Procedure for Fraud Reporting and Investigation

I. Introduction:

1. This document sets out the "Procedure for Fraud Reporting and Investigation" by Compliance and Ethics Sub-Committee and its Compliance Unit and the Internal Committee formed for handling Complaint and Grievances formed by AEPC collectively known as Investigative Components (ICs). This document provides processes for the prevention and reporting of suspected fraud within AEPC and the activities carried out using funds provided by AEPC from National and International sources.

   a. Apply to all investigation conducted by the Compliance and Ethics Sub-Committee and it's wing Compliance Unit and also apply to the investigation conducted by the Internal Committee for Handling Complaint and Grievances which are referred as Investigative Components (ICs) in the document from here on.

II. Purpose and Nature of Investigation:

2. The purpose of an investigation is to examine and determine the veracity of allegations or suspicions of prohibited conduct affecting AEPC's activities or alleged misconduct involving members of governing bodies or staff to report its findings and make appropriate recommendations.

III. Receipt and Registration of an Allegation :

3. The Investigative Components (ICs) accept reports of suspected prohibited conduct including but not limited to corruption, fraud, collusion, coercion, obstruction, money laundering and financing of terrorism from any source within or outside AEPC, including complaints from anonymous or confidential sources. The ICs may also open cases voluntarily, for example from the reports of OAG, FACO, Donors and also press reports of prohibited conduct

4. If the complainant is anonymous and or insist on anonymity, the ICs should request that he/she contacts ICs again at an agreed date/time in the future to respond to possible further questions based on the results of the initial review.

5. The coordinator or experts of the ICs shall promptly record the information in the respective complaint register. The information should include the following:

   a. The date of receipt of information
   b. A brief summary of the allegation including the type of misconduct/prohibited practice and alleged party/parties. Including the description and location of the project or operation.
   c. The identity of the complainant, if disclosed.
   d. Any other information that ICs considers significant
   e. Assign a name and case number to the issue, for tracking
   f. Prepare and assign the investigation. If required assign more than one investigator and prepare terms of reference for both internal and external investigators.

6. In the cases where the Internal Committee for Handling Complaint and Grievances hands over the complaints to the Compliance and Ethics Sub-committee especially complaints related to financial matters, Compliance Unit shall record the information promptly and circulate it to the all the members of the sub-committee including the coordinator.

7. The coordinator or experts of the ICs shall make the information regarding the allegation and its evaluation upon request to appropriate parties including Chairperson, Vice-chairperson and other members of the AEPC Board and the concerned stakeholder.

8. Annual report on the allegation and evaluation shall be published. The Internal Committee for Handling Complaints and Grievance shall prepare the report which shall include the brief summary of allegation, the current status of evaluations (namely "Open" or "Closed"), brief findings of the investigation and measures taken.

IV. <u>Conducting the Investigation:</u>

A. General Principle

9. To the extent feasible, the ICs should contact the complainant to acknowledge receipt of the compliant and to obtain as much information concerning the allegation as possible. The information should include but not limited to:

    a. A complete description of the alleged prohibited practice
    b. The alleged connection to AEPC's financing or other activities and an estimate of the funds at risk
    c. The names and locations of the persons or entities involved or who may have further information regarding the allegation.
    d. The date of the events in question
    e. The location and description of any relevant documents, data or records
    f. The basis of the complainants' knowledge or motive.
    g. Any concerns regarding retaliation and personal security.

10. Post registration of the case, the ICs shall promptly seek to confirm that the alleged prohibited practice involves projects financed or projects with technical support provided by AEPC or members of governing bodies or staff.

11. The ICs will conduct an initial desk review to determine if the alleged prohibited practice represents sufficient material risk to AEPC to justify an investigation. Operational, financial and reputational risks to AEPC are the factors to be considered while determining the material risk associated with the allegation. The desk review will also determine the feasibility of the investigation, definiteness of the information received, availability of records and witnesses and initial action plan to conduct the investigation with necessary requirements along with required resources to conduct the investigation.

12. The ICs will also seek to evaluate the reliability of the complaint. This will include the following but not limited to:
    a. AEPC project, financing or other documents, files and data
    b. Prior complaints involving the alleged parties received by ICs or CIAA or NVC
    c. Background checks including media reports/database and any other relevant documents

B. Sources of Information

13. The sources will include the following but not limited to:
    a. Documents related to allegations kept by the alleged parties,
    b. Related Policies, regulations and guidelines such as Financial Procedures Act, Public Procurement Act and Regulation and other relevant documents
    c. Information through on-site inspections of any works, constructions or services including photographs and interviews of witness/subject/stakeholders.
    d. Documents/Electronic data
    e. Video, audio and photographic data
    f. Observations of investigators
    g. Oral or written statement s of witness/subject/stakeholders of the investigation

14. The ICs will not pay the witness for information, but it may reimburse reasonable expenses incurred by the witness for his/her cooperation with the ICs.

15. The ICs may seek the advice or assistance of other sections and sub-sections inside AEPC and/or may engage external consultants and sector specialist/experts to assist in an investigation.

C. Document Management/Handling

16. The documents that may be required as evidence, the ICs shall
    a. Seek to identify and use the original document or if unavailable seek reliable copies of the original.
    b. Preserve to the practical extent, all documents in the condition they were received.
    c. Maintain a register that identifies when, where, by whom and for whom the document was received. Along with pending documents yet to be received.

D. Personal and Electronic Data

17. The electronic data shall be obtained from the most reliable source available i.e. the location/facility/section/subsection/unit that maintains the most complete, accurate and current data. The electronic data obtained will be also maintained in the register as described in previous section.

18. The ICs may access and copy relevant electronic data including email communication and personal data in accordance with the applicable laws, rules, regulations, policies and procedures. The Director overseeing the Administration and Human Resource of AEPC shall provide a written approval for the access of such information. The ICs shall inform the Director overseeing the Administration and Human Resources of the reason for the requirement of the access. However, extreme care is required to protect the identity of sources and persons concerned.

E. Enquiry Procedures

19. The enquiry conducted by the ICs shall include the following:

    a. The enquiry shall be conducted in the language in which the witness and investigator are comfortable or otherwise assistance of an interpreter.
    b. Prior to the enquiry, the interviewee shall be informed about his/her right to be assisted by a person of his/her choice and that the record of interview may be used in administrative, disciplinary or other proceedings.
    c. The ICs shall promptly prepare a written record of the enquiry.
    d. Interviews may be recorded electronically, with the knowledge and consent of the witness.
    e. The IC may provide a copy of record of enquiry for the witness to review and sign especially in cases where the testimony of witness is likely to be critical.
    f. Staff members or governing bodies suspected of misconduct shall be given opportunity to read and sign the record of their enquiry.

V. Impeding an Investigation:

20. If the investigative findings indicates that a member of staff or of the governing body made false statement to ICs during the course of investigation and/or failed to cooperate in an investigation and/or attempted to impede the investigation; the ICs shall refer the matter to the Executive Director and/or AEPC Board.

VI. Concluding Investigation and Findings

21. The findings of an investigation shall be based on to the extent feasible:

    a. The most reliable factual information available and conclusion drawn from established facts
    b. Documents, data (including electronic), inspection, analysis and verification results authenticated by the providers of such information
    c. Statements from witnesses
    d. Information verified/authenticated via other available sources

22. The ICs investigative findings may include but not limited to:
    a. Opinion on the observed/perceived credibility and behavior of witness and subject of the investigation
    b. Recommendation to AEPC Board and/or management for appropriate action to address the issue of investigation
    c. Recommendation to AEPC Board and/or management on broader policy issues identified during the investigation

23. In cases the ICs have recommended a requirement of follow-up action post substantiation of allegation, the findings shall be properly documented and referred to relevant authorities. For

example: AEPC management shall prepare an action plan for future follow-up and share with ICs and in case of completion of follow-up, report to the ICs for review.

24. In cases of insubstantial allegation, the findings shall be documented and assign a “closed” status.

25. The coordinator of the ICs may re-open a case that has been closed if credible new information emerges or demanded by certain circumstances.

VII. Other Matters:

26. **Reporting:** The ICs shall prepare a trimester based report. The Internal Committee handling complaints and grievances shall also submit the status report Executive Director of AEPC while the Compliance Unit shall submit the status report to the Compliance and Ethics Sub-Committee, which shall review and compile the information and present it to AEPC Board.

27. **Document Retention:** All documentation and information for all cases shall be kept in a secure and confidential manner by ICs and shall be retained for at least five years from the date of the closure of the case.

28. **Allegation on ICs members/staffs**: Allegation of prohibited practices on the part of ICs shall be reported to AEPC Board. The board shall then either choose to form an external investigative committee or hand over the matter to CIAA.

29. **Updating the Procedure for Fraud Reporting and Investigation:** These procedures shall be amended and updated as appropriate in the following but not limited to:

    a. Amendment in/emergence of the relevant Acts, Policies, Regulations, Procedures and Guidelines.
    b. Changes in internal guiding document such as AEPC’s Financial Discipline and Good Governance Regulation 2018 and other relevant documents
    c. Experience gained in implementing the procedures
    d. Global best practices.

VIII. Notification to and involvement of CIAA , NVC and Donors:

30. With regard to the investigation, if the coordinator/member of the ICs has ground to suspect that there is Prohibited Conduct in AEPC financed project or activity, if deemed appropriate he/she shall notify the Commission for Investigation of Abuse of Authority (CIAA) and/or National Vigilance Centre (NVC) and provide with necessary information. In case of exclusive donor funded projects, the respective donor shall be notified. ICs will continue its investigation pending the decision of CIAA or NVC to open an investigation. If CIAA or NVC decides to open an investigation, the ICs will closely cooperate with investigators appointed by CIAA or NVC. If CIAA or NVC decides, for any reason, not to open an investigation, the ICs can decide to continue the investigation.