requests one.<sup>10</sup>

### Policy

It is NBI's policy to conduct all of its activities in an honest and ethical manner. NBI takes a **Zero-Tolerance** approach to corruption and is committed to acting professionally, fairly and with integrity in all its activities, dealings and relationships and will implement and enforce effective systems to combat corruption. It is a matter of the highest priority for NBI, that all NBI Personnel carefully observe this Policy.

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<sup>5</sup> World Bank, *GUIDELINES on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants*, October 15, 2006

<sup>6</sup> International Fund for Agriculture Development (IFAD), *IFAD Policy on Preventing Fraud and Corruption in Its Activities and Operations*, Executive Board . Eighty-Sixth Session, Rome, 12-13 December 2005

<sup>7</sup> ibid

<sup>8</sup> ibid

<sup>9</sup> United Nations, *United Nations Handbook on Practical Anti-Corruption Measures For Prosecutors and Investigators (Draft)*, June 2005.

<sup>10</sup> ibid

### Statement of Policy

NBI Personnel shall not permit any use of the funds or other assets of NBI for any unlawful or improper purpose. Neither shall they seek undue benefits from other in their conduct of their activities. Hence,

NBI personnel shall not make/receive or authorize any one to make/receive:

- any payments or gifts or offers or promises to pay/receive money or give/receive anything of value to or for the benefit of any Public Official,
- any payment that is or may appear to be related to obtaining or retaining business with any person, directing business to any person or obtaining any other improper advantage in the conduct of business;
- contributions of funds, facilities or services of any kind to political parties or officials or candidates for office to obtain their support for executive, legislative, administrative or other action favorable to the NBI;
- gift or offer to give/receive on behalf of NBI any money, gift or thing of value to/from a third party if he or she knows or has reason to believe that it will be offered to a Public Official to obtain or retain undue support for NBI or for the personnel involved or to obtain any other improper advantage;

The books and records of NBI must reflect, accurately and fairly, the transactions of the NBI and dispositions of its assets. No undisclosed or unrecorded funds or assets are to be established for any purpose.

NBI Personnel who are involved in dealings internationally, nationally and with any Development Partner must become familiar with the anti-corruption laws of the countries concerned and the Development Partner Organizations they are dealing with;

NBI supports the effort made by all partners to tackle poverty and to promote transparency and accountability.

**A**wareness raising of the NBI staff on what corruption is, how to prevent it, and if it happens, how to communicate it and how to take appropriate action against corruption is the first and essential step in preventing and combating corruption. Educating the staff about the negative impact of corruption on the institutional reputation and what type of behavior is needed from all staff to keep the integrity of the NBI is important.

### Statement of Policy

NBI Shall keep its staff aware of the ethical code of NBI and the behaviors needed to prevent corruption so that the integrity of NBI is not questioned.

The following tasks shall be made by NBI:

- NBI code of conduct that reflect the ethical behavior and standard required of the staff shall be developed and communicated to the staff;
- General staff meetings shall be held periodically to discuss what corruption is and to discuss if there are problems that looks like or that may lead to corrupt practices;
- The Monitoring and Evaluation officers and/or the Internal Auditors will make surveys periodically. The result of the survey shall be summarized and presented to the appropriate level of governance depending on the result of the survey;
- Communications that increase awareness of the staff about the nature of corruption and the actions that need to be taken to prevent corruption shall be disseminated from time to time.

## Prevention

**T**aking anti-corruption measures after corruption happens could be easier but is not the desired option. For this NBI shall have the following policy.

### Policy statement

NBI shall explicitly consider, adopt and implement measures aimed at preventing occurrence of corruption in its operations and activities, including ensuring that there are functioning and up to date internal management controls that prevent the occurrence of the same. The controls shall regularly be tested for their efficacy in deterring corruption and updated where deemed necessary.

NBI accepts that the key to preventing corruption is the prevalence of good governance and integrity of its staff members. The following measures shall be taken to ensure the existence of these two factors:

**Good governance:** NBI shall endeavor to make its decision-making and decision-implementation processes participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law.

**Integrity of staff:** NBI shall ensure that all its staff perform their duties conscientiously honestly, with efficiency and the highest level of integrity to promote the best interest of NBI and the relevant code shall spell this out in details. Staff induction/ orientation and Training processes; appraisal processes; Project Planning, Execution and Appraisal Processes; and Financial Management processes shall be designed and executed in such a manner as to expressly show and enforce the NBI's zero tolerance of corruption policy. NBI accepts that recruitment system of staff should be transparent and that all recruitments should be merit based.

**Disqualification:** In connection with the integrity of staff, any staff member involved in the decision-making process should disclose his/her interest in the suppliers' business as a preventive measure against corruption and to protect the reputation of the staff. The management of NBI will decide whether the staff will continue in the decision-making process or not. If there is serious doubt that the transaction could not be concluded transparently, disqualification of the supplier could be considered.

In addition to these two critical factors, NBI accepts that the internal audit function has a role to play in preventing corruption. As a function responsible for risk management and internal audit, the Head of internal audit will have good access to detailed information on financial transactions, procurement procedures, recruitment and other management procedures. As a result the function is responsible for guarding the ethical standards of NBI and should be fully prepared for implementing innovative preventive methods.

Even if NBI has no direct control of the external environment, it shall make all efforts to ensure that all vendors, contractors and suppliers are upright, active, in good standing and authorized to transact business with NBI. Vendors, contractors and suppliers shall be subjected to screening, including verification of the individual~~s~~/ company~~s~~ status regarding debarment by any respected party worldwide; and they shall sign a conflict of interest statement with the NBI. All contractual documents with the NBI, including agreements, will contain provision(s) prohibiting corrupt acts and will include requirements to report corruption.

## Detection

**NBI** shall make all possible effort to prevent corruption from happening through awareness creation and additional preventive measures. NBI shall consider, adopt, implement and regularly review/ update all possible measures to detect corruption in case it ever crops up in its operations and activities.

### Policy statement

NBI shall introduce good management practices and auditing procedures that make corruption more visible and thereby promote the detection and reporting of corrupt activity.

NBI shall encourage and facilitate gathering, delivery and appropriate handling of all information (confidential or otherwise) on corruption and related matters from whatever source including the partners and funders, its employees, vendors, other stakeholders and members of the public. In particular, all staff members, consultants and vendors shall be duty bound to report/ give information on corruption that comes their way as long as they have reasonable basis to believe that a corruption act has been committed/ perpetrated by any staff, vendor, consultant, or any other party with any association with NBI. NBI shall take the following measures to detect fraud in a timely manner:

**The establishment of an Oversight Committee:** NBI shall establish a committee of three to five high officials. The committee shall include the Head of the Internal Audit as a member and secretary. The committee shall be answerable to the Executive Director. However, the committee shall, through the Head of Internal Audit, report to Nile-TAC on anti-corruption activities done during a period. The Committee shall be responsible for dealing with detection and investigation of corrupt practices.

**The Internal Audit Function** shall be responsible to handle functionality and efficacy of management controls, corruption and related matters. The Function shall be facilitated to receive and handle all information under its mandate, from all sources. External parties, including suppliers and potential bidders for the supply of goods and services, shall be informed that they can bring any corrupt practices to the attention of the management where the Internal Audit Function is a focal organ.

**Strengthening detection and investigation capabilities:** NBI shall endeavor to strengthen the capacity of the Internal Audit Function and the members of the Oversight Committee, as appropriate, to enable them to deal with cases of corruption.

**Establishment of Confidential Communication Facilities:** NBI shall prepare and put in its premises an internal box (commonly known as suggestion box), provides a hotline in the form of telephone numbers, fax number and e-mail address to gather complaints or information from concerned parties, with procedures for operating them and shall make them known to suppliers, partners and other concerned bodies the existence of the facilities.

**Informers and whistle blowers:** NBI shall accept information from informers and whistle blowers. Effort shall be made to ensure that the information they give is truthful to the best of their abilities and is given in good faith. Any party receiving information on corruption may require the party giving the same to substantiate it as long as the requirement is appropriate in the circumstances and does not breach confidentiality where it is essential. NBI shall put in place and vigorously enforce mechanisms of protecting the sources of information on corruption and related matters, especially the confidential informers and whistleblowers. The mechanism shall include rules on proper handling of confidential information/ the informers who give it and prohibition of retaliation against these sources, whether through harassment, discrimination, retribution or in any other way.

## Investigation

**NBI** notes the importance of working on awareness creating and prevention of corruption instead of letting it crop up and deal with it through investigation. NBI also notes that despite the effort that will be made on awareness creation and prevention, some wrongdoing might be reported.

### Policy statement

NBI shall ensure that each allegation of corruption is appropriately and promptly investigated

When there are suspected corruptions, the management shall move fast to investigate the case in a discreet and professionally responsible manner.

The Internal Audit Function and the Oversight Committee are responsible for the investigation. Depending on the case of the suspected fraud, external experts might be involved. When higher officials are implicated in the corrupt practices, the Nile-TAC shall be informed in due time and a representative shall be involved in the investigation.

The management may decide to establish a special team for the investigation. The selection of an effective team will be crucial to the success of an investigation. Its members should possess the specific investigative skills needed, should have proven integrity and high ethical standards and be willing to undertake the work. Their backgrounds should be thoroughly checked, including their social and family ties and lifestyle.

The management shall develop clear Terms of Reference (TOR) to define scope of the investigation, resource needed for investigation and timetable of the investigation. The TOR should also describe the facts that gave rise to the investigation.

Depending on the suspected case, the staff implicated in the corruption might be temporarily suspended from work especially if that staff is in the capacity of making decisions and a possible conviction could negatively affect those decisions.

Interviewing of witnesses is an important part of the investigation. The background of witnesses and whether or not they themselves have taken part in the corruption case should be checked. Protecting identity of witness is essential to avoid any intimidation. The witnesses should be electronically recorded.

Secrecy of investigation is an important consideration as disclosure might invite destruction of evidence and intimidation of informants and witnesses.

NBI shall decide the point where it should engage external parties, such as police, in the investigation depending on the nature and size of the suspected corruption.

## Sanctions

Zero tolerance+ means pursuit of all information on corrupt, collusive or coercive practices that are relevant regardless of the source and status of the individual concerned and appropriately sanctioning whoever is proved to have engaged in any corrupt act. NBI shall not allow such acts to go unpunished. Whenever it is determined by NBI or any other competent entity that a corrupt act or related wrong has been committed, appropriate disciplinary action shall be imposed on the wrongdoer.

### Policy statement

NBI shall apply appropriate sanctions against the staff, consultant, supplier or any other party who were engaged in corrupt, collusive or coercive practices when the allegations are substantiated.

The following are the type of offences which should be investigated and sanctioned. The list is just an indicative list and in no way an exhaustive list. This example is taken from UN Guide for Anti-corruption Policies<sup>11</sup> and Asian Development Bank Framework.<sup>12</sup>

Offences to address specific forms of corruption may include:

- ✓ Passive and active bribery and similar conduct;
- ✓ Extortion, the solicitation of bribes or other rewards, and similar conduct;
- ✓ Some forms of fraud, particularly those which exploit public positions or offices;
- ✓ Improper practices in the allocation of resources, including employment;
- ✓ Misuse of property or information for private gain, advantage or other purposes;
- ✓ Improper political contributions; and,
- ✓ Private-sector malfeasance such as price-fixing and insider trading.
- ✓ Abuse of discretion authority;
- ✓ Favoritism and nepotism;
- ✓ The design or selection of uneconomical projects because of opportunities for financial kickbacks;
- ✓ Procurement fraud, including collusion, overcharging, or the selection of contractors, suppliers, and consultants on criteria other than the lowest evaluated substantially responsive bidder;

<sup>11</sup> United Nations Office of Drugs and Crime, *UN Guide for Anti-corruption Policies*, November 2003

<sup>12</sup> Asian Development Bank, *Anticorruption, Our Framework Policies and Strategies*,

Offences which address other conduct associated with corruption may include:

- ✓ Illicit transfers, conversion, concealment or ~~laundering~~ of the proceeds of corruption;
- ✓ General failure to comply with codes of conduct or ethical standards;
- ✓ The use of improper accounting practices, such as the creation or maintenance of ~~flush funds~~ which can be used for corrupt purposes without creating records of this;
- ✓ Failure to disclose potential conflicts of interest or failure to avoid or address such conflicts as required by law.
- ✓ Offences relating to the improper disclosure of information such as the nature or existence of investigations or the identities or statements of informants;
- ✓ Offences relating to the obstruction of justice or corruption of the criminal justice system, such as the bribery or intimidation of officials;
- ✓ Offences relating to the falsification of records, failure to keep adequate records or failure to make records available to auditors, inspectors or law enforcement personnel as required by law;

NBI shall ensure that at all times there is a competent and functional sanctioning mechanism that covers all types of corruption. The mechanism should be able to utilize the powers of NBI and to call on other powers vested in the superior organs, partner countries, funding agencies and any other sympathetic power in administering due sanctions.

Immediately after the approval and introduction of this policy, the management of NBI shall work on the establishment of the mechanism and the sanctions against corrupt, collusive or coercive practices.

## Administration of policy

**T**his Policy is endorsed by the Nile TAC. Nile-TAC has overall responsibility for ensuring this policy complies with NBI's legal and ethical obligations, and that all staff members of NBI and other parties making business with NBI comply with it.

For the purposes of this policy, the Internal Audit Head, as a secretary for the Oversight Committee, has primary and day-to-day responsibility for implementing this policy, and for monitoring its use and effectiveness.

Senior management and senior staff at all levels are responsible for ensuring those reporting to them are made aware of and understand this policy.

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Approved by Chair person, Nile TAC

Name

Effective Date